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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION FOR BEHAVIORAL HEALTH

129 PLEASANT STREET, CONCORD, NH 03301
603-271-9544 1-800-852-3345 Ext. 9544
Fax: 603-271-4332 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

Lori A. Weaver
Interim Commissioner

Katja S. Fox
Director

May 10, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division for Behavioral Health, on behalf of the Governor's Commission on Alcohol and Other Drugs, to amend an existing agreement with the New Hampshire State Liquor Commission (VC#202546-B001), Concord, NH for continued surveillance and activities related to preventing youth access to and use of tobacco and alcohol products, by increasing the price limitation by $143,000 from $608,000 to $751,000 and by extending the completion date from June 30, 2023 to June 30, 2024, effective July 1, 2023, upon Governor and Council approval. 100% Other Funds (Governors Commission).

The original contract was approved by Governor and Council on June 19, 2019 (Item #24), amended on July 15, 2020 (Item #12), amended on June 2, 2021 (Item #26) and most recently amended on June 29, 2022 (Item #22).

Funds are anticipated to be available in the following account for State Fiscal Year 2024, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-92-920510-33800000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: BEHAVIORAL HEALTH DIV, BUREAU OF DRUG AND ALCOHOL, PREVENTION SVS (100% Federal Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2021	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2022	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2023	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000

2024	085-588577	Interagency Transfers out of Federal	92056507	$0	$50,000	$50,000
			Subtotal	**$200,000**	**$50,000**	**$250,000**

05-95-92-920510-33850000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG AND ALCOHOL, DRUG FORFEITURE FUNDS (100% Other Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contract for Prog Svc	92057312	$55,000	$0	$55,000
2021	102-500731	Contract for Prog Svc	92057312	$55,000	$0	$55,000
2022	102-500731	Contract for Prog Svc	92057312	$5,000	$0	$5,000
2023	102-500731	Contract for Prog Svc	92057312	$5,000	$0	$5,000
2024	102-500731	Contract for Prog Svc	92057312	$0	$5,000	$5,000
			Subtotal	***$120,000***	***$5,000***	***$125,000***

05-95-92-920510-33820000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG AND ALCOHOL, GOVERNOR COMMISSION FUNDS (100% Other Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contracts for Prog Svc	92058502	$0	$0	$0
2021	102-500731	Contracts for Prog Svc	92058502	$100,000	$0	$100,000
2022	102-500731	Contracts for Prog Svc	92058502	$100,000	$0	$100,000
2023	102-500731	Contracts for Prog Svc	92058502	$88,000	$0	$88,000
2024	102-500731	Contracts for Prog Svc	92058502	$0	$88,000	$88,000
			Subtotal	***$288,000***	***$88,000***	***$376,000***
			TOTAL	***$608,000***	***$143,000***	***$751,000***

EXPLANATION

The purpose of this request is to continue surveillance and related activities to prevent youth access to tobacco and alcohol products by reducing the number of sales to minors, statewide, through the enforcement of underage tobacco and alcohol access laws. On February 10, 2023, the Governor's Commission of Alcohol and Other Drugs recommended and approved the funding allocation for this Agreement. The Department carries out the administrative functions of the Commission in accordance with RSA 12-J.

The Department is required by the Federal Substance Abuse Prevention and Treatment Block Grant's (SABG) Synar Amendment to conduct surveillance and enforcement of underage tobacco access laws. The Synar Amendment requires that each state conduct annual, random, unannounced inspections of tobacco retailers to assess their compliance with tobacco access laws. All states must comply with the Synar Amendment in order to receive their full SABG award.

The goal of the amendment is to reduce the number of successful illegal purchases by minors taking part in the surveillance checks to no more than 20 percent of attempts in each State per year with the assumption that this will generalize to reduced sales to minors as a whole. In partnership with the Department, the New Hampshire State Liquor Commission's Division of Liquor Enforcement (DLE) conducts enforcement activities to meet the Synar regulation.

In Federal Fiscal Year 2023, the rate of retail violations for tobacco compliance checks within New Hampshire was 18.6%. The Department and the DLE have develop and disseminated education and training protocols to inform tobacco retailers of the Increase in the legal age to ensure compliance with State laws and reduce the violation rate.

In SFY2021, the Governor's Commission on Alcohol and Other Drugs (Commission) began funding surveillance and enforcement efforts to prevent youth access to alcohol. The Commission has authorized continued funding of this work for SFY2024. These funds will allow the Division of Liquor Enforcement, along with local police departments, to continue providing surveillance and underage alcohol compliance checks at New Hampshire establishments licensed to sell alcohol products. The goal is to conduct compliance checks of all alcohol retail establishments In the State.

The Department will continue monitoring services and progress towards reaching performance measures through the review of monthly reports.

Should the Governor and Council not authorize this request the Department may not be in compliance with the SABG Synar Amendment requirements, resulting in the loss of SABG prevention and treatment funding that supports critical programs across the NH Substance Misuse Continuum of Care System.

Area served: Statewide

In the event that the Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

Lori A. Weaver
Interim Commissioner

State of New Hampshire
Department of Health and Human Services
Amendment #4

This Amendment to the Surveillance and Related Activities for Youth Access to Tobacco and Alcohol Memorandum of Understanding ("MOU") is by and between the State of New Hampshire, Department of Health and Human Services ("DHHS") and the New Hampshire State Liquor Commission (Liquor Commission) (referred to as "Parties").

WHEREAS, pursuant to an MOU approved by the Governor and Executive Council on June 19, 2019 (Item #24), as amended on July 15, 2020 (Item #12), June 2, 2021 (Item #26) and as most recently amended June 29, 2022 (Item #22), the parties agreed to perform certain services based upon the terms and conditions specified in the MOU and in consideration of certain sums specified; and

WHEREAS, pursuant to Section 3, Duration, Modification and Termination of MOU, Subsection 3.6., the MOU may be amended by mutual written agreement at any time, subject to appropriate State approval; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the MOU and set forth herein, the Parties hereto agree to amend as follows:

1. Modify Section 3, Duration, Modification and Termination of MOU, Subsection 3.1., to read:

   3.1. This MOU shall be effective July 1, 2019 through June 30, 2024; subject to Governor and Executive Council approval.

2. Modify Section 4, DHHS Funding, Subsection 4.4. to read:

   4.4. Funds for this MOU area anticipated to be available to the Liquor Commission in the amount of $105,000 for SFY 2020; $205,000 for SFY 2021; $155,000 for SFY 2022; $143,000 for SFY 2023; and $143,000 for SFY 2024, for a total amount not to exceed $751,000.

DS
Initials JM
Date 5/10/2023

All terms and conditions of the MOU and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective July 1, 2023, upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

5/10/2023
Date

DocuSigned by:
Katja S. Fox
ED9D05B04C63942...
Name: Katja S. Fox
Title: Director

New Hampshire State Liquor Commission

5/10/2023
Date

DocuSigned by:
Joseph Mollica
A337931E1B97498...
Name: Joseph Mollica
Title: Chairman

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

5/11/2023

Date

DocuSigned by:
Robyn Guarino
74873484494 1400...

Name: Robyn Guarino
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION FOR BEHAVIORAL HEALTH

Lori A. Shibinette
Commissioner

Katja S. Fox
Director

129 PLEASANT STREET, CONCORD, NH 03301
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Fax: 603-271-4332 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

June 7, 2022

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division for Behavioral Health, to amend an existing memorandum of understanding with The New Hampshire State Liquor Commission (VC#202546-B001), Concord, New Hampshire, for the provision of surveillance and related activities to prevent youth access to and use of tobacco and alcohol products, by exercising a renewal option by increasing the price limitation by $143,000 from $465,000 to $608,000 and by extending the completion date from June 30, 2022 to June 30, 2023, effective July 1, 2022 or upon Governor and Council approval, whichever is later. 33% Federal Funds. 67% Other Funds (Governors Commission Funds).

The original contract was approved by Governor and Council on June 19, 2019 (Item #24), amended with Governor and Council approval on July 15, 2020 (Item #12), and most recently amended with Governor and Council approval on June 2, 2021 (Item #26).

Funds are available in the following accounts for State Fiscal Year 2023, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-92-920510-33800000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: BEHAVIORAL HEALTH DIV, BUREAU OF DRUG AND ALCOHOL, PREVENTION SVS (100% Federal Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2021	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2022	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000

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2023	085-588577	Interagency Transfers out of Federal	92056507	$0	$50,000	$50,000
			Subtotal	***$150,000***	***$50,000***	***$200,000***

05-95-92-920510-33850000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG AND ALCOHOL, DRUG FORFEITURE FUNDS (100% Other Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102/500731	Contracts for Prog Svc	92057312	$55,000	$0	$55,000
2021	102/500731	Contracts for Prog Svc	92057312	$55,000	$0	$55,000
2022	102/500731	Contracts for Prog Svc	92057312	$5,000	$0	$5,000
2023	102/500731	Contracts for Prog Svc	92057312	$0	$5,000	$5,000
			Subtotal	***$115,000***	***$5,000***	***$120,000***

05-95-92-920510-33820000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG AND ALCOHOL, GOVERNOR COMMISSION FUNDS (100% Other Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102/500731	Contracts for Prog Svc	92058502	$0	$0	$0
2021	102/500731	Contracts for Prog Svc	92058502	$100,000	$0	$100,000
2022	102/500731	Contracts for Prog Svc	92058502	$100,000	$0	$100,000
2023	102/500731	Contracts for Prog Svc	92058502	$0	$88,000	$88,000
			Subtotal	***$200,000***	***$88,000***	***$288,000***
			Total	**$466,000**	**$143,000**	**$608,000**

EXPLANATION

The purpose of this request is to continue surveillance and related activities to prevent youth access to tobacco and alcohol products by reducing the number of sales to minors statewide through the enforcement of underage tobacco and alcohol access laws. Funding also

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supports alcohol and tobacco retailer education and training related to the State's underage tobacco and alcohol laws. The New Hampshire State Liquor Commission has conducted tobacco surveillance checks since State Fiscal Year 2012 and alcohol surveillance checks since State Fiscal Year 2021.

The Department is required by the Federal Substance Abuse Prevention and Treatment Block Grant's (Block Grant) Synar Amendment to conduct surveillance and enforcement of underage tobacco access laws. The Synar Amendment requires that each State conduct annual, random, unannounced inspections of tobacco retailers to assess their compliance with the State's access law. The goal of the amendment is to reduce the number of successful illegal purchases by minors taking part in the surveillance checks to no more than 20 percent of attempts in each State per year with the assumption that this will generalize to reduced sales to minors as a whole. In partnership with the Department, the New Hampshire State Liquor Commission's Division of Liquor Enforcement (DLE) conducts enforcement activities to meet the Synar regulation.

In Federal Fiscal Year 2022, the rate of retail violations for tobacco compliance checks was 19.4%. The Department and the DLE have developed and disseminated education and training protocols to inform tobacco retailers of the increase in the legal age to ensure compliance with State laws and reduce the violation rate.

In SFY2021, the Governor's Commission on Alcohol and Other Drugs began funding surveillance and enforcement to prevent youth access to alcohol. The Governor's Commission has authorized continued funding of this work for SFY2023. These funds will allow the Division of Liquor Enforcement, along with local police departments, to continue to provide surveillance and underage alcohol compliance checks at New Hampshire establishments licensed to sell alcohol products. The goal is to conduct compliance checks of all alcohol retail establishments in the State.

The performance measures for this Memorandum of Understanding include:

- Increasing tobacco compliance checks from 949 in SFY2022 to a minimum of 1050 in SFY2023.
- Submitting tobacco enforcement data, which includes the number of stores checked for compliance, the number of stores that did not sell to a minor, and the number of stores that were in violation and sold to a minor, to the Department for required annual Block Grant reporting on a monthly basis.
- Submitting alcohol compliance check data, which includes the number of stores checked for compliance, the number of stores that did not sell to a minor, and the number of stores that were in violation and sold to a minor.
- Ensuring all tobacco merchant retailers receive information on the increase in the minimum age to purchase tobacco from 18 to 21.
- Increasing alcohol compliance checks from 1785 in SFY2022 to a minimum of 2500 in SF20Y23.

The Department will monitor contracted services including progress toward reaching performance measures through monthly reports from the Division of Liquor Enforcement related to this Memorandum of Understanding.

As referenced in Section 3, Duration, Modification and Termination of MOU, Subsection 3.6 of the memorandum of understanding, the parties have the option to extend the agreement for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for one (1) of the one (1) year available.

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Should the Governor and Council not authorize this request, the Department may not be in compliance with the Substance Abuse Prevention and Treatment Block Grant requirements to reduce the number of sales to minors by tobacco retailers, resulting in the loss of the Federal Substance Abuse Block Grant for treatment and prevention funding that supports critical programs across the substance misuse continuum of care.

Area served: Statewide.

Source of Federal Funds: Assistance Listing Number #93.959, FAIN #TI083464.

In the event that the Federal or Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

For

Lori A. Shibinette
Commissioner

Mark C. Armaganian
DLE Director

State of New Hampshire
Department of Health and Human Services
Amendment #3

This Amendment to the Surveillance and Related Activities for Youth Access to Tobacco and Alcohol Memorandum of Understanding ("MOU") is by and between the State of New Hampshire, Department of Health and Human Services ("DHHS") and The New Hampshire Liquor Commission (hereinafter referred to as the "Commission") (referred to as "Parties").

WHEREAS, pursuant to an MOU approved by the Governor and Executive Council on June 19, 2019 (Item #24), as amended on July 15, 2020 (Item #12), and on June 2, 2021 (Item #26), the Parties agreed to perform certain services based upon the terms and conditions specified in the MOU and in consideration of certain sums specified; and

WHEREAS, pursuant to Section 3, Duration, Modification and Termination of MOU, Subsection 3.6, the MOU may be amended by mutual written agreement at any time, subject to appropriate State approval; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the MOU and set forth herein, the Parties hereto agree to amend as follows:

1. Modify Section 1, Activities to be performed under this memorandum include the following, Subsection 1.1, to read:

1.1. The New Hampshire State Liquor Commission will:

1.1.1. Support the statutory authority and mission of RSA 126-K:4, The Youth Access to and Use of Tobacco. The purpose of this law is to protect the children of New Hampshire from the possibility of addiction, disability and death resulting from the use of tobacco products by ensuring that tobacco products will not be supplied to minors.

1.1.1.1. Under RSA 126-K:4, no person under twenty one (21) years of age shall purchase, attempt to purchase, possess or use any tobacco product and no person shall sell, give, or furnish or cause or allow or procure to be sold, given, or furnish tobacco products to a minor.

1.1.2. Support the statutory authority and mission of RSA 179:5 Prohibited Alcohol Sales. The purpose of this law is to protect the children of New Hampshire from the possibility of alcohol addiction, disability and death resulting from the use of alcohol products by ensuring that alcohol products will not be supplied to minors.

1.1.2.1 Pursuant to RSA 179-5, No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to a person under the age of 21 or serve an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the carrier shall obtain an adult signature.

1.1.3. Conduct enforcement activities in accordance with RSA Chapter 126-K:4 Youth Access To and Use of Tobacco Products, such as writing a citation and mandating merchant education to the clerk when there is a sale of tobacco to minor during a compliance check.

1.1.4. Support Law Enforcement Activities as follows:

1.1.4.1 Ensure greater than 80% compliance with NH RSA 126:K-4 among tobacco retailers.

1.1.4.2 Ensure greater than 80% compliance with NH RSA 179:5 among alcohol retailers.

1.1.4.3 Collaborate with the Comprehensive Synar Planning Group to assist with compliance checks and other strategies throughout the state pertaining to tobacco and alcohol access and availability to minors.

1.1.4.3.1 The minimum number of compliance checks to be completed during the contract period will be determined by the Substance Abuse and Mental Health Services Administration.

1.1.4.4 Determine the direction of the law enforcement efforts conducted pursuant to this MOU and perform all of its duties in a manner consistent with New Hampshire law and Constitutional protections.

1.1.4.5 Comply with the New Hampshire Division of Liquor Enforcement and Licensing Administration & Operation Manual A-130 that describes performance procedures and goals for enforcement are made part of the terms and conditions of this MOU and are attached hereto as Attachment A.

1.1.5. Develop a plan to perform state-wide comprehensive, year-round tobacco and alcohol retailer compliance checks;

1.1.6. Complete state-wide comprehensive, compliance checks in accordance with federal guidelines;

1.1.7. Continue to use data-system provided to track compliance check progress and report information to DHHS at least monthly;

1.1.8. Work with DHHS to format and submit data for required and requested federal reports;

1.1.9. Submit year-round compliance checks data to the Department for required yearly federal reporting;

1.1.10. Submit a report of Synar Checks conducted, mandated by SAMHSA, to the Department upon completion.

1.1.11. Submit a report of alcohol compliance checks conducted, in accordance with Subsection 1.1.5., to the Department upon completion.

1.1.12. Participate in the Youth Tobacco Access Advisory Board, in conjunction with DHHS to:

1.1.12.1 Publicize compliance checks results;

1.1.12.2 Develop methods to enhance retailer and community tobacco law education;

1.1.12.3 Develop methods to enhance retailer and community alcohol law education; and

1.1.12.4 Develop activities and initiatives related to youth tobacco and alcohol use prevention including, but not limited to media campaigns, Buyer's Beware campaigns, and youth initiatives.

1.1.13. Work with the Advisory Board and DHHS to expend funds not dedicated to enforcement to support the components and activities of the Preventing Youth Access to Tobacco (PYATT) state plan, aka the Comprehensive Synar plan, and the activities of the Advisory Board in relation to the plan.

1.1.14. Provide supervision for the law enforcement operations applied to the enforcement of the youth access to tobacco laws for both criminal and administrative actions. The

Commission's tobacco enforcement efforts and all personnel hired; either in whole or in part, with funding made available to the Division of Liquor Enforcement pursuant to this MOU shall be controlled by the Commission via its Division of Enforcement.

1.1.15. Provide reports and records for all administrative and criminal cases, investigative reports, arrest reports, and buy audit reports.

1.1.16. Review and process all reports and maintain all evidence in a manner consistent with Attachment A.

1.1.17. Compile and furnish monthly reports, as directed by DHHS, and other data as required to DHHS documenting its activities as supported by funds transferred via this MOU.

1.1.18. Collaborate with DHHS as requested to develop databases and/or statistical programs for measuring progress or for other reporting needs.

2. Modify Section 3, Duration, Modification and Termination of MOU, Subsection 3.1, to read:

3.1 This Memorandum of Understanding (MOU) shall be effective July 1, 2019, through June 30, 2023, subject to Governor and Executive Council approval.

3. Modify Section 4, DHHS Funding, Subsection 4.4 to read:

4.4 Funds for this MOU are anticipated to be available to the Commission in the amount of $105,000 for SFY 2020, $205,000 for SFY 2021, $155,000 for SFY 2022 and $143,000 for SFY 2023, for a total amount not to exceed $608,000.

Initials RM
Date 6/9/2022

All terms and conditions of the MOU and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective July 1, 2022, or upon Governor and Council approval, whichever is later.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

6/9/2022
Date

DocuSigned by:
Katja S. Fox
Name: Katja S. Fox
Title: Director

New Hampshire Liquor Commission

6/9/2022
Date

Name: Joseph Mollica
Title: Chairman

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

6/10/2022
Date

DocuSigned by:
Robyn Guarino
Name: Robyn Guarino
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION FOR BEHAVIORAL HEALTH

Lori A. Shibinette
Commissioner

Katja S. Fox
Director

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April 28, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division for Behavioral Health, to amend an existing memorandum of understanding with The New Hampshire State Liquor Commission (VC#202546-B001), Concord, New Hampshire, by exercising a renewal option for the provision of surveillance and related activities to prevent youth access to and use of tobacco and alcohol products, by increasing the price limitation by $155,000 from $310,000 to $465,000 and by extending the completion date from June 30, 2021 to June 30, 2022 effective July 1, 2021 or upon Governor and Council approval, whichever is later. 56.60% Federal Funds. 43.40% Other Funds (Governor Commission Funds).

The original contract was approved by Governor and Council on June 19, 2019, item #24 and most recently amended with Governor and Council approval on July 15, 2020, item #12.

Funds are available in the following accounts for State Fiscal Year 2021, and are anticipated to be available in State Fiscal Year 2022, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-92-920510-33800000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: BEHAVIORAL HEALTH DIV, BUREAU OF DRUG AND ALCOHOL, PREVENTION SVS (100% Federal Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2021	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2022	085-588577	Interagency Transfers out of Federal	92056507	$0	$50,000	$50,000
			Subtotal	***$100,000***	***$50,000***	***$150,000***

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05-95-92-920510-33850000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG AND ALCOHOL, DRUG FORFEITURE FUNDS (100% Other Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102/500731	Contracts for Prog Svc	92057312	$55,000	$0	$55,000
2021	102/500731	Contracts for Prog Svc	92057312	$55,000	$0	$55,000
2022	102/500731	Contracts for Prog Svc	92057312	$0	$5,000	$5,000
			Subtotal	***$110,000***	***$5,000***	***$115,000***

05-95-92-920510-33820000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG AND ALCOHOL, GOVERNOR COMMISSION FUNDS (100% Other Funds)

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102/500731	Contracts for Prog Svc	92058502	$0	$0	$0
2021	102/500731	Contracts for Prog Svc	92058502	$100,000	$0	$100,000
2022	049/584977	Contracts for Prog Svc	92058502	$0	$100,000	$100,000
			Subtotal	***$100,000***	***$100,000***	***$200,000***
			Total	**$310,000**	**$155,000**	**$465,000**

EXPLANATION

The purpose of this request is to continue the implementation of surveillance and related activities to prevent youth access to, and use of, tobacco and alcohol products in order to reduce the amount of sales by tobacco and alcohol retailers to minors statewide, as well as provide education to retailers regarding the dangers of tobacco and alcohol use for youth.

The New Hampshire State Liquor Commission has conducted tobacco surveillance checks since State Fiscal Year 2012. The Bureau of Drug and Alcohol Services, in partnership with the Division of Liquor Enforcement, is required by the Federal Substance Abuse Prevention and Treatment Block Grant to reduce the non-compliance rate of tobacco and alcohol retailers selling tobacco and alcohol products to minors below twenty percent (20%).

At the direction of the Governor's Commission on Alcohol and other Drugs, the Department requests to add funds for increased surveillance and related activities for youth

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access to alcohol in State Fiscal Year 2022. These funds will allow the Division of Liquor Enforcement, along with local police departments, to provide surveillance and related activities to all New Hampshire establishments licensed to sell alcohol products.

The Synar Amendment, which is part of the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act, Charitable Choice Public Law 102-321, requires states to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under twenty-one (21) years of age. To receive funding from the Substance Abuse Prevention and Treatment Block Grant New Hampshire must comply with the Synar requirements, which is a federally mandated program responsible for implementing the requirements of the Synar Amendment.

As a result of the Division of Liquor Enforcement's efforts, the percentage of the tobacco retail violation rate of sales to minors decreased from 17.7% in State Fiscal Year 2019 to 14.6% in State Fiscal Year 2020. The goal is for this trend to reduce the rate of non-compliance among tobacco retailers to continue.

This Memorandum of Understanding includes collaboration with the Comprehensive Synar Planning Group of New Hampshire to assist with underage age tobacco compliance and enforcement approaches and other strategies throughout the State. Collaborating with the Comprehensive Synar Planning Group of New Hampshire is a requirement of the Synar Program for the purpose of providing comprehensive planning approaches to decreasing tobacco use and sales to minors in New Hampshire. The group includes members from the Department of Health and Human Services, the New Hampshire State Liquor Commission, and other state and local entities.

The New Hampshire State Liquor Commission will support the statutory authority and mission of Revised Statutes Annotated 126-K:4, The Youth Access to and Use of Tobacco. The purpose of this law is to protect the children of New Hampshire from the possibility of addiction, disability and death resulting from the use of tobacco products by ensuring that underage tobacco access laws are enforced.

The Department will monitor contracted services by monitoring quarterly reports from the Division of Liquor Enforcement delineating activities related to this Memorandum of Understanding.

As referenced in Section 4, DHHS Funding, Subsection 4.3 of the original memorandum of understanding, the parties have the option to extend the agreement for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for one (1) of the two (2) years available.

Should the Governor and Council not authorize this request, the Department would not be in compliance with the Substance Abuse Prevention and Treatment Block Grant requirements to reduce the amount of sales by tobacco retailers to minors, and would not be able to expand activities for State Fiscal Year 2022. Sales of tobacco products to minors may increase which would negatively affect the citizens of New Hampshire.

Area served: Statewide

Source of Funds: CFDA #93.959, FAIN #TI083464 (CORRECTED NUMBERS COMING)

In the event that the Federal or Other Funds become no longer available, General Funds will not be requested to support this program.

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Respectfully submitted,

Lori Shibinette

Lori A. Shibinette
Commissioner

State of New Hampshire
Department of Health and Human Services
Amendment #2

This 2nd Amendment to the Surveillance and Related Activities for Youth Access to Tobacco and Alcohol Memorandum of Understanding (MOU) (hereinafter referred to as "Amendment #2") is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and The New Hampshire Liquor Commission (hereinafter referred to as the "Commission"), a State agency with a place of business at 50 Storrs Street, Concord, NH 03301.

WHEREAS, pursuant to an agreement (the "MOU") approved by the Governor and Executive Council on June 19, 2019 (Item #24), as amended on July 15, 2020 (Item #12), the Commission agreed to perform certain services based upon the terms and conditions specified in the MOU and in consideration of certain sums specified; and

WHEREAS, the Department and the Commission have agreed to make changes to the scope of work, payment schedules or terms and conditions of the MOU; and

WHEREAS, pursuant to the MOU, Section 3, Duration, Modification and Termination of MOU, Subsection 3.6 the MOU may be extended and modified upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to modify the terms of the MOU, and increase the price limitation to support continued delivery of these services; and

WHEREAS, all terms and conditions of the MOU not inconsistent with this Amendment #2 remain in full force and effect; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the MOU and set forth herein, the parties hereto agree to amend as follows:

1. Modify Section 3, Duration, Modification and Termination of MOU, Subsection 3.1, to read:

3.1 This Memorandum of Understanding (MOU) shall be effective July 1, 2019, through June 30, 2022, subject to Governor and Executive Council approval.

2. Modify Section 3, Duration, Modification and Termination of MOU, Subsection 3.2, to read:

3.2 Notwithstanding any other provision of the MOU to the contrary, no services shall continue after June 30, 2022 and the Department shall not be liable for any payments for services provided after June 30, 2022 unless and until an appropriation for these services have been received from the state legislature and funds encumbered for SFY 2022.

4. Modify Section 4, DHHS Funding, Subsection 4.4 to read:

4.4 Funds for this MOU are anticipated to be available to the Commission in the amount of $105,000 for SFY 2020, $205,000 for SFY 2021 and $155,000 for SFY 2022 for a total amount not to exceed $465,000.

This amendment shall be effective upon the date of Governor and Executive Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

DocuSigned by:
Katja Fox
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Director
Division for Behavioral Health
NH Department of Health and Human Services

5/13/2021
Date

Chairman
NH Liquor Commission

5/13/2021
Date

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

5/14/2021

Date

DocuSigned by:

Name: Catherine Pinos

Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:

Title:

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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION FOR BEHAVIORAL HEALTH

Lori A. Shibinette
Commissioner

Katja S. Fox
Director

129 PLEASANT STREET, CONCORD, NH 03301
603-271-9544 1-800-852-3345 Ext. 9544
Fax: 603-271-4332 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

June 23, 2020

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division for Behavioral Health, on behalf of the Governor's Commission on Alcohol and Other Drugs, to retroactively amend an existing Memorandum of Understanding with the New Hampshire State Liquor Commission, Concord, New Hampshire (Vendor #177913 B001), for the provision of surveillance and related activities of youth access to and use of tobacco and alcohol products, by increasing the price limitation by $100,000 from $210,000 to $310,000, with no change to the completion date of June 30, 2021, retroactive to July 1, 2020, effective upon Governor and Council approval. 47.62% Federal Funds and 52.38% Other Funds (Drug Forfeiture Funds and Governor Commission Funds.)

The original Memorandum of Understanding was approved by Governor and Council on June 19, 2019, item #24.

Funds are available in the following accounts for State Fiscal Year 2021.

05-95-92-920510-33800000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT OF, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG & ALCOHOL SVCS, PREVENTION SERVICES

State Fiscal Year	Class/ Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
2021	085-588577	Interagency Transfers out of Federal	92056507	$50,000	$0	$50,000
			Subtotal:	*$100,000*	*$0*	*$100,000*

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05-95-92-920510-33820000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT OF, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG & ALCOHOL SVCS, GOVERNOR COMMISSION FUNDS

State Fiscal Year	Class/ Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contracts for Program Services	92058502	$0	$0	$0
2021	102-500731	Contracts for Program Services	92058502	$0	$100,000	$100,000
			Subtotal:	***$0***	***$100,000***	***$100,000***

05-95-92-920510-33850000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT OF, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG & ALCOHOL SVCS, DRUG FORFEITURE FUNDS

State Fiscal Year	Class/ Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102-500734	Contracts for Social Services	92057312	$55,000	$0	$55,000
2021	102-500734	Contracts for Social Services	92057312	$55,000	$0	$55,000
			Subtotal:	***$110,000***	***$0***	***$110,000***
			TOTAL:	**$210,000**	**$100,000**	**$310,000**

EXPLANATION

This request is **retroactive** because the contract review and approval process took longer than anticipated.

The purpose of this request is to expand surveillance and related activities of youth access to, and use of, tobacco and alcohol products in order to reduce the amount of sales by tobacco retailers to minors statewide, as well as provide education regarding the dangers of tobacco and alcohol use. The New Hampshire State Liquor Commission has conducted these tobacco surveillance checks since State Fiscal Year 2012. The Bureau of Drug and Alcohol Services, in partnership with the Division of Liquor Enforcement, is required by the Substance Abuse Prevention and Treatment Block Grant to reduce the non-compliance rate of tobacco and alcohol retailers selling tobacco and alcohol products to minors to below twenty percent (20%).

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At the direction of the Governor's Commission on Alcohol and other Drugs, the Department requests to add additional funds for increased surveillance and related activities for youth access to alcohol in State Fiscal Year 2021. These additional funds will allow the Division of Liquor Enforcement, along with local police departments, to provide surveillance and related activities to all alcohol licensed establishments statewide.

The Synar Amendment, which is part of The Alcohol, Drug Abuse and Mental Health Administration Reorganization Act, Public Law 102-321, named after its sponsor, Congressman Mike Synar, requires states to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under eighteen (18) years of age. New Hampshire must comply with the Synar Program, which is the federally mandated program responsible for implementing the requirements of the Synar Amendment, in order to receive Substance Abuse Prevention and Treatment Block Grant awards.

As a result of the Division of Liquor Enforcement's efforts, the percentage of non-compliance among merchants with a license to sell tobacco decreased from 14.52% in State Fiscal Year 2017 to 12% in State Fiscal Year 2019, below the required 20% mandated by the Synar Act.

This Memorandum of Understanding also includes partnering with the Comprehensive Synar Planning Group of New Hampshire to assist with compliance checks and other strategies throughout the State. Partnering with the Comprehensive Synar Planning Group is a requirement of the Synar Program for the purpose of providing comprehensive planning approaches to decreasing tobacco use and sales to minors in New Hampshire. The group includes members from the Department of Health and Human Services, the Liquor Commission, and other state and local entities.

Should the Governor and Executive Council not approve this request, the Department would not be in compliance with the Substance Abuse Prevention and Treatment Block Grant requirements to reduce the amount of sales by tobacco retailers to minors, and would not be able to expand activities for State Fiscal Year 2021. Sales of tobacco products to minors may increase which would negatively affect the citizens of New Hampshire.

Area served: Statewide

Source of Funds: 47.62% Federal Funds from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Substance Abuse Prevention and Treatment Block Grant. Catalog of Federal Domestic Assistance (CFDA) #93.959, Federal Award Identification Number (FAIN) TI010035 and 52.38% Other Funds from Drug Forfeiture Funds and Governor Commission Funds.

In the event that the Federal or Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

Lori A. Shibinette
Commissioner

State of New Hampshire
Department of Health and Human Services
Amendment #1 to the Surveillance and Related Activities for
Youth Access to Tobacco and Alcohol Memorandum of Understanding

This 1st Amendment to the Surveillance and Related Activities for Youth Access to Tobacco and Alcohol Memorandum of Understanding (MOU) (hereinafter referred to as "Amendment #1") is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and the New Hampshire State Liquor Commission, (hereinafter referred to as the "Commission"), a State agency with a place of business at 50 Storrs Street, Concord, NH 03301.

WHEREAS, pursuant to an agreement (the "MOU") approved by the Governor and Executive Council on June 19, 2019 (item #24), the Commission agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to the MOU, Section 3, Duration, Modification, and Termination of MOU, Subsection 3.3, the MOU may be modified upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to increase the price limitation to support and expand continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Add Section 3, Duration, Modification, and Termination of MOU, Subsection 3.6, to read:

   3.6 The parties may extend the Agreement for up to two (2) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

2. Section 4, DHHS Funding, Subsection 4.1, to read:

   4.1 This MOU is funded with Federal Funds from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), Substance Abuse Prevention and Treatment Block Grant, Catalog of Federal Domestic Assistance (CFDA) #93.959, Federal Award Identification Number (FAIN) TI010035 and Other Funds.

3. Section 4, DHHS Funding, Subsection 4.4, to read:

   4.4 Funds for this MOU are anticipated to be available to the Commission in the amount of $105,000 for SFY 2020 and $205,000 for SFY 2021 for a total amount not to exceed $310,000.

New Hampshire Department of Health and Human Services
Surveillance and Related Activities for Youth Access to Tobacco and Alcohol

All terms and conditions of the MOU not modified by this Amendment #1 remain in full force and effect. This amendment shall be retroactively effective July 1, 2020 upon the date of Governor and Executive Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

6/24/2020
Date

Joseph W. Mollica
Chairman
NH Liquor Commission

6/24/20
Date

Name: Katja S Fox
Position: Director
Division for Behavioral Health
NH Department of Health and Human Services

New Hampshire Department of Health and Human Services
Surveillance and Related Activities for Youth Access to Tobacco and Alcohol

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

June 25, 2020
Date

J Christopher Marshall
Name:
Title: Assistant Attorney General

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

_____
Date

_____
Name:
Title:

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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION FOR BEHAVIORAL HEALTH

Jeffrey A. Meyers
Commissioner

Katja S. Fox
Director

129 PLEASANT STREET, CONCORD, NH 03301
603-271-9544 1-800-852-3345 Ext. 9544
Fax: 603-271-4332 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

June 3, 2019

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Bureau of Drug and Alcohol Services, to enter into a Memorandum of Understanding with the New Hampshire State Liquor Commission, 50 Storrs Street, Concord, New Hampshire 03301 (Vendor #177913 B001), for the provision of surveillance and related activities of youth access to and use of tobacco and alcohol products, in an amount not to exceed $210,000 effective July 1, 2019, or upon Governor and Executive Council approval, whichever is later, through June 30, 2021. 48% Federal Funds, 52% Other Funds.

Funds are anticipated to be available in the following accounts in State Fiscal Year (SFY) 2020 and SFY 2021, upon the availability and continued appropriation of funds in the future operating budget, with authority to adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified.

05-95-92-920510-33800000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT OF, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG & ALCOHOL SVCS, PREVENTION SERVICES

State Fiscal Year	Class/ Account	Class Title	Activity Code	Budget Amount
2020	085-588577	Interagency Transfers out of Federal	92056507	$50,000
2021	085-588577	Interagency Transfers out of Federal	92056507	$50,000
			Subtotal:	*$100,000*

05-95-92-920510-33850000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT OF, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG & ALCOHOL SVCS, DRUG FORFEITURE FUNDS

State Fiscal Year	Class/ Account	Class Title	Activity Code	Budget Amount
2020	102-500734	Contracts for Social Services	92057312	$55,000
2021	102-500734	Contracts for Social Services	92057312	$55,000
			Subtotal:	*$110,000*
			TOTAL:	$210,000

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EXPLANATION

The purpose of this request is to allow the Department to continue providing surveillance and related activities of youth access to and use of tobacco and alcohol products. The goal is to reduce the amount of sales by tobacco retailers to minors statewide as well as provide education around the dangers of tobacco and alcohol use. The New Hampshire State Liquor Commission has conducted these tobacco surveillance checks since SFY 2012. The Bureau of Drug and Alcohol Services, in partnership with the Division of Liquor Enforcement, is required by the Substance Abuse Prevention and Treatment Block Grant to reduce the non-compliance rate of tobacco and alcohol retailers selling tobacco and alcohol products to minors to below twenty percent (20%).

The percentage of non-compliance among merchants with a license to sell tobacco has decreased in the last two (2) years from 14.52% in SFY 2017 to 12% in SFY 2019, below the required twenty percent (20%), mandated by the Synar Act, as a result of the Division of Liquor Enforcement's efforts.

The Synar Amendment, which is part of The Alcohol, Drug Abuse and Mental Health Administration Reorganization Act; Public Law 102-321, named after its sponsor, Congressman Mike Synar, requires states to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under eighteen (18) years of age. New Hampshire must comply with the Synar Program, which is the federally mandated program responsible for implementing the requirements of the Synar Amendment, in order to receive Substance Abuse Prevention and Treatment Block Grant awards.

This Memorandum of Understanding also includes partnering with the Comprehensive Synar Planning Group of New Hampshire to assist with compliance checks and other strategies throughout the State. Partnering with the Comprehensive Synar Planning Group is a requirement of the Synar Program for the purpose of providing comprehensive planning approaches to decreasing tobacco use and sales to minors in New Hampshire. The group includes members from the Department of Health and Human Services, Liquor Commission and other state and local entities.

Should the Governor and Executive Council not approve this request, the Department would not be in compliance with the Substance Abuse Prevention and Treatment Block Grant requirements, to reduce the amount of sales by tobacco retailers to minors. Sales of tobacco products to minors may increase which would negatively affect the citizens of New Hampshire.

Area Served: Statewide.

Sources of Funds: 48% Federal Funds from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Substance Abuse Prevention and Treatment Block Grant. Catalog of Federal Domestic Assistance (CFDA) #93.959, Federal Award Identification Number (FAIN) TI010035 and 52% Other Funds from Drug Forfeiture Funds.

In the event that the Federal Funds and/or Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

Jeffrey A. Meyers
Commissioner

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MEMORANDUM OF UNDERSTANDING
THE NEW HAMPSHIRE DEPARTMENT OF HEALTH AND HUMAN SERVICES
BUREAU OF DRUG AND ALCOHOL SERVICES
129 Pleasant Street
Concord, NH 03301

AND

THE NEW HAMPSHIRE STATE LIQUOR COMMISSION
57 Regional Drive, Suite 8
Concord, NH 03301

Whereas, THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") entered into by and between the New Hampshire State Liquor Commission (hereinafter referred to as "Commission") and the Department of Health and Human Services (DHHS), Bureau of Drug and Alcohol Services (BDAS) (hereinafter referred to as "DHHS"); and

Whereas, the purpose of this MOU is to increase surveillance and related activities for youth access to and use of tobacco and alcohol products under Revised Statutes Annotated (RSA) 126-K:4 and RSA 179:5.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Memorandum of Understanding and set forth herein, the parties hereto agree as follows:

1. Activities to be performed under this memorandum include the following:

1.1. The New Hampshire State Liquor Commission will:

1.1.1. Support the statutory authority and mission of RSA 126-K:4, The Youth Access to and Use of Tobacco. The purpose of this law is to protect the children of New Hampshire from the possibility of addiction, disability and death resulting from the use of alcohol products by ensuring that tobacco products will not be supplied to minors.

1.1.1.1. Under RSA 126-K:4, no person under eighteen (18) years of age shall purchase, attempt to purchase, possess or use any tobacco product and no person shall sell, give, or furnish or cause or allow or procure to be sold, given, or furnish tobacco products to a minor.

1.1.2. Support the statutory authority and mission of RSA 179:5 Prohibited Alcohol Sales. The purpose of this law is to protect the children of New Hampshire from the possibility of alcohol addiction, disability and death resulting from the use of alcohol products by ensuring that alcohol products will not be supplied to minors.

1.1.1.2. Pursuant to RSA 179-5, No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to a person under the age of 21 or serve an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the carrier shall obtain an adult signature.

1.1.3. Conduct enforcement activities in accordance with RSA Chapter 126-K:4 Youth Access To and Use of Tobacco Products, such as writing a citation and mandating merchant education to the clerk when there is a sale of tobacco to minor during a compliance check.

1.1.4. Support Law Enforcement Activities as follows:

1.1.1.3. Reduce non-compliance among tobacco retailers selling tobacco products to minors to below twenty percent (20%).

1.1.1.4. Reduce non-compliance among alcohol retailers selling alcohol products to minors to below twenty percent (20%).

1.1.1.5. Partner with the Comprehensive Synar Planning Group to assist with compliance checks and other strategies throughout the state pertaining to tobacco and alcohol access and availability to minors.

1.1.1.6. Determine the direction of the law enforcement efforts conducted pursuant to this MOU and perform all of its duties in a manner consistent with New Hampshire law and Constitutional protections.

1.1.1.7. Comply with the New Hampshire Division of Liquor Enforcement and Licensing Administration & Operation Manual A-130 that describes performance procedures and goals for enforcement are made part of the terms and conditions of this MOU and are attached hereto as Attachment A.

1.1.5. Develop a plan to perform state-wide comprehensive, year-round tobacco and alcohol retailer compliance checks;

1.1.6. Complete state-wide comprehensive, compliance checks in accordance with federal guidelines;

1.1.7. Develop a data-system to track compliance check progress and results, with regular reports to DHHS on progress;

1.1.8. Work with DHHS to format and submit data for required and requested federal reports;

1.1.9. Submit year-round compliance checks data to the Department for required yearly federal reporting;

1.1.10. Submit a report of Synar Checks conducted, mandated by SAMHSA, to the Department upon completion.

1.1.11. Submit a report of alcohol compliance checks conducted, in accordance with 1.1.1.5., to the Department upon completion.

1.1.12. Participate in the establishment a Youth Tobacco Access Advisory Board, in conjunction with DHHS to:

1.1.1.8. Publicize compliance checks results;

1.1.1.9. Develop methods to enhance retailer and community tobacco law education;

1.1.1.10. Develop methods to enhance retailer and community alcohol law education;

1.1.1.11. Develop activities and initiatives related to youth tobacco and alcohol use prevention including, but not limited to media campaigns, Buyer's Beware campaigns, and youth initiatives.

1.1.13. Work with the Advisory Board and DHHS to expend funds not dedicated to enforcement to support the components and activities of the Preventing Youth Access to Tobacco (PYATT) state plan, aka the Comprehensive Synar plan, and the activities of the Advisory Board in relation to the plan.

1.1.14. Provide supervision for the law enforcement operations applied to the enforcement of the youth access to tobacco laws for both criminal and administrative action. The Commission's tobacco enforcement efforts and all personnel hired; either in whole or in part, with funding made available to the Division of Liquor Enforcement pursuant to this MOU shall be controlled by the Commission via its Division of Enforcement.

1.1.15. Provide reports and records for all administrative and criminal cases, investigative reports, arrest reports, and buy audit reports.

1.1.16. Review and process all reports and maintain all evidence in a manner consistent with Attachment A.

1.1.17. Compile and furnish monthly reports, as directed by DHHS, and other data as required to DHHS documenting its activities as supported by funds transferred via this MOU.

1.1.18. Collaborate with DHHS as requested to develop databases and/or statistical programs for measuring progress or for other reporting needs.

1.2. The Bureau of Drug and Alcohol will provide the Liquor Commission's Division of Liquor Enforcement with the Substance Abuse and Mental Health Services Administration form to be completed by the Liquor Commission's Division of Liquor Enforcement.

2. Liability

The parties agree that DHHS shall not be liable for any of the actions taken by the Commission or The Division of Enforcement either directly or indirectly as a result of this MOU.

3. Duration, Modification and Termination of MOU

3.1. This Memorandum of Understanding (MOU) shall be effective July 1, 2019, or upon Governor and Executive Council approval, whichever is later, through June 30, 2021, unless terminated by either party in writing.

3.2. Notwithstanding any other provision of the MOU to the contrary, no services shall continue after June 30, 2019 and the Department shall not be liable for any payments for services provided after June 30, 2019 unless and until an appropriation for these services has been received from the state legislature and funds encumbered for the SFY 2020-2021 biennium.

3.3. This MOU may be modified in writing at any time during the MOU effective dates by mutual consent of both parties.

3.4. In the event of an early termination of this MOU for any other reason than the completion of services, Division of Enforcement shall deliver to DHHS, not later than fifteen (15) days after than the termination, a report (the "Termination Report") describing in detail all services performed and the MOU funds used, up to and including the date of termination. To the extent possible, the form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any other Final Report described within.

3.5. In the event that changes in either State or Federal laws or regulations occur which render the performance of the activities set forth in this MOU illegal, void, impractical or impossible for the Division of Enforcement, this MOU shall terminate immediately and automatically. Within thirty (30) days of the effective date of the termination, DHHS shall reimburse the Commission for all activities that were performed under this MOU prior to the date of termination.

4. DHHS Funding

4.1. This MOU is funded with Federal Funds from the United States Department of Health and Human Services; Substance Abuse and Mental Health Services Administration (SAMHSA), Substance Abuse Prevention and Treatment Block Grant, Catalog of Federal Domestic Assistance (CFDA) #93.959, Federal Award Identification Number (FAIN) TI010035; State General Funds and Other Funds.

4.2 The Commission shall provide services in accordance with the above CFDA number.

4.3 This MOU is subject to the availability of funds appropriated through the biennial budget process. This MOU can be re-negotiated and approved bi-annually beginning State Fiscal Year 2021, if funds are available to the Division of Enforcement.

4.4 Funds for this MOU are anticipated to be available to the Commission in the amount of $105,000 for SFY 2020 and $105,000 for SFY 2021 for a total amount not to exceed $210,000.

4.5 The Commission shall not use Substance Abuse Prevention and Treatment Block Grant funds to compensate for the time of any law enforcement officer beyond the time spent conducting an actual Synar inspection.

4.6 The Commission shall not use Substance Abuse Prevention and Treatment Block Grant funds to compensate for time spent preparing for Synar inspections, completing paperwork or fulfilling any court-related duties.

4.7 The Commission shall provide monthly invoices to DHHS with the name of the Liquor Enforcement Officer, the date, the amount of time (hours and/or minutes), a brief description of the enforcement activity and the name of the merchant.

5. Transfer of Funds

5.1 DHHS shall reimburse the Commission, via inter-agency transfers, up to a maximum total payment defined in paragraph 4.4 above, and based on quarterly expenditure reports.

5.2 The Commission shall file quarterly expenditure reports with DHHS within fifteen (15) working days following the end of the quarter during which services are provided. These funds shall be for the sole purpose of increasing surveillance and related activities; for youth access to and use of tobacco products, and the supporting activities as described above, and the reports must adhere to a pre-approved budget detailing the expenditures associated with the described activities. Requests for line item changes shall be made in writing by the Commission to DHHS and must be pre-approved in writing.

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5/31/19
Date:

Joseph W. Mollica
Chairman
New Hampshire Liquor Commission

6/3/19
Date:

Jeffrey A. Meyers
Commissioner
New Hampshire Department of Health and Human Services

The preceding Memorandum of Understanding, having been reviewed by this office, is approved as to form, substance, and execution.

Office of the Attorney General

6/4/19
Date:

Name: Christopher G. Aslin
Title: Senior Assistant Attorney General

I hereby certify that the foregoing Memorandum of Understanding was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting).

Office of the Secretary of State

Date:

Name:
Title:

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Attachment A

DIVISION OF ENFORCEMENT AND LICENSING

Standard Operating Procedure

CHAPTER: A-130 **SUBJECT:** Compliance Checks

REVISED: May 1, 2015 **EFFECTIVE DATE:** September 21, 2007

DISTRIBUTION: Sworn Personnel **APPROVED:** *Director James M. Wilson*

I. Purpose

a. To establish policies and procedures for compliance check operations for the Division of Enforcement & Licensing. Why do compliance checks? Compliance checks can save lives!

b. Alcohol has been identified as a major contributing factor to a wide variety of crimes. Crimes against both persons and property often involve people who have consumed alcohol. Youthful offenders commit many of these crimes. Research shows that the earlier teenagers start drinking, the more likely they will later become addicted to alcohol or other drugs. When states raised the legal drinking age to 21, researches found that the rate of alcohol consumption and alcohol-related problems decreased among 18-20 year olds; those who started drinking later in life drank less and drank less often. Thus, reducing the availability of alcohol to youth is an effective strategy to reduce crime, both today and in the future.

II. Program Administration

a. The administration of all compliance check activities shall be under the direction of the Field Operations Lieutenant. In the absence of the lieutenant the area sergeant will be responsible for the checks. Compliance checks are part of the enforcement of RSA 179:5 and as such Investigators may partake in the compliance checks jointly with or independent of any other local, county, or state law enforcement officer.

b. The program administration and procedures adopted shall create an environment where the licensee or their agent will make decisions based upon a fair and reasonable set of facts and circumstances. Compliance checks shall not incorporate any attempt to coerce or otherwise entrap an individual.

c. Underage buyers used in Division compliance checks may or may not be paid for their time. Underage buyers shall be selected from a pool of underage buyers that have been pre-certified by an Age Assessment Panel when possible.

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Attachment A

III. Buyer Characteristics

a. In order to bring about the intent of the public policy behind compliance checks the law must be examined. The applicable statute triggering the salesperson obligation is RSA 179:8 which states:

i. § 179:8. Statement From Purchaser as to Age.

1. For the purposes of RSA 179:7, any person making the sale of beverages or liquor to any person **whose age is in question** (emphasis added) shall require the purchaser to furnish any of the following documentation that such person is 21 years of age or over:
   a. (a) A motor vehicle driver's license issued by the state of New Hampshire, or a valid driver's license issued by another state, or province of Canada, which bears the date of birth, name, address and picture of the licensee.
   b. (b) An identification card issued by the director of motor vehicles under the provisions of RSA 260:21, or any picture identification card issued by another state which bears the date of birth, name and address of the individual.
   c. (c) An armed services identification card.
   d. (d) A valid passport from a country with whom the United States maintains diplomatic relations.

b. Photographic identification presented under this section shall be consistent with the appearance of the person, shall not be expired, and shall be correct and free of alteration, erasure, blemish, or other impairment.

c. Approved Under Age Buyers for alcohol compliance check operations shall only use either a valid New Hampshire State Driver's License a valid New Hampshire State Non-Drivers ID, United States Passport, or a Military ID. Out of state identification will not be authorized for a valid form of identification

d. The provisions of RSA 126-K:3 are identical to RSA 179:8 except the age for tobacco sale is age 18 and not 21 as for alcoholic beverages. Therefore any tobacco compliance check shall incorporate by reference all relative provisions from this SOP on alcohol into a tobacco compliance check.

e. Approved Under Age Buyers for tobacco compliance check operations are approved to utilize a valid New Hampshire State Drivers License, valid New Hampshire State Non-Drivers ID and a valid United States Passport. In cases where a buyer does not have an approved form of identification, buyers will be instructed to say "I don't have my ID," when asked for identification by a clerk or server

f. In order to fairly carry out the compliance check the UAB must appear to a "reasonable person" to be someone whose age is in question. Therefore the following

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characteristics are incorporated into the protocol:

i. UAB's should appear to be between 17-19 years old. Avoid the borderline age of 20 to help avoid "apparent age" challenges or confusion if the UAB turns 21 between the purchase and any trial or administrative action.

ii. For the purposes of conducting *tobacco compliance checks* the UB should appear to be between the ages of 15 and 16 years old. Avoid the borderline age of 17 to help avoid "apparent age" challenges or confusion if the UAB turns 18 between the time of the purchase and the time/date of any criminal or administrative proceedings.

iii. Females should wear little to no makeup, wear casual attire and be of an average height and build. Males should have no facial hair, wear casual attire and be of average height and build.

iv. UAB's must never have purchased or possessed alcohol or tobacco illegally, and must commit to not purchasing or possessing alcohol or tobacco products throughout the duration of the project, including court proceedings. All UAB's will have their names run through the SPOTS system to confirm that the UAB was not previously convicted of an alcohol related offense. The exception is a court ordered participant.

v. UAB's must be willing to testify in court or administrative hearings.

vi. **UAB's participating in a alcohol or tobacco compliance check shall not be in violation of 179:10, 179:10a or 126-K:6 I.**

vii. Each under age buyer deemed approved to be utilized during compliance check operations shall complete a Youth Enforcement Handbook. The said handbook shall be completed prior to their use during a compliance check operation. The Youth Enforcement Handbook shall be completed in full and forwarded to the Director or Designee for filing.

IV. Age Assessment Panel

a. Certification of Underage Buyers

i. Compliance checks have been used as an educational tool throughout the state for several years. The question has often been raised, was the underage buyers appearance in question or did the underage buyer look old enough to legally purchase the age restricted product? To assure to the public that compliance checks are conducted in a fair manner and utilizing persons that appear underage, an Age Assessment Panel (AAP) will be created to select the underage persons. The AAP would be developed to create a database of underage individuals for use in compliance checks. Each underage individual will be assessed or certified as a person whose appearance is such that a

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reasonable and prudent person would check for ID in an age restricted scenario.

b. Buyer Age Appraisal & The Age Assessment Panel (AAP)

i. Conducting an apparent age appraisal of potential buyers provides:

1. Strong evidence that a "reasonable person" would consider the buyer to be under the legal age to purchase alcohol or tobacco.
2. An opportunity for community groups or leaders to be involved in the compliance check operations, which will promote positive community relations.
3. An opportunity to interview and assess prospective buyer's "court presence" and utility as a witness.
4.

ii. The AAP should be comprised of a combination of community leaders and/or professionals as well as industry members. The creation of the panel in this manner is to create a balanced array of licensee peers. The AAP should be created and utilized in various areas of the state when and where needed so as to develop pockets of underage volunteers available to law enforcement agencies for compliance check initiatives. These candidates should be used as "underage buyers" for the Compliance Check Program. The AAP Program shall be organized and overseen by the Division of Enforcement of the NH Liquor Commission. Each underage person should be assessed by the panel and the question would be asked of each panel member, "Would you sell alcohol or tobacco products to this person?"

iii. It is recommended that a panel comprised of qualified reasonable people to do an assessment of the age of youths being considered as buyers. Appropriate panel members may include schoolteachers, guidance counselors, doctors, nurses, youth counselors, attorneys, other underage youth, law enforcement personnel, parents and industry members. Select citizens who routinely deal with young people. Store clerks or citizens engaged in the business of alcohol sales should be used only if they are not from the jurisdiction to avoid suggestions of tipping off or favoring any businesses. An ideal panel would consist of an odd number of members. Instruct buyers to come to the age assessment dressed in jeans, T-shirts, or sweatshirts. Advise them to select clothes similar to those they will wear when conducting compliance checks, and, if necessary, when testifying in court. Females should be advised to wear little or no makeup and to avoid wearing jewelry. Men should be clean shaven.

iv. Have the panel and the applicants report to one site, but in separate rooms. Give each UB candidate an underage buyer applicant sheet (Form #E-031. Once the panel is assembled give each panel member an age assessment sheet (Form #E-032). Have each buyer candidate, and ideally, at least one clearly overage and one clearly underage (15-16 years old for alcohol or 13-14 years

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old for tobacco) youth, enter the panel room one by one, make one short statement, and then leave the room. The duration and character of the panel exposure to the buyer candidate should mimic the circumstances of a typical alcohol or tobacco sale.

i. If your compliance check operation will include on-sale restaurants and bars with typical low lighting conditions, consider holding the panel in a room where low lighting levels can be established. Each underage buyer to be certified by the Age Assessment Panel shall appear before the panel in two specific scenarios. One being a well-lit scenario, similar to a convenience store, and the second scenario would be a more dimly lit area seated at a table to simulate a restaurant or lounge.

v. The buyer applicants can give their name or be identified by number. The panel members will fill in a rating sheet (Form #E-032) that identifies each buyer candidates apparent age as being obviously questionable to purchase alcohol and/or cigarettes.

vi.

For an alcohol UB AAP an ideal outcome will result in some buyer candidates being assessed at age 17 to 19 by the entire panel. For a tobacco UB AAP an ideal outcome will result in some buyer candidates being assessed at age 15 or 16 by the entire panel. Utilize only buyers who are rated by a majority of the age assessment panel to be 17 to 19 years old for alcohol or 15 or 16 for tobacco

vii. If there is an occasion in which the majority of the AAP rates a UAB candidate as appearing either too young or too old but their actual age is within the guidelines of this policy the investigator may request a review and reconsideration by the Director or his designee. When making the request the investigator must explain the circumstances that prompted the request and provide copies of the UAB candidate's application, panel member scoring sheets and a photograph of the UAB candidate in question. The Director or his designee will review the documentation and make a final determination as to whether or not the UAB candidate may participate in the compliance check program. This determination will be based on the Director or his designee's assessment of UAB candidate's apparent age and if he/she feels that the UAB candidate is clearly of youthful appearance and questionable age. This will be done on a case by case basis at the discretion of the Director or his designee.

viii. Under age buyers under the age of 16 years old shall have had an Employer's Request for Child Labor completed by the educational establishment of the

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minor. The educational establishment will be required to forward this form onto the parent or legal guardian of the minor for signing prior to returning it to the Division of Enforcement. Under age buyers under the age of 18 years old and over the age of 16 years old shall have the parental permission form completed and returned to the Division of Enforcement. The above said documents shall be completed and submitted to the Division of Enforcement prior to the utilization of the under age buyer in any compliance check operation.

V. Logistics

a. Prior to conducting a compliance check for either alcohol or tobacco the Division shall assemble and use compliance check packets before the date of the operation. Routes should be planned and maps utilized whenever feasible. A list of licensees should be established for the operation. It shall be the policy of the Division that alcohol and tobacco compliance checks shall check all licensees within a community including State Liquor Stores. Investigators working with local police departments shall encourage checks for both on-sale and off-sale licensees. The investigator in charge of the operation shall keep an accounting of the money expended at each establishment.

b. Investigators may experience several scenarios presented by the local police departments.

i. If the investigator finds that the local police department is not looking for administrative action if a licensee fails the compliance check then the Division shall not participate.

ii. If the investigator is not notified of the compliance check in a timely manner in order to prepare the necessary paperwork and meet the investigators' schedule then the only action taken will be issuance of a Notice of Verbal Instruction.

iii. If the investigator finds that the protocol established by the Commission is not followed by the local police agency then a Notice of Verbal Instruction shall be issued.

VI. Procedure

a. The Division shall implement the following steps before a compliance check is conducted:

i. The operational Checklist, (Form # E-033)) shall be utilized as a guideline for setting up compliance checks. The Compliance Unit and/or area Investigator will inform the regional lieutenant of the upcoming compliance checks.

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ii. The Investigator will inform the Director of Enforcement's Administrative Assistant of the pending compliance check operation prior to its execution. (As much notice as possible).

iii. Lieutenants or their designee will secure funds for the investigator/UAB to perform the compliance checks.*Investigators are not to use their personal funds for compliance checks.

iv. Lieutenants or their designee will secure stipend funds to issue the approved underage buyer for their volunteered time. *(The stipends shall not be given to the approved underage buyer until the conclusion of the compliance check operation).*

v. Review and complete Form # E-044 for each approved under age buyer prior to the commencement of the compliance check operation.

vi. Form E-044 shall be completed by each approved under age buyer whenever utilized in a compliance check operation and filed in the master compliance check report.

vii. Photograph the AAP-UAB.

viii. Search the UAB to document he/she is not carrying extra cash or false identification.

ix. Rehearse the response of the UAB to a query by a clerk as to identification or age. The policy of the Division will be to have the UAB carry their driver's license and present it upon request. The Director shall approve any deviation of this license requirement.

x. If a UAB that has been approved by the Age Assessment Panel is found not to be in compliance with the Division's standards of dress and overall appearance then the investigator conducting the compliance check(s) will not use the UAB for the operation.

VII. At the Scene

a. The safety of the UAB is always the Division's primary concern and therefore compliance checks shall be conducted with this goal. No check shall be conducted where the safety of the UAB is in question.

b. Distribute funds for that single store attempt. If the sale is made take the change from the UAB when they emerge. If no sale is made they should retain the money until the next attempt.

c. If the local law enforcement agency issues the criminal complaint to the clerk for

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selling the age restricted product, the local officer will elect to either seize the product for evidence, or photograph it and return the product back to the establishment (Some local law enforcement agencies utilize the photograph as the evidence for the sale that was made). If the age restricted product is seized for evidence, the buy money utilized shall not be seized back from the establishment. If the age restricted product is returned to the establishment after a photograph was taken, the buy money utilized for the purchase shall be immediately seized back from the establishment.

d. If the Investigator works in a solo capacity when executing the compliance check operation (without the assistance of the local law enforcement agency), the Investigator shall issue the summons and Notice And Record of Verbal Direction as outlined below. In addition, the Investigator shall process the seized evidence by logging into evidence and tagging. The money that is exchanged shall not be seized from the licensee. A receipt for the completed sale shall be tagged as evidence along with the alcohol purchased.

e. The compliance check buyer report form, Form # E-034, shall be completed and all evidence bagged and tagged before completing the next check.

f. If feasible, one officer should enter the establishment to observe the transaction. If not feasible try to observe from outside the store.

g. Buyer enters and selects an age restricted product (cigarettes, six-pack of beer in off-sale checks or a bottle of beer or glass of wine if an on-sale licensee).

h. Upon leaving the establishment the UAB shall be debriefed on their experience and a reporting sheet shall be completed for each attempt, whether successful or not.

i. If feasible, and without creating a situation where a licensee calls other licensees, the officers should approach the seller or server and explain the check was done and the result.

j. If the establishment fails an alcohol compliance check, the Investigator shall issue a Notice And Record of Verbal Instruction. On this document, the Investigator will document that the offense was a violation of RSA 179:5 (Compliance Check Failure), that there will be four (4) points assessed to the liquor license, and that a member of the management will be required to attend a Division sponsored Management Training Seminar Class within (90) days of the offense. An Form # E-045 E shall be completed and issued to each establishment at the time of the failed alcohol compliance check.

k. If the compliance check operation involves the assistance from a local law enforcement agency; the Investigator shall make that agency aware of the Total Education in Alcohol Management (TEAM) class that is sponsored by the Division of Enforcement. It should be made known that requesting the court to order the defendant to attend this class is an option for a plea agreement.

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l. If the Investigator is issuing the criminal summons to the clerk for a violation of RSA 179:5 (Prohibited Sales); the following practice should be followed: First Offense: The Investigator may offer a plea offer for the defendant to attend a Division sponsored Total Education in Alcohol Management (TEAM) class within a (90) day time period, and the Prohibited Sales charge to be placed on file for one (1) year of good behavior. Good behavior shall include no felony, misdemeanor, or major violation convictions. Subsequent Offense(s): The Investigator shall proceed with the prosecution as normal. Enhanced penalties are recommended.

m. If the above plea offer is not agreeable by the defendant, then the Investigator shall proceed as normal.

n. If the establishment fails a tobacco compliance check, the Investigator shall issue a Notice and Record of Verbal Instruction. On this document, the Investigator will document that the offense was a violation of 126-K:4 (Compliance Check Failure), and that a member of the management will be required to attend a Division sponsored Management Training Seminar Class within (90) days of the offense. An Form # E-045 shall be completed and issued to each establishment at the time of the failed tobacco compliance check.

o. If the compliance check operation involves the assistance from a local law enforcement agency; the Investigator shall make that agency aware of the Total Education in Alcohol Management (TEAM) class that is sponsored by the Division of Enforcement. It should be made known that requesting the court to order the defendant to attend this class is an option for a plea agreement.

p. If the Investigator is issuing the criminal summons to the clerk for a violation of 126-K:4 (Sale of Tobacco Products to a minor); the following practice should be followed: First Offense: The Investigator may offer a plea offer for the defendant to attend a Division sponsored Total Education in Alcohol Management (TEAM) class within a (90) day time period, and for the offense to be placed on file for (90) days of good behavior. Good behavior shall include no felony, misdemeanor, or major violation convictions. Subsequent Offense(s): The Investigator shall proceed with the prosecution as normal. Enhanced penalties are recommended, as outlined within 126-K:4.

q. If the above plea offer is not agreeable by the defendant, then the Investigator shall proceed as normal.

VIII. After the Checks

a. The Investigator(s) shall complete Form # E-043 with the under age buyer immediately following the compliance check operation. At this time, the stipend will be given to the under age buyer for having volunteered their time in the said operation.

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b. If a sale was made by a state liquor store, the Investigator shall notify the applicable field Sergeant immediately to report all pertinent information (seller's information, buyer's information, manager's information, item purchased, court date issued, etc), who will in turn notify the Lieutenant. The Lieutenant will notify the Deputy Director of the above information.

c. The issuance of Notices And Record of Verbal Instruction as outlined above shall be documented in an IMC as a Call for Service. Within the CFS, the seller's name, UAB's name, the local law enforcement officer's name, and a narrative indicating the facts of the violation shall be included. The CFS shall be printed out, stapled to the Notice And Record of Verbal Instruction and submitted with the compliance check paperwork packet for supervisory review.

d. The Investigator shall complete an offense report as an event. This report shall constitute the master report documenting the synopsis of the operation, and titled respectively to the type of operation that was conducted (On-Sale Alcohol Compliance Checks, Tobacco Compliance Checks, etc). The Investigator shall import digital photographs of the approved UAB's utilized in the operation onto the images portion of the offense report (The photograph to be imported shall be the photograph taken at the time the operation was executed). Within the folder containing this event (offense) report, the Investigator shall include a photo copy of the driver's licenses of the approved UAB's, a completed Form # E-042 for each approved UAB, Form # E-043 for each approved UAB, and a completed Form # E-044 for each approved UAB. In a separate folder, the Investigator shall include only the Notices And Record of Verbal Instruction which are stapled to completed CFS's. In a separate folder, the Investigator shall file all completed Form # E-034s. In a separate folder, the Investigator shall file the completed MAPPER report. All of the above separate folders utilized to organize the compliance check paperwork shall all be filed in an accordion folder and submitted for supervisory approval.

e. A completed copy of the MAPPER report shall be forwarded electronically to the criminal analyst or program specialist for data collection.

f. All of the issued Notices and Record of Verbal Instruction will be reviewed by the Director or his designee. At the time of this review, the Division may elect to enhance the penalty due to prior history or aggravating factors. If this is the case, the Division administration will contact the licensee directly.

g. Press releases will be issued under the direction of the Director or his designee.

h. The Division of Enforcement shall not participate in any compliance checks unless a 90 day period has passed before a subsequent compliance check is conducted. The only exception to the 90 day lapse between compliance checks is the Selective Alcohol and Tobacco Initiative.

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IX. Selective Alcohol & Tobacco Initiative (SATI)

a. The Division of Enforcement recognizes that compliance checks for alcohol and tobacco are a valuable educational tool when conducted in a community wide effort. However, there are situations that arise that could require a more directed form of compliance check. The Division of Enforcement receives numerous complaints from the general public regarding a specific licensee selling alcoholic beverages or tobacco products to underage persons. The SATI compliance check shall be used as an enforcement tool as opposed to an educational tool. The resulting penalties would be the same as an enforcement action.

b. The Division of Enforcement will institute the following law enforcement initiative referred to as the **"SELECTIVE ALCOHOL AND TOBACCO INITIATIVE" (SATI).**

c. **"SATI"** will be a controlled law enforcement action conducted by the Division of Enforcement as a result of a formal complaint filed against a specific licensed location.

d. Underage buyers will be utilized by a member or members of the Division of Enforcement to selectively check and attempt to make purchases of alcoholic beverages and/or tobacco products at specifically identified licensed premise.

e. Multiple locations within a single community may be selected, but only if complaints have been logged with the Division regarding suspected sales at those additional locations.

f. **"SATI"** shall be initiated only as a result of a formal complaint levied against a specific licensed location.

g. The formal complaint shall be filed by the complaining party and he or she shall be identified by name, address and date of birth.

h. The identity of the complainant shall be kept confidential and available only to the Commission if requested.

i. Anonymous complaints may be accepted as a valid formal complaint.

j. The initial complaint may be filed with the Division of Enforcement by a citizen or other law enforcement agency. This information will be stored in the Dispatch portion of the IMC data base maintained by the Division of Enforcement.

k. All protocol issues under this policy shall be followed regarding the age and appearance of the underage buyer.

l. The lieutenant shall authorize the **"SATI"** and shall notify the Deputy Director prior

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to the start of the initiative.

m. The Deputy Director or his designee will determine if a stipend will be given to the approved under age buyer for the time that was volunteered in the "SATI" operation prior to its execution.

n. Each "SATI" operation attempt will require separate approval processes in regards to the issuance of a stipend to the approved under age buyer. If a stipend is going to be given to the under age buyer, the stipend shall not be given until the conclusion of the compliance check operation.

o. Photograph the AAP-UAB prior to the "SATI" operation.

p. Search the UAB to document he/she is not carrying extra cash or false identification.

q. Rehearse the response of the UAB to a query by a clerk as to identification or age. The policy of the Division will be to have the UAB carry their driver's license and present it upon request. The Director shall approve any deviation of this license requirement.

r. If a UAB that has been approved by the Age Assessment Panel is found not to be in compliance with the Division's standards of dress and overall appearance then the investigator conducting the compliance check(s) will not use the UAB for the operation

s. Review and complete the attached Form # E-044 for each approved under age buyer prior to the commencement of the compliance check operation.

t. Form # E-044 shall be completed by each approved under age buyer whenever utilized in a compliance check operation and filed in the offense report.

u. Distribute funds for that single store attempt. If the sale is made take the change from the UAB when they emerge. If no sale is made they should retain the money until the next attempt.

v. If feasible, one invetigator should enter the establishment to observe the transaction. If not feasible try to observe from outside the store.

w. Buyer enters and selects an age restricted product (cigarettes, six-pack of beer in off-sale checks or a bottle of beer or glass of wine if an on-sale licensee).

x. Upon leaving the establishment the UAB shall be debriefed on their experience and a reporting sheet shall be completed for each attempt, whether successful or not.

y. The "SATI" operation will consist of two (2) checks done at least 15 but no more than 30 calendar days apart.

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z. Each "SATI" operation offense will be considered a single violation.

aa. The "SATI" operation will be recorded and filed as an IMC Incident report. The report shall identify the licensee; the complaints alleged and the person or persons used for the operation.

bb. The "SATI" violations shall be filed in IMC Offense Reports (OF) with full details describing the violation in addition to the complaints filed against the location. Within the folder containing this offense report, the Investigator shall include a photo copy of the driver's licenses of the approved UAB's, a completed Form # E-034, a completed Form # E-042 for each approved UAB, Form # E-043 for each approved UAB (*if applicable*), and a completed Form # E-044 for each approved UAB(*if applicable*).

cc. Each "SATI" offense will constitute the issuance of an Administrative Notice of Agency Action to the establishment. The Administrative Notice shall indicate that it is a Must Appear, and that the establishment shall contact the legal department of the Division within five (5) business days of the offense.

dd. The Investigator(s) shall complete the attached Form # E-043 with the under age buyer immediately following the "SATI" operation. At this time, the stipend will be given to the under age buyer for having volunteered their time in the said operation.

X. Underage Buyer Removal Procedure

a. An investigator may run into a situation where a buyer is no longer reliable, has gotten into trouble at school or with law enforcement, has engaged in activity that reflects negatively upon the division, or has requested to be removed from the calling list. The following procedure shall be taken when an underage buyer is to be removed from the list:

i. The investigator shall submit a memo to their immediate supervisor requesting that the Under Age Buyer be removed from the list, and explain the situation that occurred that causes concern as to their suitability as an underage buyer.

ii. The immediate supervisor will determine if the situation warrants permanent removal from the list.

iii. If it is determined that the buyers actions warrant removal, the immediate supervisor shall remove the buyer from the approved underage buyer list by notifying the training division. It shall be the responsibility of the training division to inform all field personnel of that buyer's removal from the list.