

**Performance Audit
Regulated Industries:
Underage Liquor Sales Inspections**

May 2012

**City Auditor's Office
City of Kansas City, Missouri**

CITY OF FOUNTAINS
HEART OF THE NATION



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May 16, 2012

Honorable Mayor and Members of the City Council:

This performance audit of the Regulated Industries Division's underage liquor sales inspections program was initiated by the city auditor pursuant to Article II, Section 216 of the city charter. We focused on the effectiveness of the division's administration and enforcement process of the underage liquor sales inspection program. Under the supervision of division investigators, 18-to 20-year-old volunteers attempt to purchase alcohol throughout the city. Between December 2008 and September 2011, the division conducted 670 underage liquor sales inspections in all areas of the city and all types of businesses with liquor licenses.

Less than 40 percent of the liquor licenses (active as of September 2011) have undergone an underage liquor sales inspection. Only 47 percent of inspected businesses did not sell alcohol to underage volunteers on the first inspection; compliance often requires multiple inspections. Competing regulatory responsibilities and a lack of minor volunteers contributed to the division not meeting its inspection time goals. Developing a scheduling process that matches priorities, goals, and resources could help the division strengthen the effectiveness of the underage liquor sales inspection program. Additionally, coordinating with the Kansas City Police Department, which also conducts these inspections, could decrease duplication of efforts and increase inspection coverage.

The division's processes related to underage liquor sales inspections include many recommended practices, however, these are not consistently included in written policies and procedures. Regulated Industries' recruitment practices limited the pool of potential minor volunteers and prevented the division from having enough volunteers to conduct inspections on a consistent basis. Expanded recruiting efforts, written training materials for volunteers, and more complete written procedures would strengthen the division's underage liquor sales inspection efforts.

Regulated Industries' competing regulatory responsibilities and lack of volunteers adversely impacted the division's ability to consistently conduct underage liquor sales inspections. Because city code does not require the division to conduct underage liquor sales inspections and the Police Department also conducts these inspections, the director of neighborhood and community services should consider eliminating the underage liquor sales inspection program to allow the division to focus efforts on its other regulatory responsibilities. If the director determines that it is best to continue underage liquor sales inspections, the other recommendations we made should strengthen the program's effectiveness.

We shared a draft of this report to with the director of neighborhood and community services on April 2, 2012. His response is appended. We would like to thank the Regulated Industries Division staff for their assistance and cooperation during this audit. The audit team for this project was Joyce Patton and Douglas Jones.

A handwritten signature in black ink that reads "Gary L. White". The signature is written in a cursive style with a large initial "G".

Gary L. White
City Auditor

Regulated Industries: Underage Liquor Sales Inspections

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Introduction

Objectives

We conducted this audit of Regulated Industries' underage liquor sales inspections under the authority of Article II, Section 216 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the city auditor's primary duties.

A performance audit provides assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria. Performance audits provide objective analysis so that management and those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making, and contribute to public accountability.¹

This report is designed to answer the following question:

- Is Regulated Industries' administration and enforcement process for underage liquor sales inspections effective?

Scope and Methodology

Our review focuses on the Regulated Industries Division's administration and enforcement process related to their underage liquor sales inspection program. The city had received complaints about the fairness of the division's underage liquor sales inspections. Department and division management also received complaints and expressed interest in an audit looking at their process.

Our audit methods included:

- Interviewing division staff to identify policies, procedures, practices, and audit criteria to understand how underage liquor sales inspections are conducted and managed.

¹ Comptroller General of the United States, *Government Auditing Standards* (Washington, DC: U.S. Government Printing Office, 2007), p. 17.

- Analyzing underage liquor sales inspections conducted between December 2008 and September 2011, using data on active liquor licenses extracted from Regulated Industries' EnerGov database system on September 27, 2011, and data on underage liquor sales inspections extracted from EnerGov on September 29, 2011, to evaluate inspection efforts and results.
- Reviewing state statutes and regulations, and the city charter and code to identify any laws or regulations related to conducting underage liquor sales inspections to identify legal requirements for comparison with the division's policies, procedures, and practices.²
- Reviewing *Reducing Alcohol Sales to Underage Purchasers: A Practical Guide to Compliance Investigations*³ to identify audit criteria and recommended practices for comparison with the division's policies, procedures, and practices.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We assessed the reliability of the underage liquor sales inspection data we obtained from the EnerGov system by interviewing staff about general system controls; reviewing division procedures related to data entry; examining the inspection data for reasonableness; and tracing a random sample of data to source documents and source documents to the data to determine accuracy and completeness. We identified a few data entry errors, which were corrected after we brought them to the attention of division staff. We determined that the data were sufficiently reliable for the purposes of this report.

In conducting our audit work we identified issues related to database management that were not directly related to our audit objective and communicated the issues to management in a separate memorandum.

² Revised Statutes of Missouri §311.722 and Missouri Code of State Regulations Title 11, Division 70, Chapter 2.280. According to the city's Law Department, Regulated Industries is not required to follow state statutes or regulations when conducting underage liquor sales inspections.

³ Pacific Institute for Research and Evaluation, *Reducing Alcohol Sales to Underage Purchasers: A Practical Guide to Compliance Investigations*, 2010 Revision, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention.

No information was omitted from this report because it was deemed privileged or confidential.

Background

Neighborhood and Community Services' Regulated Industries Division is responsible for administering and enforcing the city's alcoholic beverages ordinances. These ordinances also establish the authority of the city's Liquor Control Board of Review to conduct hearings related to liquor issues and review the director's actions related to the administration and enforcement of the city's alcoholic beverages ordinances.⁴

The division implemented an underage liquor sales inspection program in December 2008. Under the supervision of division investigators, 18- to 20-year-old volunteers attempt to purchase alcohol at restaurants, bars, taverns, and package liquor stores. Prospective volunteers go through an interview and background check process and a training session conducted by Regulated Industries' Investigations Supervisor. Volunteers receive a \$50 stipend for each three to four hour shift they work with the division's investigators.

Underage Liquor Sales Inspection Process

Underage liquor sales inspections are conducted by two division investigators and one or two minor volunteers. When a volunteer reports for an inspection shift, the investigators discuss expectations and procedures with the volunteer, make sure the volunteer looks age appropriate, check and copy the volunteer's ID, take a photo of the volunteer, and remind the volunteer to answer all questions about age truthfully and present his/her ID when asked.

The volunteer enters the business being inspected, followed by one of the investigators; the second investigator remains in the car. At a package liquor store, the volunteer selects and takes the alcoholic beverage to the checkout counter. At restaurants and bars, the volunteer sits at a table or the bar and orders an alcoholic beverage. Once the transaction is complete or the volunteer's alcohol purchase is denied, the volunteer exits the business and returns to the car. If any alcohol was purchased the volunteer gives the alcohol and receipt to the investigator waiting in the car.

⁴ Code of Ordinances, Kansas City, Missouri, Sec. 10.

After the volunteer leaves, the investigator inside the business identifies himself/herself, checks the server or clerk's liquor permit, and asks to speak with a manager if one is available. The investigator informs the manager or employee that the business either passed or failed the underage liquor sales inspection. If the business passed (refused to sell alcohol to the volunteer), the investigator gives the business and employee a "congratulations" letter. If the business failed, the investigator informs the manager or employee the business will be contacted to schedule a meeting with the manager of Regulated Industries to discuss the violation and the next steps in the process.

Consequences of Selling Alcohol to Minors

Regulated Industries has a policy that outlines a range of administrative actions, from issuing warnings to license revocation,⁵ that can be used to address violations. A first time violation results in a warning and a \$50 fee plus the cost of the alcohol purchased during the underage liquor sales inspection. Businesses are told they will be re-inspected until they pass an underage liquor sales inspection and are given suggestions to prevent a repeat violation.

Subsequent violations result in increasing penalties depending on the number of repeat violations. City code allows for the informal disposition of contested cases by stipulation, consent order or default, or by agreed settlement.⁶ Regulated Industries allows businesses to choose from the following administrative actions:

- temporary closure of the business,
- temporarily not selling alcohol,
- an agreed upon assessment ranging from \$250 to \$1,000 per day based on the business's average daily gross revenue, or
- a hearing before the city's Liquor Control Board of Review.

City ordinances require all persons who sell alcoholic beverages to possess an employee liquor permit.⁷ Regulated Industries also has a policy that outlines administrative actions applied to clerks, waiters, waitresses, and other employees who sell alcohol to minors. Actions range from a warning to revocation of their liquor permit depending on the number of violations.

⁵ Only the Liquor Control Board of Review has the power to revoke a liquor license.

⁶ Code of Ordinances Sec. 10-66.

⁷ Code of Ordinances Sec. 10-5.

Underage Liquor Sales Inspection Activity

Between December 2008 and September 2011, the division conducted 670 underage liquor sales inspections (initial inspections and re-inspections after failed inspections) of 380 different liquor licenses. These inspections were conducted in all areas of the city and all types of businesses with liquor licenses.⁸

The number of active liquor licenses fluctuates. At the end of September 2011, there were 844 active Package, Restaurant-Bar, and Tavern liquor licenses.⁹

⁸ The division does not conduct underage liquor sales inspections of Caterer-Full Service, Manufacturer, and Wholesaler liquor licenses.

⁹ Included in the number of Package liquor licenses are four Package-Specialty Drink liquor licenses.

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Findings and Recommendations

Summary

Between December 2008 and September 2011, less than 40 percent of the city's active liquor licenses had been inspected. Only 47 percent of inspected businesses did not sell alcohol to underage volunteers on the first inspection. Although overall compliance of inspected businesses reached about 86 percent, achieving this level of compliance often required multiple re-inspections. Re-inspections following failed inspections are not occurring within the division's time frame goals. Identifying and evaluating division priorities, goals, and resources and developing a scheduling process that matches priorities, goals, and resources could help the division strengthen the effectiveness of the underage liquor sales inspection program. Increased coordination with KCPD could also improve the effectiveness of the program.

Overall, the division's processes related to underage liquor sales inspections include many of the recommended practices we reviewed, however, these are not consistently included in written policies and procedures. Regulated Industries' recruitment practices resulted in a limited pool of potential volunteers and not having enough volunteers to conduct inspections on a consistent basis. Volunteers and enforcement efforts could benefit from a well documented training program to ensure volunteers receive consistent information about procedures and expectations for conducting inspections. The on-going accountability and consistency of the division's underage liquor sales inspection enforcement efforts would be improved by expanded recruiting efforts, written training materials for volunteers, and more complete written procedures.

Regulated Industries' competing regulatory responsibilities and lack of volunteers adversely impacted the division's ability to consistently conduct underage liquor sales inspections. Because city code does not require the division to conduct underage liquor sales inspections and with the Police Department also conducting this type of inspection, the division should consider eliminating the underage liquor sales inspection program which would allow the division to focus efforts on its other regulatory responsibilities.

Enforcement Efforts Could Be Strengthened

Less than 40 percent of the active liquor licenses have undergone an underage liquor sales inspection. Although overall inspection compliance reached about 86 percent, achieving that level of compliance often requires multiple inspections. The timeliness of re-inspections did not meet management's goals. Improving the inspection scheduling process and coordinating with KCPD could improve enforcement efforts.

Only 38 Percent of Active Liquor Licenses Have Undergone an Underage Liquor Sales Inspection

Between December 2008 and September 2011, Regulated Industries conducted underage liquor sales inspections at 321 of the 844 Package, Restaurant-Bar, or Tavern liquor licenses that were active as of September 2011.¹⁰ Regulated Industries' goal is to conduct at least one underage liquor sales inspection of all active licenses every two to three years. During the period we examined, the division averaged slightly fewer than 20 inspections a month. We estimate it would take the division almost six years to conduct and complete underage liquor sales inspections (initial inspections and re-inspections after failed inspections) of all 844 active liquor licenses.

Compliance Often Requires Multiple Inspections

Overall, inspected businesses did not sell alcohol to the underage volunteers on the first inspection 47 percent of the time. Between December 2008 and September 2011, overall compliance for underage liquor sales inspections and re-inspections was about 86 percent. (See Exhibit 1.) Division management's goal is that every inspected business pass an underage liquor inspection at least once regardless of the number of inspections needed. Achieving this level of compliance can take multiple inspections. The inspection data indicates that for every 100 first time inspections the division could expect to conduct about 60 re-inspections before most of the inspected businesses pass an underage liquor sales inspection.

¹⁰ During the period, the division had also inspected another 59 liquor licenses that were no longer active as of September 29, 2011.

Exhibit 1. Underage Liquor Sales Inspections Compliance
(December 2008 - September 2011)

Compliance Achieved by...	Inspected Licenses	Compliance Percentage
1 st Inspection	198	46.8%
2 nd Inspection	120	28.4%
3 rd Inspection	31	7.3%
4 th Inspection	13	3.1%
5 th Inspection	1	0.2%
Overall Compliance	363	85.8% ¹¹

Source: Regulated Industries inspection data and City Auditor's Office calculations.

Timeliness of Re-inspections Did Not Meet Management's Goals

Only 41 percent of re-inspections were conducted within management's timeliness goal. Additionally, 36 re-inspections following failed inspections had not been conducted and another 34 inspections were initiated too soon after the businesses had achieved compliance.

The majority of re-inspections were late. Only 41 percent of the 249 re-inspections Regulated Industries conducted between December 2008 and September 2011 were accomplished within the division's desired time frame for re-inspections. Division management told us their goal is to re-inspect all businesses that fail an underage liquor sales inspection within 15 to 90 days after the business has met with Regulated Industries management and discussed the failed inspection. Only 102 of the re-inspections achieved the goal. (See Exhibit 2.)

Exhibit 2. Timeliness of Re-inspections Compared to Goals (December 2008 - September 2011)

Timeliness of Re-Inspection	Number of Re-Inspections
Too early	4
On time	102
Late	143

Source: Regulated Industries inspection data and City Auditor's Office calculations.

Division management reported they tell all businesses that fail an underage liquor sales inspection they are guaranteed to be re-inspected until they pass. As of September 29, 2011, Regulated Industries had not re-inspected 36 active businesses that failed an underage liquor sale inspection. Some of these re-inspections were more than a year past due.

¹¹ Overall compliance percentage is less than 100% due to active licenses (10%) not in compliance during our review period and inactive licenses (4%) that did not achieve compliance while still active.

Conducting re-inspections more than three months after failed inspections or not conducting re-inspections after violations lessens the presence, impact, and effectiveness of the underage liquor sales inspection program. Un-timely re-inspections may also increase the time that a business is non-compliant.

New inspections were conducted too soon after businesses achieved compliance. Division management told us their goal is to not inspect the same business within a year of the business passing an inspection unless there is a complaint or the business changes ownership. Regulated Industries conducted 34 new underage liquor sales inspections less than a year after the businesses had passed an inspection.

Inspecting businesses too soon after they have achieved compliance prevents the division from allocating its limited resources to other activities, such as re-inspecting businesses that failed earlier underage liquor sales inspections or inspecting businesses the division has not yet inspected. It may also create the perception that a business is being unfairly treated or targeted.

Inspection Scheduling Methodology Could Be Strengthened

Regulated Industries does not have a written policy outlining its process for selecting and scheduling underage liquor sales inspections. Division management described their process for selecting and scheduling these inspections as a “thought process” that uses information from their inspection database, complaints, volunteer availability, and area of the city that investigators are working.

The division’s enforcement process could be improved by developing a selection and scheduling methodology that matches priorities, goals, and resources. Including the selection methodology in a written policy would strengthen the accountability, consistency, and equity of the division’s underage liquor sales inspection program.

Recommended practices suggest that all businesses with liquor licenses undergo an underage liquor sales inspection at some time. The number of businesses that can be inspected is dependent upon a number of factors: the availability of investigators and volunteers; the number of businesses in a community with liquor licenses; and expected outcomes or goals.

Recommended practices outlined several inspection selection methods, some of which address ways to conduct inspections with limited resources:

- Investigating all businesses in the community that have a liquor license.
- Randomly selecting a sample of businesses with liquor licenses.
- Investigating all businesses in certain geographic areas of the community (e.g. near colleges).
- Selecting certain types of liquor licenses (convenience stores, gas stations, bars, etc.) that may have been identified as the most common sources of alcohol for underage drinkers.
- Selecting locations based on complaints or a documented history of sales violations.¹²

Enforcement efforts would be strengthened by establishing realistic program goals that match the resources available for the program.

The director of neighborhood and community services should develop a selection and scheduling methodology for underage liquor sales inspections that matches the division's priorities and goals to the division's resources. Once developed, the methodology should be included in the written policies describing the program.

Coordinating with the Police Department Could Increase Inspection Coverage

Regulated Industries management told us that the Kansas City Police Department's (KCPD) Vice Unit also conducts underage liquor sales inspections.¹³ KCPD's Vice Unit Sergeant told us the department conducts underage liquor sales operations about once a month resulting in 15 to 30 inspections. Regulated Industries averaged about 20 inspections per month.

Based on Regulated Industries' records, 10 of the 19 businesses inspected by KCPD in September and October 2009, duplicated inspections conducted by Regulated Industries. Seven of the businesses had already passed a Regulated Industries underage liquor sales inspection prior to the KCPD inspection.

Duplication of inspection efforts reduces the number of businesses inspected and may also create the perception that a business is being unfairly treated or targeted.

¹² *Reducing Alcohol Sales to Underage Purchasers: A Practical Guide to Compliance Investigations*, pp. 19-20.

¹³ Regulated Industries' database included 36 underage liquor sales inspections that KCPD conducted and reported to Regulated Industries. We reviewed them to determine if there was any duplication between Regulated Industries' and KCPD's inspection efforts.

Recommended practices suggest that maintaining an effective presence in the community by conducting underage liquor sales inspections throughout the year requires resources that many agencies cannot maintain. Sharing inspection data and results could reduce the risk of Regulated Industries and KCPD duplicating inspection efforts. Sharing information and coordinating inspection efforts could increase the number of businesses being inspected for underage liquor sales, improve citywide inspection coverage, help each agency manage their limited inspection resources, and maintain an effective on-going presence in the community.

The director of neighborhood and community services should explore opportunities to coordinate with KCPD on underage liquor sales inspection activities to reduce the risk of duplicating inspection efforts and improve inspection coverage.

Accountability and Consistency of Administration Efforts Could Be Improved

The division's past recruiting efforts did not provide an adequate number of volunteers. Expanded recruiting efforts could increase the number of available volunteers to conduct underage liquor sales inspections. Volunteers and enforcement efforts would benefit from a written training program. Written procedures describing the inspection process would ensure consistency and strengthen accountability.

Efforts to Recruit and Train Volunteers Could Be Improved

The division's past recruiting efforts did not provide an adequate number of volunteers. Recommended practices suggest recruiting volunteers from multiple sources. Training for volunteers could be strengthened with written procedures and mock inspections.

Past recruiting efforts did not provide an adequate number of minor volunteers. Until recently, Regulated Industries recruited volunteers exclusively through the Police Department's monthly newsletter. Most of the volunteers were relatives of Police Department employees. This recruiting method resulted in the division not having enough volunteers to conduct inspections on a more frequent or consistent basis.

In September and October of 2011, division management told us they had no volunteers. When no volunteers are available, the division cannot conduct underage liquor sales inspections.

To recruit an adequate number of volunteers, recommended practices suggest recruiting volunteers from multiple sources by presenting information about the underage liquor sales inspection program on the widest scale possible. In addition to families of police officers, potential places where Regulated Industries could present program information and recruit volunteers include:

- community groups,
- churches, and
- schools and colleges with a criminal justice program or as a way for students to fulfill community service requirements.¹⁴

We shared this information with Regulated Industries management in October 2011. In December 2011, the division manager reported they were starting to expand their recruiting efforts to colleges and neighborhood groups. Presenting information about the underage liquor sales inspection program and recruiting volunteers on a wider scale provides the division access to a larger pool of potential volunteers, which should result in more volunteers available to conduct underage liquor sales inspections.

The director of neighborhood and community services should continue efforts to expand the division's volunteer recruiting efforts to increase the number of volunteers available to conduct underage liquor sales inspections.

Training for volunteers could be strengthened. Recommended practices note that a well documented and structured training program is necessary for a successful enforcement program and consistent inspections. Division management told us they do not have a training program that includes written training materials for volunteers. The investigations supervisor instructs volunteers on expectations and procedures for conducting underage liquor sales inspections before volunteers are assigned their first inspection shift. The investigators told us they also go over expectations and procedures with volunteers before beginning an inspection shift. Recommended practices also suggest volunteers be given the opportunity to practice attempting to purchase alcohol in a mock setting before going on their first inspection. Providing written training materials and giving volunteers an opportunity to practice prior to their first inspection would help ensure they receive consistent information about the division's procedures and expectations and are comfortable conducting underage liquor sales inspections.

¹⁴ *Reducing Alcohol Sales to Underage Purchasers: A Practical Guide to Compliance Investigations*, pp. 12-13.

The director of neighborhood and community services should develop a written training program for volunteers that outlines expectations and procedures, and provide an opportunity for volunteers to practice conducting underage liquor sales inspections in mock situations prior to their first inspection.

Written Procedures Describing Inspection Process Would Ensure Consistency and Strengthen Accountability

Overall, the division's processes and practices related to underage liquor sales inspections include many recommended practices such as:

- requiring volunteers to be truthful when asked their age,
- verifying volunteers have a youthful appearance before beginning an inspection shift,
- requiring two investigators for conducting inspections, and
- providing a congratulatory letter to retailers and employees who pass the compliance inspection.

However, these processes and practices are not consistently included in the division's written policies and procedures. (See Appendix A for the recommended practices and comparison with the division's policies, procedures, and practices.)

The division should incorporate the following recommended practices to strengthen the inspection process:

- Investigators should enter a business first to ensure it is safe for the volunteer and be in a position to witness the transaction.
- Volunteers should complete a written statement detailing the transaction and any conversation with the seller while the facts are still fresh in the volunteer's mind. Currently investigators complete a field inspection checklist as part of each underage liquor inspection, but the division does not document whether the volunteer agrees with its contents. While recommended practices suggest volunteers complete a written statement, if the division prefers having the investigators complete the field inspection checklists, having volunteers sign or initial it would improve the accountability of the process.

Although division management's and investigators' descriptions of the processes and practices associated with underage liquor sales inspections were relatively consistent, the actual inspection process is not included in any written policy and procedures. Developing written procedures outlining the inspection process and incorporating additional recommended practices would strengthen the on-going accountability and consistency of the division's enforcement efforts. Written

procedures also ensure that current and new staff as well as volunteers are given consistent information and training.

The director of neighborhood and community services should develop a written policy detailing the division's underage liquor sales inspection procedures and incorporate the recommended practices requiring investigators to enter businesses before volunteers and having volunteers complete, sign, or initial the field inspection checklists.

Department Should Consider Eliminating Underage Liquor Inspections

Underage liquor sales inspections are not required by city code. In addition to administering and enforcing the city's alcoholic beverage ordinances, Regulated Industries has oversight/regulatory responsibilities for over 20 different areas or permits. (See Exhibit 3.) Division management reported the new waste tire dealer/hauler ordinance, taxicab licensing, and more recently coin operated amusement device regulation impacted their ability to consistently conduct underage liquor sales inspections in fiscal years 2011 and 2012.

Exhibit 3. Regulated Industries Regulatory/Oversight Areas

Employee liquor permits	Carnivals/motor raceway permits
Liquor licenses	Day labor business permits
Temporary catering liquor licenses	Secondary metal recycler permits
Non-profit organization liquor permits	Short term loan establishment permits
Sidewalk café permits	Taxicab businesses
Adult entertainer and manager employee permits	Livery businesses
Adult entertainment licenses	Pedicab businesses
Adult live entertainment licenses	Sightseeing vehicle businesses
Dance hall permits	Tire dealers
Haunted house permits	Waste tire sites
Billiard/pool hall permits	Waste tire haulers
Skating rink permits	Coin operated amusement devices

Source: Regulated Industries.

As previously noted, less than 40 percent of the active liquor license holders have been inspected since the program began in December 2008. A lack of volunteers and other division regulatory responsibilities have adversely impacted the division's ability to conduct underage liquor sales inspections consistently or at all. In addition, the Police Department also conducts these inspections and the duplication of inspection efforts may

be contributing to complaints of unfair treatment or enforcement practices.

With limited resources and competing regulatory responsibilities, the director of neighborhood and community services should consider eliminating the underage liquor sales inspection program. Although eliminating the inspections will not result in savings, it would allow the division to focus its efforts on other regulatory responsibilities.

Recommendations

1. The director of neighborhood and community services should develop a written selection and scheduling methodology for underage liquor sales inspections that matches the division's priorities and goals to the division's resources.
2. The director of neighborhood and community services should explore opportunities to coordinate with KCPD on underage liquor sales inspection activities to reduce the risk of duplicating inspection efforts and improve inspection coverage.
3. The director of neighborhood and community services should continue efforts to expand the division's volunteer recruiting efforts to increase the number of volunteers available to conduct underage liquor sales inspections.
4. The director of neighborhood and community services should develop a written training program for volunteers that outlines expectations and procedures, and provide an opportunity for volunteers to practice conducting underage liquor sales inspections in mock situations prior to their first inspection.
5. The director of neighborhood and community services should develop a written policy detailing the division's underage liquor sales inspection procedures and incorporate the recommended practices requiring investigators to enter businesses before volunteers and having volunteers complete, sign, or initial the field inspection checklists.
6. The director of neighborhood and community services should consider eliminating the underage liquor sales inspection program, allowing inspection efforts to focus on other regulatory responsibilities.

Appendix A

Recommended Practices for Conducting Underage Liquor Sales Inspections

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Recommended Practices for Conducting Underage Liquor Sales Inspections

We reviewed recommended practices¹⁵ for comparison with Regulated Industries’ practices and written policies and procedures.

Recommended Practice	Does Regulated Industries Follow/Use?	Does Regulated Industries Have Written P&P?
<u>Work with Industry / Retailers</u>		
Provide retail beverage service training for those serving alcohol.	Yes, as requested by retailers	na
Inform retailers about the program and provide them copies of guidelines/practices for conducting compliance investigations.	Partially, retailers informed but written policies/guidelines are not available	No
Send congratulatory letters to retailers/staff who refused to sell alcohol during a compliance investigation or present the congratulatory letter immediately after they refused the sale.	Yes	No
<u>Selection of Volunteers</u>		
The key to successfully recruiting volunteers lies in presenting information about the program on a wide scale.		
Presenting information about the program to community groups and churches.	Yes, but not for recruiting purposes	No
Looking to family members and friends of police officers and their families.	Yes	No
Notifying schools and colleges about the program as a way to complete community service requirements for graduation.	No, but in December 2011, management reported they were starting to recruit in these areas	No
Recruiting in criminal justice programs in local schools and colleges.		No
Requesting assistance from community groups.		No
Verify the volunteer's age.	Yes	Yes
Volunteers should have youthful appearance; males clean shaven; females no excessive jewelry/make-up or revealing clothing. Dress in manner consistent with peers in age group.	Yes	Yes
Verify volunteer has youthful appearance by asking an independent group of individuals about the volunteer's appearance.	No	No
Select volunteers who are not yet 20 years of age to increase fairness of inspections and limit claims that inspections are unfair because volunteers are close to legal age.	No	Yes, but allows 20-year olds
Select male and female volunteers and have an appropriate racial mix to reflect the community.	Yes	No
<u>Training of Volunteers</u>		
The elements of the training program should include coaching the volunteers how to make alcoholic beverage purchases.		
Volunteer should enter store and immediately proceed to the beer cooler or point of sale and select a product that is typical of an underage purchaser.	Yes	No

¹⁵ Pacific Institute for Research and Evaluation, *Reducing Alcohol Sales to Underage Purchasers: A Practical Guide to Compliance Investigations*, 2010 Revision, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention.

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Recommended Practice	Does Regulated Industries Follow/Use?	Does Regulated Industries Have Written P&P?
Volunteer should avoid attempting to purchase expensive brands of hard liquor unless that is typical for underage purchasers.	Yes	No
Volunteer should approach the checkout counter in a timely manner and not engage in any distracting conversation with other patrons or employees.	Yes	No
If the volunteer knows the clerk/server or any patron in the establishment they should be advised to terminate the investigation and leave immediately.	Yes	No
Volunteer should produce valid identification if asked.	Yes	No
Volunteer should answer all questions concerning age truthfully.	Yes	No
Volunteer should be told to never entice the clerk to sell through word or action.	Yes	No
Volunteer should be given the opportunity to practice the protocols in a mock setting.	No	No
The volunteer should understand they may be required to testify in court or administrative proceedings.	Yes	Yes
<u>Documentation of Volunteers</u>		
Have volunteer fill out a personal history form. Conduct driving and criminal checks.	Yes	Yes
A picture of minor should be taken each time before going in the field if practical, or at least monthly.	Yes	Yes
The volunteer's ID should be photo-copied and placed in their file.	Yes	Yes
An injury waiver and agreement of understanding/consent forms should be signed by minor.	Yes	Yes
Each volunteer should have a personnel file that includes a list of establishments inspected.	Yes	No
<u>Procedures/Protocols for Conducting Investigations</u>		
The volunteers' ID should be photo-copied.	Yes	Yes
A picture of minor should be taken each time before going in the field if practical, or at least monthly.	Yes	Yes
If allowed, the minor should be wired for audio or video.	No	No
Use pre-recorded money to make purchases.	No	No
If volunteers are paid, payment should not be contingent on the purchase of alcohol, it should be on a flat rate or hourly basis to avoid any appearance of impropriety. Potential liability and workers' comp issues should be considered.	Yes	Yes
The safety and anonymity of the volunteer is paramount.	Yes	Yes
Two officers/agents should accompany the volunteer because the volunteer's safety and anonymity are paramount.	Yes	Yes
One officer/agent should enter the establishment first to ensure it is safe for the volunteer and be in a position to witness the transaction.		No
The volunteer should enter the establishment shortly after the officer, but not so close to the officer as to make it appear they are together.	No, according to investigators the volunteer enters first	No

Recommended Practice	Does Regulated Industries Follow/Use?	Does Regulated Industries Have Written P&P?
The second officer/agent should be outside to observe potential hazards.	Yes	No
A single volunteer is normally sufficient, but in some instances two volunteers may be useful.	Yes	No
Decide if the minor is to carry their own identification or none. It is recommended that volunteers carry their ID and present it when asked as this supports the fairness of the investigation.	Yes	Yes
Volunteers should be instructed to buy beer as it is a typical alcoholic beverage purchased by young people.	Yes	No
Volunteers must be truthful when asked their age and provide their ID when asked.	Yes	No
If a purchase occurs, the volunteer should exit the business and return to the officer's (investigator's) vehicle.	Yes	No
Once the minor has left the establishment, the officer (investigator) should inform the seller of the sale and provide him/her with a summons/citation (letter).	Yes	No
After a successful purchase, volunteers should complete a written statement detailing the transaction.	No, per policy investigators complete the inspection checklist	No

Regulated Industries: Underage Liquor Sales Inspections

Appendix B

Director of Neighborhood and Community Services' Response

Regulated Industries: Underage Liquor Sales Inspections



Neighborhood and Community Services Department



Date: April 27, 2012
To: Gary White, City Auditor
David Park
From: David Park, Director, Neighborhood and Community Services
Subject: Department Response

1. The director of neighborhood and community services should develop a written selection and scheduling methodology for the underage liquor sales inspections that matches the division's priorities and goals to the division's resources.

Agree. Efforts are currently underway to establish realistic goals and objectives for the underage liquor sales initiative that takes into account the current staffing levels of the division.

2. The director of neighborhood and community services should explore opportunities to coordinate with the KCPD on underage liquor sales inspection activities to reduce the risk of duplicating inspection efforts and improve inspection coverage.

Agree in part. Regulated Industries Division and the KCPD currently enjoy a very good working relationship and routinely share enforcement intelligence and information. An initiative to develop a de-confliction communication process between the two entities will be initiated and once implemented KCPD enforcement actions will be noted in the business's working file. It should be noted however that due to different enforcement techniques and compliance philosophies KCPD actions will not be considered by Regulated Industries when determining if a business is in fact in compliance or not.

3. The director of neighborhood and community services should continue efforts to expand the division's volunteer recruiting efforts to increase the number of volunteers available to conduct underage liquor sales inspections.

Agree. This has been and will continue to be one of the priorities of the underage drinking initiative.

4. The director of neighborhood and community services should develop a written training program for volunteers that outlines expectations and procedures, and provides an opportunity for volunteers to practice conducting underage liquor sales inspections in mock situations prior to their first inspections.

Agree. The current training program has proven to be very effective, as evidenced by the performance of the volunteers while conducting inspections; however the recommendations made will only further strengthen the current training curriculum.

5. The director of neighborhood and community services should develop a written policy detailing the division's underage liquor sales inspection procedures and incorporate the recommended practices requiring investigators to enter businesses before volunteers and having volunteers complete, sign or initial the field inspection checklist.

Agree. The current practice of investigators is what is being recommended and a written policy detailing these practices will be completed. The legal investigators will continue to complete the field inspection checklist and a new policy will be implemented that shall require the volunteer to review and initial the report.

6. The director of neighborhood and community services should consider eliminating the underage sales inspection program, allowing inspection efforts to focus on other regulatory responsibilities.

Disagree. The auditor's reports clearly shows a substantial increase in compliance based on the efforts of the Regulated Industries. Further, the auditor's report fails to identify any other area of regulatory responsibilities that is suffering at the expense of the underage sales inspection program. In fact, although not mentioned in the auditor's report, since the implementation of the underage sales inspection report Regulated Industries has successfully expanded their regulatory responsibilities to include the waste tire initiative and illegal livery/taxi enforcement initiative. The underage sales initiative is conducted at no additional cost to the community and provides a substantial benefit to the overall public safety of this city. Although no data is available at this time, it can be safely assumed that by raising awareness and compliance for underage drinking, the number if underage children driving while intoxicated have been reduced; thereby saving children and adults from serious injury and or death.