

Re-Solv Survey on Test Purchasing Campaigns to Enforce Cigarette Lighter Refill (Safety) Regulations 1999

A survey was carried out on behalf of Re-Solv during September and October 2002 to ascertain the level of enforcement action on test purchasing in regard to cigarette lighter refills, under the Cigarette Lighter Refill (Safety) Regulations 1999. This legislation makes it an offence to supply cigarette lighter refills containing butane gas to people under the age of 18. The survey was undertaken by LACORS, and collates a number of aspects of enforcement action undertaken by local authorities.

Firstly 55 responses were received out of a possible 175 local authorities with responsibility for taking action under the legislation. This gives a statistical return of 31.4%. This may look a little low, however it should be borne in mind in the current year a lot of local authority enforcement action is being targeted at other areas, most notably alcohol test purchasing. This has had a knock on effect not only on enforcement action in regard to cigarette lighter refills but also in regard to tobacco, videos etc. It is possible that a survey done in a different timeframe may yield a slightly higher return.

It should also be noted that as far as test purchasing operations are concerned, it is still not permissible within Scotland to take test purchasing operations as current Crown Office advice prevents an active test purchasing policy being undertaken. This may explain the unduly low number of responses from Scotland, although responses were received detailing retailer advice, leaflets, and consumer education undertaken by local authorities. Comments were received from a number of respondents that test purchasing is not the first course of action to be taken in relation to this area, and that in fact consumer advice, education and leafleting tend to take priority over a concerted test purchasing exercise. Comment was also made that the problem of young persons purchasing butane gas lighter refills is not perceived to be as acute of that of purchasing cigarettes or alcohol. It is a rarer occurrence.

Of the responses received a total of 7295 premises were visited. However visits to premises were not the only way in which enforcement was carried out. Examples of other courses of action include use of Re-Solv videos and leaflets, giving out of leaflets, joint routine visits and age related sales guidance notes. Sometimes these are done in lieu of the visit programme itself. It is not uncommon for retail visits to be made in a general sense where cigarette lighter refills and the restrictions on sale are considered as a larger part of the visit. One authority in particular commented that it had concentrated its efforts into an education initiative, the Action Awareness Campaign. This made use of theatre groups, schools visits and the dangers of alcohol, tobacco and solvent abuse being generally emphasised. Following on from this all businesses identified as selling these products situated within a specified radius of a school are given an advice visit. These visits deal with a range of age restricted products rather than just solvents. Work has also been done by a number of local authorities specifically in connection with proof of age schemes. Trading Standards authorities in general have concentrated quite closely on proof of age schemes in recent years and as such work in relation to cigarette lighter refills has been tied in more closely to proof of age and underage sales in general. In terms of test purchasing using young people, of the 55 responses 24 authorities recorded that they were undertaking test purchasing and 31 suggested that they were not doing so. Again this figure needs to take into account of the fact that in Scotland it is not permissible to do the test purchasing involving children so this figure may be slightly obscured in the case of at least 4 authorities it was not possible legally to do test purchasing. It would seem that largely work in relation to cigarette lighter refills is done by advice and consumer education rather than specifically in relation to test purchasing.

Notwithstanding this a number of interesting case studies can be drawn out of survey in relation to the work undertaken by local authorities in this area. These are as follows:

Authority 1. 10 retail premises chosen at random within the City and surveyed. 6 of these sold cigarette lighter refills and then further surveyed. 70% of premises were able to state the requirements of the Cigarette Lighter Refills regulations, with 80% understanding that the relevant age limit was 18 years. 70% claimed to be made aware of the regulations by means of a targeted campaign with 80% displaying signs to make customers aware of the law.

Authority 2. Northern Ireland Regional Health Service (notices on volatile substance abuse inserted into an environmental health news bulletin distributed to every business in the area).

Authority 3. Number of retail premises where test purchases have been attempted 27. Number of underage sales made 1. Formal caution issued. No prosecution.

Authority 4. Informal test purchasing attempts resulting in 14 sales. Formal test purchasing attempts 5, where no attempts at sale took place. (The distinction made here is that an informal test purchase is carried out to research possible problem) areas, if a sale is gained on an informal test purchase, a follow up visit to the trade is undertaken and a written warning or advisory letter given. A formal test purchase is then attempted and if a sale is gained a full investigation/interview and legal proceedings may well result.

Authority 5. Number of retail premises where test purchases attempted 21. Number of underage sales made 5. Formal cautions issued to those five sellers, following year, no sales recorded.

Authority 6. Retail premises where test purchases attempted 21. Underage sales made 0.

Authority 7. Number of retail premises where test purchases attempted 63. Number of underage sales made 31. No prosecutions undertaken as this is part of a concerted test purchasing programme within the County. Further action will be considered for subsequent sales made.

Authority 8. Case taken in June 2000 against a retailer who pleaded guilty to the sale of a butane lighter refill to a 15 year old boy on one of their premises. The court was told as part of the borough wide survey into the sale of age restricted products carried out by the trading standards department earlier, the 15 year old volunteer under close supervision by trading standards staff went into the retail premises and asked for a can of butane lighter gas. He was served by an assistant who made no attempt to query his age or refuse the sale. Immediately after the illegal sale (but not in the presence of the child volunteer) officers returned to the shop to advise of the illegal sale. In mitigation a company representative stated the assistant who conducted the sale was relatively young and inexperienced and thought the purchaser looked older than he really was. Also due to a misunderstanding the company thought that the legal age for selling this product was 16 as opposed to 18. A court issued a one year conditional discharge and awarded £400 cost to the council.

Authority 9. Number of retail premises where purchases attempted 8. Prosecutions pending. Press release issued by local authority.

Authority 10. Number of retail premises where test purchases have been attempted 15, number of underage sales made 1, number of prosecutions brought and successful 1. £250

fine plus £164 costs. The level of fine not being the specific issue, having to attend the court had a significant effect on the defendant. Radio journalist accompanied officers during test purchase exercise. Interview broadcast within London and article published in Trading Standards Review.

Authority 11. Retail premises where test purchases attempted 15. Underage sales made 5. Prosecution 4 plus 1 formal caution. Fines of £700, £300, £200 and 12 month conditional discharge accordingly.

Authority 12. Number of retail premises where purchases have been attempted 75. Number of underage sales made 8. 6 prosecutions. 6 formal cautions. 5 successful prosecutions and one is outstanding. Level of sentence/fines - 12 months conditional discharge and £60 costs, 2 x £600 fine and 2 x £225 costs. Appeal pending re the severity of sentence. 2 x £50 fine and 2 x £100 costs.
£600 fine and £400 costs.

Authority 13. Retail premises where test purchases attempted 58. Successful underage sales made 17. Prosecution 1 plus several formal cautions, conditional discharge of 12 months.

Authority 14. Number of retail premises where test purchases are attempted 59. 11 underage sales made, 5 prosecutions brought to date and 3 sales still under investigation. 3 successful prosecutions, 2 are still pending Court hearings. Maximum fine in cases £1,250. Minimum fine £300. Maximum costs £760. Minimum costs £500.

Authority 15. Number of retail premises where test purchases attempted 73. Underage sales 13. 2 successful prosecutions, 1 conditional discharge and 1 £200 fine.

Authority 16. Number of retail premises where test purchases attempted 96. 9 underage sales made, 4 prosecutions brought. Outcome ranged from a £500 fine and £600 costs through a conditional discharge with £200 costs.

Authority 17. Number of retail premises where test purchases attempted 9. Number of underage sales made 9. Number of prosecutions; 1 Home Office caution, 8 traders notices to be followed up by further test purchases. Successful prosecution of £3000 with £275 costs. Specific incident of purchase of cigarette lighter refill in October 1999 by 16 year old boy, cigarette lighter fuel then used by 16 old friend who died.

Authority 18. Number of retail premises where test purchases attempted 1. Number of underage sales 0.

Authority 19. Number of retail premises where test purchases are attempted 1. Number of underage sales made 1.

Authority 20. Nine premises visited relating to sales of butane lighter refill fluid using two children aged 15 and 16. 7 refusals and 2 sales. The two test purchases are being investigated with a view to criminal proceedings.

Authority 21. Number of retail premises where test purchases are attempted 52. Number of underage sales made 20. 10 area office cautions and 7 prosecutions pending due in Court in October 2002. Results yet to be determined.

Authority 22. Number of retail premises where test purchases attempted 35. Number of underage sales made 3. Number of prosecutions 1. Conditional discharge for two years.

Authority 23. Number of retail premises where test purchases attempted 13. Number of underage sales made 1. No successful prosecutions.

Authority 24. Number of retail premises where test purchases attempted 6. No sales made.

Authority 25. Number of retail premises where test purchases attempted 47. Number of underage sales 6. Number of prosecutions brought 1. Retailer who was prosecuted pleaded guilty and was fined £500 with £341 costs.

Authority 26. Number of retail premises where test purchases attempted 53. Number of underage sales made 21. This was an advisory visit and further action will be taken a formal test purchasing process being undertaken shortly.