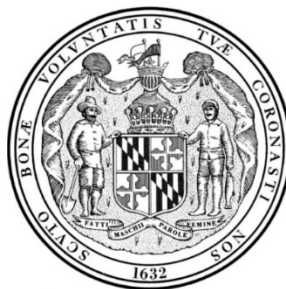




Maryland Alcohol
and Tobacco Commission
Office of the Executive Director

Enforcement of Tobacco Sales to Underage Persons Annual Report

Fiscal Year 2021



J. A. Kelly
Executive Director

September 23, 2021

**The Honorable Bill Ferguson
President
Senate of Maryland State
House, H-107
Annapolis Maryland 21401**

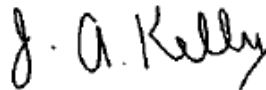
**The Honorable Adrienne A. Jones
Speaker
Maryland House of Delegates
State House, H-101
Annapolis Maryland 21401**

RE: Report required by Tax General Article § 2-107(e) (MSAR # 11358)

Dear President and Speaker:

Pursuant to Tax General Article §2-107 E, in accordance with § 2-1246 of the State Government Article, the Alcohol and Tobacco Commission, in conjunction with the Office of the Comptroller, respectfully submits this report on the Enforcement of Sales of Tobacco Products to Underage Persons.

Sincerely,



Jeffrey A. Kelly
Executive Director

cc: Sarah Albert, Department of Legislative Services (5 copies)

Background

The Alcohol and Tobacco Commission (ATC) was established through legislative action by the Maryland General Assembly and was enacted on January 1st, 2021. Prior to the creation of the ATC, related regulatory and enforcement duties fell under the purview of the Comptroller of Maryland. Today, the ATC is the regulatory and law enforcement agency. In that this split occurred halfway through the 2021 fiscal year, and pursuant to Tax General Article §2-107 E in accordance with § 2-1246 of the State Government Article, the Alcohol and Tobacco Commission respectfully submits this report in conjunction with the Office of the Comptroller of Maryland.

This report includes, as requested:

- the aggregate number of licensed tobacco retailers that committed a violation of §10-107 of the Criminal Law Article during the reporting period;
- the number of prior violations for licensed tobacco retailers and minors that committed a violation (cited under Criminal framework) during the reporting period;
- the subsequent action taken by the Alcohol and Tobacco Commission against each violator and, for each action taken, the number of violations committed by the violator.

The ATC does not conduct compliance checks of retailers related to the sale of tobacco products to underage individuals. Rather, local jurisdictions, often working with underage “consumers,” conduct unannounced compliance checks and issue citations to those who sell tobacco products to these underage “consumers.” The ATC complements the work of local jurisdictions by conducting hearings that target the retail license itself to encourage compliance with the law, limit the availability of tobacco products to underage persons, and evaluate the effort the retailer has taken to prevent sales to underage consumers. The local jurisdictions initiate the hearing process by referring retail stores that have committed violations to the ATC.

Data

The local jurisdictions consist of 23 counties and Baltimore City. The Health Departments of these jurisdictions reported the number of violations they discovered during the reporting period to the ATC. Not all jurisdictions had reportable violations. Table 1 depicts the aggregate number of licensed tobacco retailers that committed a violation of §10-107 of the Criminal Law Article during the reporting period of July 1st 2020 – June 30th 2021. No violator’s identities are revealed in this report.

Table 1

Number of Violations	July 1st - December 31st	January 1st - June 30th	FY 2021 Total
Criminal Law Article, §10-107 ("tobacco sales to underage persons criminal citation")	169	623	792
Health-General Article, §24- 305 ("e-cigarette sales to underage persons civil citation")	0	3	3
Health-General Article, §24- 307 ("tobacco sales to underage persons civil citation")	12	184	196
County sales to underage persons or those under 21 ordinances	3	38	41

Table 2 contains the number of repeat retail violators from the aggregate of all violation categories in Table 1. Repeating a violation does not mandate a referral to the ATC.

Table 2

Number of retailers with multiple violations during the reporting period	July 1st - December 31st	January 1st - June 30th	FY 2021 Total
TOTAL	6	62	68

Table 3 reports the dispositions of each tobacco license hearing request to the ATC during the reporting period of July 1st 2020 – June 30th 2021. Of the seven (7) referrals received by the ATC, only 1 was for a violator with 2 or more violations.

Table 3

Disposition of Referrals	
July 1st 2020 - June 30th 2021	
Referrals Received	7
Prior Year Carry Over	0
Dispositions	
No action (ex. business closed or new ownership)	0
Merged	0
Pending (ex. postponement)	0
Warning	7
Reprimand	0
Suspension	0

Table 4 reveals a continued decline in total referrals since FY 2018. Due to COVID-19, enforcement activities and compliance inspections were greatly reduced. This reduction led to the number of total violations reported and referrals submitted decreasing significantly in FY 2020, and a continued decline in FY 2021.

Table 4

Year to Year Comparison				
	FY 18	FY 19	FY 20¹	FY 21²
Referrals Received	343	116	23	7
Prior Year Carry Over	0	45	16	0
Dispositions				
No action (ex. business closed or new ownership)	22	22	10	0
Merged	0	0	0	0
Pending (ex. postponement)	29	7	2	0
Warning	182	72	9	7
Reprimand	69	41	13	0
Suspension	41	19	5	0

If you have any questions regarding this report, please contact Mr. Charles Howeth, Agent in Charge, Alcohol and Tobacco Commission, 410-260-7469 or choweth@mdatc.gov.

¹ Total FY2020 referrals decreased due to COVID-19

² Total FY2021 referrals decreased due to COVID-19