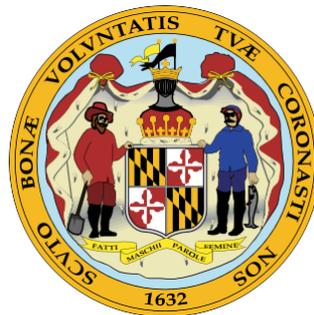




Maryland Alcohol, Tobacco,
and Cannabis Commission
Office of the Executive Director

Enforcement of Tobacco Sales to Underage Persons Annual Report



Executive Director

Chairman

Enforcement of Tobacco Sales to Underage Persons Annual Report



State of Maryland Alcohol, Tobacco, and Cannabis Commission

1215 Fort Avenue, Suite 300
Baltimore, Maryland 21230

The Honorable Wes Moore
Governor

The Honorable Aruna K. Miller
Lieutenant Governor

Jeffrey A. Kelly
Executive Director

Alan Silverstein
Commission Chairman

Barbara Wahl
Vice Chair

Robert Poole
Secretary

Eric Morrisette
Commissioner

Betty Buck
Commissioner

December 1, 2023

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, Tobacco, and Cannabis Commission 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 (Chapter 12, Acts of 2019; Chapters 359 & 360, Acts of 2020) which went in to effect as of January 1st, 2021. Prior to the creation of the ATC, related regulatory and enforcement duties fell under the purview of the Comptroller of Maryland. On May 3, 2023, the Commission was renamed the Alcohol, Tobacco, and Cannabis Commission (ATCC) to reflect its new responsibilities related to cannabis (Chapter 254, Acts of 2023). Pursuant to Tax General Article §2-107(e), and in accordance with § 2-1246 of the State Government Article, the Executive Director of the Alcohol, Tobacco, and Cannabis Commission respectfully submits this report.

This report includes, as directed:

- 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 (Tobacco Sales to underage persons)
- the subsequent action taken by the Alcohol, Tobacco, and Cannabis Commission against each violator and, for each action taken, the number of violations committed by the violator.

The ATCC 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” (employees, volunteers, or police cadets under 21 years old), conduct unannounced compliance checks and issue citations to those who sell tobacco products to these underage “consumers.” The ATCC 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 ATCC for potential suspension or revocation of their license to sell tobacco products.

Data

The local jurisdictions consist of 23 counties and Baltimore City. The Health Departments of these jurisdictions reported the number of citations they issued during the reporting period to the ATCC. Not all jurisdictions had reportable citations. The reported data includes violations of various laws related to the sale of tobacco products to underage individuals. The types of citations issued in each jurisdiction varies based on the underlying facts, as well as the enforcement scope of the officers and inspectors that observe the violation. Generally only one of these citations can be issued for any individual incident, pursuant to language found in each statute to avoid duplicative charges. The tracked violations include the following statutes:

Md. Annotated Code, Criminal Law Article, §10-107 ("Distribution of tobacco product to a minor"):¹

A statewide misdemeanor criminal citation which imposes escalating fines on individuals who purchase for, sell, or distribute tobacco products to a person under 21 (other than active duty military members over 18 with valid identification). These citations proceed to trial in a Maryland District Court.

Health-General Article, §24-305 ("Sale, distribution, or offer for sale of electronic smoking device to individuals under 21 prohibited"):²

A statewide civil citation that is similar to the criminal citation above and can be charged as an alternative to the criminal citation. This statute imposes escalating fines on individuals who purchase for, sell, or distribute electronic smoking devices ("ESDs") to a person under 21 (other than active duty military members over 18 with valid identification). This civil citation can be issued by non-law enforcement employees of local health department that are trained in civil enforcement. Initial administration and fine collection for these citations is handled by the local health department, unless the charged individual requests a trial before the Maryland District Court.

Health-General Article, §24-307 ("Distribution of tobacco product to minor"):³

A statewide civil citation that is similar to the criminal citation above and can be charged as an alternative to the criminal citation, and covers the sale of cigarettes and other tobacco products other than ESDs. This civil citation can be issued by non-law enforcement employees of local health department that are trained in civil enforcement. Initial administration and fine collection for these citations is handled by the local health department, unless the charged individual requests a trial before the Maryland District Court.

Violations of county ordinances (including Baltimore City ordinances):

Some counties or municipalities also enforce local ordinances related to the sale of tobacco products to underage persons, failure to verify age or check IDs, or other related offenses. These are unique to the jurisdiction and have a variety of enforcement procedures to hold employees or business owners accountable.

The local jurisdictions are required to report violations of the statutes listed above to the Alcohol, Tobacco, and Cannabis Commission twice a year. Each fiscal year is broken up into two 6 month reporting periods. The ATCC received 96% of the required reports. The table on the following page shows the aggregate number of licensed tobacco retailers that committed a violation of the statutes above.

¹ [Criminal Law Article, §10-107 \(Distribution of tobacco product to minor\)](#)

² [Health-General Article, §24-305 \(Sale, distribution, or offer for sale of electronic smoking device to individuals under 21 prohibited\)](#)

³ [Health-General Article, §24-307 \("Distribution of tobacco product to minor"\)](#)

Table 1

Number of Violations	July 1st - December 31st	January 1st - June 30th	FY 2023 Total
Criminal Law Article, §10-107 ("tobacco sales to underage persons - criminal citation")	413	239	652
Health-General Article, §24- 305 ("e-cigarette sales to underage persons - civil citation")	21	17	38
Health-General Article, §24- 307 ("tobacco sales to underage persons - civil citation")	407	263	670
County sales to underage persons or those under 21 ordinances	41	70	111

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 ATCC.

Table 2

Number of retailers with multiple violations during the reporting period	July 1st - December 31st	January 1st - June 30th	FY 2023 Total
TOTAL	44	76	120

Table 3 depicts a year-to-year comparison of the aggregate number of licensed tobacco retailers that committed a violation of Criminal Law Article §10-107, Health-General Article §24-305, Health-General Article §24-307, any county ordinances, and the total number of repeat retail violators during the fiscal year.

Table 3

Year to Year Comparison	FY 2020	FY 2021	FY 2022	FY 2023
Criminal Law Article, §10-107 ("tobacco sales to underage persons criminal citation")	216	334	752	652
Health-General Article, §24- 305 ("e-cigarette sales to underage persons civil citation")	12	3	34	38
Health-General Article, §24- 307 ("tobacco sales to underage persons civil citation")	34	196	774	670
County sales to underage persons or those under 21 ordinances	107	41	35	111
Total number of retailers with multiple violations during the fiscal year.	100	68	97	120

The ATCC is currently investigating the accuracy of previous county reports that may affect the total numbers in particular fiscal years. The reported violations by local jurisdictions which are under review appear to be unintentionally erroneous, and the ATCC is committed to correcting and publishing accurate data as necessary when its review is complete. The ATCC is confident that through communication and cooperation with local jurisdictions this data will be accurate for future reports.

Table 4 reports the dispositions of each tobacco license hearing request to the ATCC during the reporting period of July 1st, 2022 – June 30th, 2023. Table 5 provides a year-to-year comparison.

Table 4

Disposition of Referrals	
July 1st, 2022 - June 30th, 2023	
Referrals Received	8
Prior Year Carry Over	0
Dispositions	
No action (ex. business closed or new ownership)	0
Merged	0
Pending (ex. postponement)	2
Warning	0
Reprimand	4
Suspension	2

Table 5

Year to Year Comparison				
	FY 20	FY 21	FY 22	FY 23
Referrals Received	23	7	12	8
Prior Year Carry Over	16	0	0	0
Dispositions				
No action (ex. business closed or new ownership)	10	0	0	0
Merged	0	0	0	0
Pending (ex. postponement)	2	0	0	2
Warning	9	7	2	0
Reprimand	13	0	10	4
Suspension	5	0	0	2

If you have any questions regarding this report, please contact the Regulatory and Research Section of the Alcohol, Tobacco, and Cannabis Commission at 443-300-6990 or email atcc.info@maryland.gov .