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# Enforcement of Tobacco Sales to Minors Annual Report

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Fiscal Year 2020



*Peter Franchot*

Comptroller of Maryland

September 15, 2020

Honorable William C. Ferguson IV  
President of the Senate  
State House  
Annapolis, Maryland 21404

Honorable Adrienne A. Jones  
Speaker of the House  
State House  
Annapolis, Maryland 21404

Dear President and Speaker:

### **Background**

Pursuant to Tax General Article §2-107 E, in accordance with § 2-1246 of the State Government Article, the Office of the Comptroller respectfully submits the report on the Enforcement of Sales to Minors Violations.

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 Office of the Comptroller against each violator and, for each action taken, the number of violations committed by the violator.

The Field Enforcement Division (FED) does not conduct compliance checks of cigarette retailers. Rather, local jurisdictions, often working with under aged “consumers,” conduct unannounced compliance checks and issue citations to those who sell cigarettes to these “consumers.” The FED complements the work of the local jurisdictions by conducting hearings that target the retail license itself to encourage compliance with the law, limit the availability of tobacco products to minors, and evaluate the effort the retailer has taken to prevent sales to under aged consumers. The local jurisdictions initiate the hearing request against the license itself by referring retail stores that have committed violations to the FED.

### **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 FED. 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 1<sup>st</sup> 2019 – June 30<sup>th</sup> 2020. No violator's identities are revealed in this report.

**Table 1**

<b>Number of Violations</b>	<b>July 1st - December 31st</b>	<b>January 1st - June 30th</b>	<b>FY 2020 Total</b>
<b>Criminal Law Article, §10-107 ("tobacco sales to minor criminal citation")</b>	<b>131</b>	<b>85</b>	<b>216</b>
<b>Health-General Article, §24- 305 ("e-cigarette sales to minor civil citation")</b>	<b>3</b>	<b>9</b>	<b>12</b>
<b>Health-General Article, §24- 307 ("tobacco sales to minor civil citation")</b>	<b>25</b>	<b>9</b>	<b>34</b>
<b>County sales to minors or those under 21 ordinances</b>	<b>77</b>	<b>30</b>	<b>107</b>

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 FED.

**Table 2**

<b>Number of retailers with multiple violations during the reporting period</b>	<b>July 1st - December 31st</b>	<b>January 1st - June 30th</b>	<b>FY 2020 Total</b>
<b>TOTAL</b>	<b>45</b>	<b>55</b>	<b>100</b>

Table 3 reports the dispositions of each tobacco license hearing request to the FED during the reporting period of July 1<sup>st</sup> 2019 – June 30<sup>th</sup> 2020. FED received 9 referrals for 3 repeat violators with 2 or more violations referred.

**Table 3**

<b>Disposition of Referrals</b>	
<b>July 1st 2019 - June 30th 2020</b>	
<b>Referrals Received</b>	23
<b>Prior Year Carry Over</b>	16
<b>Dispositions</b>	
<b>No action</b> (ex. business closed or new ownership)	10
<b>Merged</b>	0
<b>Pending</b> (ex. postponement)	2
<b>Warning</b>	9
<b>Reprimand</b>	13
<b>Suspension</b>	5

Table 4 reveals a continued decline in total referrals since FY 2018. Due to COVID-19 and the Governor’s “Stay at Home Order”, 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. The second half of the reporting period fell within the heart of the ongoing epidemic.

**Table 4**

<b>Year to Year Comparison</b>			
	<b>FY 18</b>	<b>FY 19</b>	<b>FY 20 <sup>1</sup></b>
<b>Referrals Received</b>	343	116	23
<b>Prior Year Carry Over</b>	0	45	16
<b>Dispositions</b>			
<b>No action</b> (ex. business closed or new ownership)	22	22	10
<b>Merged</b>	0	0	0
<b>Pending</b> (ex. postponement)	29	7	2
<b>Warning</b>	182	72	9
<b>Reprimand</b>	69	41	13
<b>Suspension</b>	41	19	5

If you have any questions regarding this report, please contact Mr. Charles Howeth, Agent in Charge, Field Enforcement Division, 410-260-7469 or [choweth@marylandtaxes.gov](mailto:choweth@marylandtaxes.gov).

<sup>1</sup> Total FY 2020 referrals decreased due to COVID-19