



# MARYLAND Department of Health

*Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary*

October 10, 2018

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
State House, H-107  
Annapolis, MD 21401-1991

The Honorable Michael E. Busch  
Speaker of the House of Delegates  
State House, H-101  
Annapolis, MD 21401-1991

**RE: Ch. 773 of the Acts of 2017 (HB 185) and HG §24-307(f) - 2018 Annual Legislative Report on Tobacco Enforcement Strategies**

Dear President Miller and Speaker Busch:

Pursuant to Health-General Article, §§24-307(f), Annotated Code of Maryland, the Maryland Department of Health is directed to submit this annual legislative report on tobacco enforcement strategies. Specifically, the report includes information on: (1) the development of strategies for enforcement of the Criminal Law Article §§10-107 and 10-108, Annotated Code of Maryland; and (2) training and assistance to tobacco retailers to improve compliance with §10-107 of the Criminal Law Article.

If you have any questions or concerns, please contact me at 410-767-4639 or my Deputy Chief of Staff, Webster Ye, at 410-767-6481 or [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov).

Sincerely,

Robert R. Neall  
Secretary

**2018 Annual Report on Enforcement Strategies for Distribution of Tobacco  
Products to Minors and Compliance Training and Assistance to Tobacco  
Retailers**

**October 10, 2018**

**Larry Hogan  
Governor**

**Boyd Rutherford  
Lieutenant Governor**

**Robert R. Neall  
Secretary**



***Statutory Authority and Requirements:***

***Health-General Article, §24-307(f), Annotated Code of Maryland requires the Maryland Department of Health to report to the General Assembly each year on the status of ongoing strategies for enforcement of §§10-107 and 10-108 of the Criminal Law Article, which aim to limit the availability of tobacco products to minors and ensure retailer compliance with youth access laws.***

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## **Introduction**

As required by Chapter 773 of the Acts of 2017 (HB 185) – Department of Health and Mental Hygiene – Distribution of Tobacco Products to Minors – Prohibition and Enforcement, this report provides the General Assembly with an annual status update for ongoing strategies for enforcement of §§10-107 and 10-108 of the Criminal Law Article, Annotated Code of Maryland. These activities are conducted by the Maryland Department of Health (MDH), in collaboration and consultation with the Office of the Comptroller (Comptroller), local health departments, and local law enforcement agencies. Specifically, this report details:

1. The development of enforcement strategies prohibiting distribution to and possession of tobacco products by minors (§§10-107 and 10-108 of the Criminal Law Article, Annotated Code of Maryland); and
2. Training and assistance to tobacco retailers to improve compliance with §10-107 of the Criminal Law Article.

Information contained in this report was compiled from the above entities, and highlights programmatic activities and policies that help limit the availability of tobacco products to minors and ensure retailer compliance with youth access laws.

## **Background**

Enforcement, education, and training related to federal, State, and local laws that restrict youth access to tobacco products are conducted through three complementary efforts:

- The MDH Prevention and Health Promotion Administration’s Center for Tobacco Prevention and Control (CTPC) provides retailer outreach, education, training, and local inspections through local health departments;
- The MDH Behavioral Health Administration (BHA) conducts federal Food and Drug Administration (FDA) inspections and federal Substance Abuse and Mental Health Services Administration (SAMHSA) Synar Program State inspections; and
- The Comptroller conducts hearings and issues warnings, license suspensions, and revocations to repeat violators.

As a condition of the SAMHSA Substance Abuse and Prevention Block Grant, BHA must comply with the federal Synar Amendment, adopted in 1992. The Synar Amendment requires states to enact and enforce laws prohibiting the sale or distribution of tobacco products to minors. To

comply with this amendment, BHA conducts annual, random, and unannounced inspections of tobacco retail outlets and vending machines to ensure adherence to Maryland's prohibition on the sale of tobacco products to minors. BHA then reports findings from the inspections to SAMHSA. States must maintain a retailer violation rate (RVR) of 20 percent or less, or be penalized by losing up to 40 percent of their block grant funds, which is over \$13,500,000 for Maryland.

Maryland's RVR in federal fiscal year (FFY) 2014 was 24.1 percent, exceeding the allowable threshold of 20 percent. SAMHSA offered the State an alternative penalty to the reduction in funding: the full Substance Abuse and Prevention Block Grant funding would be maintained if the State allocated an additional \$1,387,390 in new State funds for retailer education and enforcement activities in State fiscal year (SFY) 2015. The RVR increased again FFY 2015 to 31.4 percent, requiring another alternative penalty of an additional \$3,860,126 in State funds spent on retailer education and enforcement in SFY 2016.

Due to coordinated enforcement and training efforts by MDH, the Comptroller, and local health departments, Maryland retailers have been back in compliance with the Synar Amendment since FFY 2016, eliminating the requirement of penalty expenditures. The most recent RVR calculated for FFY 2018 was 13.9 percent.

To sustain the success of statewide efforts to reduce youth access to tobacco and to avoid costly penalties that could jeopardize state substance abuse treatment dollars, Governor Hogan created a Tobacco Enforcement line item in the Cigarette Restitution Fund budget for approximately \$2 million beginning in SFY 2017. These dedicated funds are extremely important, as they allow MDH to maintain enforcement efforts, which help keep the RVR below the 20 percent threshold.

In addition to the collaborative efforts mentioned above and discussed in further detail throughout this report, recent legislation and regulations outlined below have also helped to strengthen and support tobacco enforcement efforts in Maryland.

Chapter 425 of the Acts of 2015 (HB 489) - Electronic Cigarettes – Sale to Minors – Components, Supplies, and Enforcement: This bill amended the State's prohibition against selling electronic nicotine delivery systems (ENDS)<sup>1</sup> to a minor. The law, effective beginning October 1, 2015, continues to ban the sale of electronic cigarettes to a minor, while making the following improvements: (1) expanding the scope of the ban to include refillable

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<sup>1</sup> ENDS are referred to by many different terms, including electronic smoking devices (ESDs), e-cigarettes, vapes, vape pens, e-cigars, e-hookahs, and JUULs.

containers of liquid nicotine and other component parts; (2) authorizing the local health officer or designee to cite violators; (3) allowing violators to pay a fine in lieu of standing trial; and (4) exempting products that are sold as FDA-approved tobacco cessation devices from the prohibition.

Chapter 773 of the Acts of 2017 (HB 185) - Department of Health and Mental Hygiene - Distribution of Tobacco Products to Minors - Prohibition and Enforcement: This legislation, effective October 1, 2017, establishes civil money penalties for persons or businesses that distribute tobacco products, tobacco paraphernalia, or coupons redeemable for tobacco products to minors. Previously, a person or business that distributed tobacco products to a minor was guilty of a criminal misdemeanor, and subject to escalating fines. HB 185 supplements, but does not replace, the existing criminal provisions with a civil enforcement framework. The law also permits non-law enforcement personnel to issue the civil money penalties and establishes certain reporting requirements for MDH and the Comptroller.

Chapter 814 of the Acts of 2017 (HB 523) - Electronic Nicotine Delivery Systems and Vaping Liquid – Licensing (2017): This legislation became effective October 1, 2017, and requires all businesses that mix or sell ENDS or vaping liquids to secure a special license. This includes manufacturers, wholesalers, storage warehouses, retailers, and vape shop vendors. ENDS retailers who already hold a cigarette or other tobacco products license are subject to the ENDS license provisions, but not required to obtain an additional license. The ENDS licenses are issued by the Clerk of the Circuit Court in each jurisdiction. The Comptroller may suspend or revoke a license for unlicensed transactions, including illegal sale of ENDS or vaping liquid to minors. Businesses are required to obtain a license, regardless of whether their ENDS products contain nicotine. Any business operating without an appropriate license is guilty of a criminal misdemeanor and subject to a fine of up to \$1,000 and imprisonment of up to 30 days, or both.

Chapter 785 of the Acts of 2018 (HB 1094) - Distribution of Electronic Cigarettes to Minors – Prohibitions and Penalties (2018): This legislation, passed by the Maryland General Assembly in 2018 and effective October 1, 2018, brings statute regarding ENDS in line with current laws covering other tobacco products. Specifically, HB 1094 prohibits individuals who commercially distribute tobacco products from distributing ENDS to minors under the Criminal Law Article, §10-107 Annotated Code of Maryland. The bill also strengthens civil penalties by: creating civil penalties for minors “using, possessing, obtaining, or attempting” to obtain ENDS; increasing the existing penalties for civil citations issued to those who distribute ENDS to minors; and amending Health General Article, §24-307 Annotated Code

of Maryland to explicitly permit sworn law enforcement officers to issue civil citations to those who distribute tobacco products to minors.

FDA Deeming Rule:<sup>2</sup> In August 2016, FDA extended its authority to regulate all tobacco products, including ENDS, cigars, hookah, pipe tobacco, nicotine gels, and dissolvables that did not previously fall under FDA’s authority. The new rule restricts youth access by: (1) not allowing tobacco products to be sold to minors and requiring age verification via photo identification; and (2) not allowing tobacco products to be sold in vending machines unless the machine is in an adult-only facility. The rule requires health warnings on roll-your-own tobacco, cigarette tobacco, and newly regulated tobacco products. Free samples of tobacco are also banned, with the exception of smokeless tobacco in a “qualified adult-only facility.” These provisions complement and reinforce existing Maryland youth access laws.

When the Deeming Rule was adopted, it required manufacturers of newly regulated tobacco products placed on the market after February 15, 2007 to show that products meet the applicable public health standards set by the law. If products did not meet these standards, they would not receive marketing authorization from FDA. However, in 2017, FDA announced a delay in the planned implementation of this provision as the FDA Commissioner explores a new comprehensive plan for tobacco and nicotine regulation.<sup>3</sup>

### **Development and Success of Enforcement Strategies to Improve Compliance with §§10-107 and 10-108 of the Criminal Law Article**

MDH follows evidence-based recommendations for reducing youth access to tobacco and youth tobacco use, which are outlined in “Centers for Disease Control and Prevention Best Practices for Comprehensive Tobacco Control Programs – 2014.” These recommendations include: (1) mobilizing the community to restrict minors’ access to tobacco products, in combination with additional interventions including stronger local laws directed at retailers, active enforcement of retailer sales laws, and retailer education with reinforcement; and (2) conducting mass-media education campaigns, in combination with other community interventions.<sup>4</sup> MDH collaborates with partners and agencies across the State to implement these best practice enforcement strategies. Specific strategies are described below.

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<sup>2</sup> “The Facts on the FDA’s New Tobacco Rule,” 11 November 2017, U.S. Food & Drug Administration, Accessed 10 July 2018 <https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm506676.htm>.

<sup>3</sup> “FDA’s Plan for Tobacco and Nicotine Regulation,” 6 August 2018, U.S. Food & Drug Administration. Accessed 24 August 2018 <https://www.fda.gov/TobaccoProducts/NewsEvents/ucm568425.htm>.

<sup>4</sup> “Centers for Disease Control and Prevention, Best Practices for Comprehensive Tobacco Control Programs — 2014,” US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center



*Retailer enforcement strategies for §10-107 of the Criminal Law Article*

MDH, BHA, and the Comptroller work collaboratively to enforce existing laws, educate retailers, and sanction repeat violators of the law through the following existing and new strategies.

*A. Maryland Department of Health, Center for Tobacco Prevention and Control*

There are over 6,000 tobacco retailers throughout Maryland. In order to coordinate efforts across the State, CTPC reviews annual lists of licensees provided by the Comptroller and organizes licenses by jurisdiction. CTPC then provides funding to each local health department to conduct enforcement of criminal or civil youth access to tobacco laws. Local health departments work with community partners, youth, law enforcement (when applicable), and local courts to conduct compliance checks and cite retailers that violate these laws. In SFY 2018, local health departments conducted 6,494 compliance checks, resulting in 606 citations issued for illegal sales of tobacco products to minors and 345 referrals to the Comptroller for multiple or repeat violations.

Also in SFY 2018, CTPC began piloting the use of its Point of Sale Toolkit (POST) software developed by Counter Tools (<https://md.countertools.org/>). Nine jurisdictions volunteered to be early adopters and have used POST in their enforcement efforts since January 2018. It is anticipated that the remaining jurisdictions should begin using POST during SFY 2019.

POST has an integrated mapping tool that allows users to find and display tobacco retail location data and school proximity to tobacco retail outlets. This tool helps users visualize how health disparities impact a community and provides the ability to target resources to areas with the most need. For example, maps that overlay tobacco retail density with area demographics (race/ethnicity, educational attainment, percent of youth, income levels, and urban versus rural status) can be created. POST also allows real-time data uploads and adjustments from authorized users. Compliance inspectors and staff may enter, access, and display data within a single software product.

Using one accurate list of retail locations reduces time spent visiting stores that are no longer in business and increases the efficiency of conducting compliance checks, providing face-to-face education, completing assessments of the retail environment, and mailing educational materials that assist retailers to remain in compliance with youth access laws. Once POST is fully implemented and inspection data are uploaded, reporting will be notably enhanced by the ability to document individual and aggregate retailer violations over time and by violation type (i.e. Synar, FDA, and local or State violations).

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for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, Accessed 10 July 2018  
[https://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/index.htm](https://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm).

Additionally, the Comptroller is exploring the possibility of giving local health department staff direct read-only access to the Maryland Court's e-license system, beginning with Baltimore County, so that staff can identify the actual licensee. This will minimize issues that arise when ownership of a retail outlet changes between the time the citations are issued and the associated hearing date.

*B. Maryland Department of Health, Behavioral Health Administration*

To ensure adherence to Maryland's prohibition on the sale of tobacco products to minors, BHA conducts annual, random, and unannounced inspections of tobacco outlets and vending machines. BHA reports findings from these inspections to SAMHSA each FFY per the Synar Amendment.

- BHA uses the Comptroller's list of licensed tobacco retail outlets to obtain a random sample of 10 percent of outlets for each jurisdiction, ensuring that every jurisdiction, including those with a small number of outlets, is included.
- To take advantage of youth inspector availability, inspections take place in April through September, and include over-the-counter purchases as well as purchases from vending machines that are accessible to minors. All Synar inspections must be completed by September 30<sup>th</sup> of each year.
- Youth inspectors (16 to 17 years of age) conduct Synar inspections, along with an adult BHA inspector.
- BHA uses a consummated buy attempt process for inspections, in which the youth inspector pays for the tobacco product(s) and then exits the store. During the Synar inspection process, youth inspectors have immunity from youth tobacco purchase laws.
- Once the inspection is completed, adult and youth inspectors complete inspection forms, which are given to the BHA Synar Coordinator for analysis. After the analysis is completed, a letter, which includes a link to CTPC's website: [www.NoTobaccoSalestoMinors.com](http://www.NoTobaccoSalestoMinors.com), is sent to each inspected tobacco retail outlet regarding their compliance status. Copies of the letters are also sent to local health officers, local health department tobacco coordinators, and CTPC.
- Inspection data are uploaded into the Synar Survey Estimation System, which automatically generates Maryland's RVR. This rate is included in the mandated annual Synar Report which must be submitted to SAMHSA by December 30<sup>th</sup> of each year.

Following the completion of the statewide Synar compliance inspection cycle, adult inspectors revisit noncompliant tobacco outlets to provide one-on-one training with relevant educational materials. This activity was initiated in 2015 to address rising RVRs and to enhance tobacco retailer compliance with youth access laws.

Additionally, BHA has had a contract with FDA since 2010 to conduct undercover buys, advertising and labeling inspections, and other FDA-directed inspections to ensure that Maryland licensed tobacco retailers comply with the federal Family Smoking Prevention and Tobacco Control Act of 2009.<sup>5</sup> BHA staff that perform these inspections are FDA Commissioned Officers and inspections completed under this contract are submitted to FDA for final review and enforcement action. Violations may lead to warning letters, civil money penalties, and other enforcement actions. Since FDA regulates all tobacco products, including ENDS, hookah tobacco, and cigars, retailers selling tobacco products must comply with all applicable federal laws and regulations, in addition to State laws.

The following table outlines Synar RVRs by FFY, which runs from October 1st through September 30th of each year. Since FFY 2016, Maryland retailers have remained well under the 20 percent RVR threshold, eliminating the requirement of penalty expenditures.

**Maryland Synar Retailer Violation Rate (RVR) by Federal Fiscal Year (FFY)**

	<b>FFY 2014</b>	<b>FFY 2015</b>	<b>FFY 2016</b>	<b>FFY 2017</b>	<b>FFY 2018</b>
<b>RVR</b>	24.1%	31.4%	13.8%	10.8%	13.9%
<b># of Outlets</b>	7,059	6,076	5,667	6,034	6,698
<b># of Inspections</b>	745	618	567	604	670
<b># of Compliant</b>	499	363	469	527	545
<b># of Incomplete*</b>	90	88	23	13	37
<b># of Noncompliant</b>	156	167	75	64	88
<i>*An inspection may be incomplete because a retailer does not sell tobacco products, is inaccessible to youth, is out of business, is a private club or private residence, or is wholesale or carton sale only.</i>					

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<sup>5</sup> 21 C.F.R. Part 1140.

Public FDA enforcement data for Maryland detailing retailer violations since FFY 2014 is outlined in the below table.

**FDA’s Public Data for Maryland\***

	<b>FFY 2014</b>	<b>FFY 2015</b>	<b>FFY 2016</b>	<b>FFY 2017</b>
<b>No Tobacco Sale Orders</b>	0	0	3	4
<b>Civil Money Penalties</b>	88	176	71	104
<b>Warning Letter Issued</b>	260	236	139	143
<b>No Violation Observed</b>	1,081	2,574	2,940	2,006
<b>Total Inspections Posted on FDA Website</b>	<b>1,429</b>	<b>2,986</b>	<b>3,153</b>	<b>2,257</b>
<p><i>*Note: These data are from FDA’s public website:  <a href="https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm">https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm</a>.</i></p>				
<p><i>These dates do not necessarily represent the date of inspection; rather the date reflects when FDA made a decision on its inspection. Some <a href="#">Compliance Check Inspections</a> involve the use of a minor under the supervision of the inspector(s).</i></p>				

**C. Maryland Office of the Comptroller**

The Comptroller provides current tobacco licensee information to CTPC and BHA on an annual basis. This list is used to conduct compliance checks and to provide education to retail outlets via face-to-face interactions and through the distribution of educational materials. Additionally, representatives from the Comptroller’s Field Enforcement Division attend select regional trainings and support local health department staff and local law enforcement personnel with enforcement of youth access laws. The Field Enforcement Division also acts as a liaison between MDH and the Maryland Court’s e-license system to ensure the accuracy of tobacco products license information.

Representatives from the Field Enforcement Division presented at the 2018 Maryland Tobacco Control Conference on new and emerging enforcement issues. Specifically, representatives provided information on the ENDS licensing program and how local health

departments may refer retailers to the Comptroller for multiple tobacco sales to minors violations.

The Field Enforcement Division works with local jurisdictions that present evidence of multiple convictions and/or civil liabilities against licensed tobacco retailers for illegally selling tobacco products to minors, and holds hearings with licensees or owners that are in violation of youth access laws. By law, the Comptroller has discretion to suspend, revoke, or refuse to renew a license as a result of these violations. Information highlighting the number of referrals from local health departments and related sanctions is provided in a companion report submitted by the Office of the Comptroller, also required by Chapter 773 of the Acts of 2017 (HB 185).

#### *Youth enforcement strategies in support of §10-108 of the Criminal Law Article*

MDH and Comptroller enforcement strategies largely focus on educating tobacco retailers and increasing retailer compliance with youth access laws. Because there is an existing licensing structure in place, it is possible to ensure organized enforcement efforts occur for retailers, providing a systematic way to prevent youth possession. MDH concurrently focuses on school- and community-based prevention of tobacco use among youth, as well as educating retailers how to detect false identification. These outreach efforts are additional mechanisms to reduce use, and thus possession, of tobacco products among youth and are described in the following section, particularly regarding local health departments.

In some jurisdictions, minors who possess tobacco products in schools are referred to local health departments for cessation and educational efforts. In SFY 2018, over 300 youth were educated in four jurisdictions (Carroll County, Cecil County, Howard County, and Talbot County) that offered these programs.

#### **Training and Assistance to Tobacco Retailers to Improve Compliance with §10-107 of the Criminal Law Article**

Statewide efforts to reduce the rate of illegal tobacco sales to minors and to limit the availability of tobacco products to minors include: (1) CTPC's direct outreach to retailers and the general public, including media development and placement; (2) collaboration and funding to partner organizations; and (3) trainings and technical assistance to local health departments, retailers, and partners.

#### *A. Maryland Department of Health, Center for Tobacco Prevention and Control: Responsible Tobacco Retailer Campaign*

In SFY 2015, CTPC developed and launched the Responsible Tobacco Retailer Campaign, which includes the following materials:

- (1) Toolkits, quick reference guides, and ancillary materials to enhance tobacco retailer education. These materials, which were sent to all licensed tobacco retailers, contain information and resources retailers need to remain in compliance with tobacco sales laws.
- (2) Radio, billboard, and transit advertisements placed throughout the State. Messaging stressed responsible tobacco retailing, outlining three essential steps to following youth access laws: (a) ask for photo identification of customers under 27 years of age who are attempting to purchase tobacco or ENDS; (b) check to make sure all customers are over 18 years of age; and (c) refuse to sell tobacco to everyone under 18 years of age.
- (3) A website: [www.NoTobaccoSalesToMinors.com](http://www.NoTobaccoSalesToMinors.com) that contains electronic versions of the retailer guide and ancillary materials, along with an interactive online training presentation and quiz.

CTPC maintains and enhances these initiatives by conducting retailer focus groups, updating resources based on Maryland's revised drivers licenses and new FDA authority, and offering printed toolkits in nine languages.

In SFY 2018, CTPC maintained continuity of media efforts by placing advertisements on billboards, transit, Gas Station TV, and radio stations airing specifically in grocery stores. Additionally, various materials were mailed to nearly 6,000 licensed tobacco retailers and vape shops in Maryland, as well as all local health departments and partners. Distributed materials included postcards directing retailers to the campaign website and toolkits; items to place in stores, such as window clings and quick reference guides; and 2018 register calendars to assist with determining the age of customers.

*B. Maryland Department of Health, Center for Tobacco Prevention and Control: Collaboration with and Funding to Partner Organizations*

CTPC receives an updated list of tobacco retailers from the Comptroller each year and works collaboratively with the Comptroller on training and technical assistance to local health departments for referring repeat violators to the Comptroller for hearings. CTPC also collaborates with tobacco retailer associations to support buy-in for State efforts and to increase voluntary compliance and support from the vendor community.

In SFY 2018, CTPC provided funding to 10 Minority Outreach and Technical Assistance organizations and other partners to conduct store-to-store education campaigns and hold community meetings on youth access to tobacco and nicotine products. These

organizations are often embedded in high-risk communities, have public health and tobacco control expertise, and are respected leaders in their jurisdictions.

Since 2001, CTPC has provided funding to the Legal Resource Center for Public Health Policy at the University of Maryland, Carey School of Law (Legal Resource Center). Beginning in SFY 2015, CTPC has allocated additional resources to the Legal Resource Center to deliver technical assistance to MDH, local health departments, and partners specifically regarding compliance with tobacco sales laws, as well as to host regional trainings across the State for local health department staff, law enforcement, community-based organizations, and partners. The Legal Resource Center has developed and disseminated materials on best practices for law enforcement, health, and judicial officials on implementation and enforcement of tobacco retailer compliance programs. The Legal Resource Center has also responded to technical assistance requests from State, county, and municipal officials overseeing tobacco retailer compliance programs each fiscal year, and presented at numerous coalition, town hall, and leadership meetings.

Specific activities completed by the Legal Resource Center in SFY 2018 include:

- Responding to over 120 technical assistance requests regarding compliance checks of retail establishments, procedures for required compliance checks, and the impact of federal, State, and local youth access laws on businesses;
- Presenting at 23 enforcement meetings and youth trainings;
- Hosting two webinars to assist local enforcement staff with compliance checks and educational efforts;
- Hosting a statewide tobacco control conference with over 130 attendees on May 8, 2018, which included dedicated tobacco enforcement sessions with representatives from the Office of the Comptroller and local health departments; and
- Developing a toolkit, “A Guide to Maryland Retail Tobacco Laws and Local Enforcement” to assist local health departments with understanding youth access laws and conducting compliance checks.”<sup>6</sup>

*C. Maryland Department of Health, Center for Tobacco Prevention and Control: Education, Training, and Outreach Partnership Efforts at the Local Health Department Level*

CTPC provides funding to all 24 local health departments to conduct vendor education visits, local marketing and media campaigns, leadership meetings, and retailer trainings;

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<sup>6</sup> “A Guide to Maryland Retail Tobacco Laws and Local Enforcement,” Legal Resource Center for Public Health Policy (LRC) at the University of Maryland Francis King Carey School of Law, accessed 10 July 2018 <https://www2.law.umaryland.edu/programs/publichealth/documents/Toolkit.pdf>.

develop educational programs for youth cited for possession of tobacco products (in conjunction with youth enforcement strategies in support of §10-108 of the Criminal Law Article discussed in the previous section); engage non-governmental organizations as partners to provide vendor and community education; hold town hall meetings to raise awareness of youth access laws; collaborate with schools as partners in education; engage faith-based and youth organizations to partner on youth access prevention; and reduce youth demand for tobacco products. Local health department initiatives were launched in SFY 2015 and have been sustained at available funding levels each year.

Specifically, in SFY 2018, local health departments: (1) educated 6,494 retailers through face-to-face sessions at tobacco sales outlets; (2) conducted 39 group trainings for tobacco retailers with 883 attendees; (3) hosted 68 leadership meetings with community partners, law enforcement, local State's Attorney community action agencies, and stakeholders with 1,598 total attendees; (4) established 13 faith-based collaborative events to raise awareness in the faith community about tobacco use, youth access to tobacco products, and prevention with 1,430 total attendees; (5) had 51 school-based collaborative events with 12,201 total attendees; and (6) conducted 46 youth events to promote awareness about the illegal sales of tobacco to minors with 11,076 total attendees.

Additional SFY 2018 local health department highlights are detailed below:

- Eight jurisdictions worked with schools to promote State laws prohibiting youth access to reduce attempts to purchase tobacco products through efforts including: conducting classroom presentations, delivering routine morning announcements and back-to-school night presentations, facilitating parent-teen meetings with law enforcement, and developing billboards and other marketing campaigns to promote laws.
- Ten jurisdictions disseminated tobacco enforcement messaging at community events.
- Nine jurisdictions used community partners as part of their education and marketing campaigns.
- Allegany County Health Department staff met with the local Chamber of Commerce to discuss reducing the sale of tobacco products to minors. As a result of the meeting, information ads were placed in the Chamber's newsletters, and "No Tobacco Sales to Minors" window clings were sent to 560 Chamber of Commerce member businesses.
- Cecil County Health Department conducted three leadership meetings, with over 70 total attendees. Topics included overviews of State and local compliance rates, retailer education activities, and awareness about tobacco and ENDS use among the youth in Cecil County. There were also discussions on the Synar Amendment and POST software being used by the State.
- Charles County Health Department collaborated with local agencies (social services, the school system, the public library, and local churches) at a Parent and Teen Summit



where 82 attendees were educated on and had discussions about illegal sales of tobacco to minors.

- Montgomery County Health Department offered monthly Alcohol Law Education Regulatory Trainings (ALERT) by the County's Department of Liquor Control. Over 25 percent of retail outlets that sell tobacco products also sell alcohol, and are required to attend the ALERT training prior to obtaining their license (and sometimes repeat it if there is a violation); 470 participants attended the training.
- Worcester County Health Department held their annual Alcohol and Tobacco Recognition Breakfast to acknowledge 65 businesses for passing compliance checks in the previous fiscal year. The businesses were also recognized by an advertisement placed in two local newspapers.

Minority Outreach and Technical Assistance organizations and community partners also conducted 1,301 store-to-store educational visits during SFY 2018, in addition to hosting 15 community meetings to garner support for retailer compliance. Partner highlights for SFY 2018 are detailed below:

- The Asian American Center of Frederick County completed 101 store-to-store tobacco sales education visits and hosted three community meetings in collaboration with the Neighborhood Advisory Council to promote store level compliance with youth access laws and to encourage community support for prevention. Community meeting participants were not only encouraged to report retailers to the Asian American Center of Frederick County for follow-up education, but also to compliment any retailer they witnessed asking for photo identification before a tobacco product purchase.
- The Black Mental Health Alliance of Baltimore City conducted 131 store-to-store tobacco sales education visits. They collaborated with Renaissance Academy High School students to sponsor a "No Smoking Skating Party" to raise awareness among youth and adults about tobacco prevention, compliance with youth access laws, and to promote an atmosphere of prevention. They also launched a local t-shirt education campaign to galvanize community support for their efforts entitled, "Under 18, No Tobacco, No E-Cigarettes. You Can't Sell, I Can't Buy."
- Brother's United Who Dare to Care, Inc. of Washington County conducted 117 store-to-store tobacco sales education visits, and conducted two community meetings entitled "Lunch and Learn to Protect Kids from Tobacco." The meeting attendees included the Hagerstown Police Chief, the County Sheriff, a local church minister and other community members to garner support for youth prevention and store level compliance. Both meetings included the services of a Spanish interpreter. Brother's United Who Dare to Care, Inc. regularly publishes articles on tobacco retailer compliance in their "Speak Up Community News," a publication featuring cultural and community events, news, and health briefs.

## Ensuring Future Compliance

In SFY 2019, CTPC and its partner organizations will continue to engage in and support ongoing efforts to enforce sales laws that restrict minors' access to tobacco. In addition, CTPC and its partners will prioritize efforts to educate and enforce laws that restrict minors' access to ENDS, which have skyrocketed in popularity in Maryland and across the U.S. In 2016, approximately 13 percent of Maryland high school students reported using ENDS, exceeding the use of any other tobacco product.<sup>7</sup> Potential risks of using ENDS during youth and adolescence include: nicotine exposure, which may damage the developing brain; nicotine addiction; and respiratory damage from aerosolized chemicals such as solvents and flavorants. To curb underage use, CTPC will ensure all new and ongoing enforcement activities and initiatives emphasize compliance with new State laws on ENDS, including the criminalization of ENDS sales to minors, which takes effect October 1, 2018.<sup>8</sup>

### *A. Responsible Tobacco Retailer Initiative.*

In SFY 2019, CTPC will continue to monitor and update the Responsible Tobacco Retailer campaign website: [www.NoTobaccoSalesToMinors.com](http://www.NoTobaccoSalesToMinors.com), including the retailer guidebook and ancillary materials, and the interactive training and quiz. CTPC will mail educational materials to all licensed tobacco retailers, including ENDS retailers, and share materials with local health departments and other partners to assist with conducting one-on-one educational visits with retailers. CTPC will continue media efforts by placing advertisements on targeted mediums such as billboards, transit, Gas Station TV, and radio stations airing specifically in grocery stores.

### *B. Technical Assistance for Compliance Checks.*

The Legal Resource Center will continue to provide technical assistance to MDH, local health departments, law enforcement, and partners regarding compliance checks of retail establishments and the impact of federal, State, and local youth access laws on businesses and procedures for compliance checks. The Legal Resource Center will also host webinars, an in-person meeting focused on enforcement with local health departments and law enforcement officials, and, in conjunction with MDH, a statewide tobacco control conference with dedicated enforcement sessions.

### *C. Statewide Partnerships to Support Compliance.*

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<sup>7</sup> "2016 Maryland Youth Risk Behavior Survey/Youth Tobacco Survey" Maryland Department of Health, Accessed 3 August 2018

<https://phpa.health.maryland.gov/ccdpc/Reports/Documents/2016%20YRBS%20YTS%20Reports/2016MDH%20Summary%20Tables.pdf>.

<sup>8</sup> Chapter 785 of the Acts of 2018 (HB 1094).

Local health department, FDA, and Synar inspections will continue to maintain a seamless enforcement presence in the retailer community, encouraging retailer compliance with youth access laws. The line item Governor Hogan created for this in the Cigarette Restitution Fund budget will maintain annual designated funding for these efforts. This funding has allowed for continuation of statewide educational messaging and activities; and for training and technical assistance to retailers and partners. Additionally, local health departments have been funded to continue conducting compliance checks and enforcement, sustain educational messaging and campaigns, and sustain community partnerships to strengthen tobacco retailer sales compliance with youth access laws.

## **Conclusion**

Due to coordinated enforcement and training efforts by MDH, the Office of the Comptroller, and local health departments, Maryland has remained in compliance with federal Synar regulations for three consecutive years, with positive preliminary data for FFY 2019. The reduction in retailer noncompliance rates related to youth access laws suggests that the efforts outlined in this report have been successful. In order to sustain these efforts and to continue to reduce youth access to tobacco products, the designated funding will continue to be utilized so as to avoid future costly penalties that would jeopardize substance abuse treatment dollars in Maryland. Maintaining substance abuse treatment dollars is especially important now as substance use disorders and opioid addiction and treatment needs have been steadily increasing.

MDH and the Comptroller are committed to efforts to limit the availability of tobacco products to minors. Collaboration between the agencies to continue enforcement and education strategies, as well as the ability to implement the strategies provided in this report, will support and encourage greater tobacco retailer compliance with youth access laws. Sustained support for these programs is key to ensuring that minors in Maryland do not have access to tobacco products and to reducing youth tobacco use. This is especially vital as ENDS continue to flood the market with increased popularity and prevalence among underage youth, posing an additional threat to public health in Maryland.

## Acronyms

<b>ALERT</b>	<b>Alcohol Law Education Regulatory Trainings</b>
<b>BHA</b>	<b>Behavioral Health Administration</b>
<b>CTPC</b>	<b>Center for Tobacco Prevention and Control</b>
<b>ENDS</b>	<b>Electronic Nicotine Delivery Systems</b>
<b>ESDs</b>	<b>Electronic Smoking Devices</b>
<b>FDA</b>	<b>Food and Drug Administration</b>
<b>FFY</b>	<b>Federal Fiscal Year, October 1 – September 30</b>
<b>HB</b>	<b>House Bill</b>
<b>MDH</b>	<b>Maryland Department of Health</b>
<b>POST</b>	<b>Point of Sale Toolkit</b>
<b>RVR</b>	<b>Retailer Violation Rate</b>
<b>SAMHSA</b>	<b>Substance Abuse and Mental Health Services Administration</b>
<b>SFY</b>	<b>State Fiscal Year, July 1 – June 30</b>