

Tips for Enforcement Program Procedures

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Overview

- ▶ Identifying Retailers
- ▶ Recruiting and Training Minors
- ▶ Deciding on Enforcement Officers
- ▶ Educating Judges

Identifying Retailers

List of cigarette retailer licensees and OTP licensees by county available from:

➤ **Comptroller's Office; State License Bureau**

- slb@comp.state.md.us; 410-260-6240 (central Maryland) or toll-free 1-866-239-9359; by mail at:
 - LLG Treasury Building; 80 Calvert Street, Room 314; Annapolis, Maryland 21404-1751

➤ **Clerk of the Circuit Court**

- Sample letter in folders

Selecting Sites

▶ Clusters

- For efficiency, select “neighborhoods” to visit.
- For effectiveness, plan for only a couple of hours as areas get “hot”.

▶ Known Violators

- From SYNAR or FDA checks; community complaints; prior stings.

▶ Difficult Locations

- Let not the perfect be the enemy of the very good.
- Get to those stores as possible.
- Examples: liquor stores; country clubs; gas stations with service only from outside; unsafe neighborhoods.

Recruiting and Training Minors

- ▶ LRC developing a training module; available in January.
- ▶ Youth aged 14–17 are most effective.
- ▶ Volunteers v. Employees:
 - Volunteer for community service hours imposes little cost on the department; likely covered by Workers Compensation; Local Government Tort Act should apply.
 - Employees tend to be more accountable; covered by Workers Compensation; LGTCA applies.

Recruiting and Training Minors

- ▶ Parent/Guardian Permission
- ▶ State's Attorney Waivers
- ▶ Identification from MVA Investigation Department (contact information available through LRC)
- ▶ Miscellaneous: Dress as typically would; avoid their own neighborhoods; advised to not discuss at school or among friends or on social media; do not praise for buys—be value neutral on that.

Entrapment

- ▶ **May the minors lie in response to a question about their age?**
 - Yes; many programs do not allow this but it is NOT entrapment (see legal memo).
 - Minors who purchase tobacco would not hesitate to lie;
 - Not allowing the minors in the stings to lie creates an easy way for retailers to ferret out the undercover minors.

Miscellaneous Best Practices

- ▶ Rules are good but patterns can reveal that the youth is an undercover buyer—so change up what product is purchased, what bills are used, what sundries are purchased, etc.
- ▶ Officer in the store with minor or not?
 - Safety of minor paramount;
 - Some situations may dictate minor alone;
 - Officer can testify even if did not witness transaction.

Miscellaneous Best Practices

- ▶ Should citation be issued on site or sent via mail?
 - On site may reveal identity of minor and enforcement officer (sometimes retailers even get to know the officer's car);
 - By mail requires cost (certified mail recommended) and can only be served on the owner as it is unlikely that the clerk's name would be known.

Enforcement Officers

- ▶ A citation under Maryland Criminal Law Article §10–107, may be issued only by a sworn law enforcement officer (local police department or sheriff's office; MSP);
- ▶ Civil citations may be issued by law enforcement officer or by civilian employee of the health department (or designated enforcement agency).

Educating Judges

- ▶ Good idea to give District Court judges notice of the enforcement program and of importance of effective penalties;
- ▶ Explain impact of failure to meet SYNAR compliance rate on State budget;
- ▶ Ask about how they would like cases to proceed.

One Size Does Not Fit All

- ▶ Each jurisdiction will have to develop protocols that work for them;
- ▶ Programs should be flexible and responsive to changes that may be needed over time;
- ▶ LRC available for consult.

The End

- ▶ And now for Will . . .