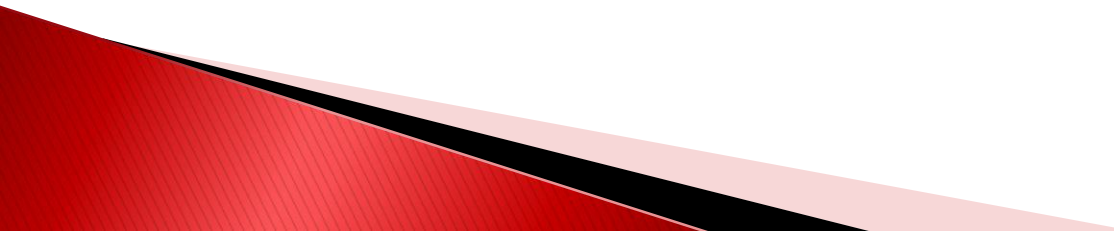


Questions from the Field

William C. Tilburg
December 5, 2014

Overview

- ▶ **Electronic Cigarettes vs. Tobacco Products**
 - ▶ **Criminal Citations vs. Civil Citations**
 - ▶ **Clerk vs. Licensee**
 - ▶ **Additional Steps**
- 

E-Cigarettes vs. Tobacco Products

▶ Definitions

- **Tobacco Product** → Any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, smokeless tobacco and candy-like products that contain tobacco
- **Electronic Nicotine Device** → an electronic device that can be used to deliver nicotine to the individual inhaling from the device, including an electronic cigarette, cigar, cigarillo or pipe

▶ State Law

- **Tobacco Product – Criminal Law §10-107**
 - Misdemeanor
 - Escalating fine schedule from \$300 (1st) to \$1,000 (2nd) to \$3,000 (3rd or more)
- **Electronic Nicotine Device – Health-General §24-305**
 - Misdemeanor
 - Fine of up to \$1,000 for each violation

E-Cigarettes vs. Tobacco Products

| | Electronic Nicotine Device | Tobacco Product |
|------------------------------------|---|---|
| Age to Purchase | 18 (does not include liquid nicotine cartridge) | 18 |
| Penalty | Fine up to \$1,000 | Escalating Fine Schedule (\$100, \$1,000 and \$3,000) |
| Youth Possession | – | Civil Penalty |
| Criminal vs. Civil Citation | Criminal* | Criminal or Civil* |
| Authority to Enforce | Law Enforcement | Law Enforcement, Health Officer (or designee) or Other Agency |
| Product Placement | – | Varies by Jurisdiction |

Criminal vs. Civil

| | Criminal | Civil |
|---|---|--|
| Where are these laws found? | Maryland Code (criminal law article) | County Code (health article) |
| Who may enforce? | Law Enforcement | Law Enforcement, Health Officer (or designee), other designated agency |
| Is trial required? | Yes | No |
| On criminal record? | Yes | No |
| Where do collected fines go? | Maryland General Fund | Kept by local jurisdiction |
| Can violators be referred to the comptroller? | Yes | Yes |

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UNIFORM CIVIL CITATION

WITNESS
RELATED CITATION → 4233852174

5233852180

District Court of Maryland for Montgomery County
Board of License Commissioners
County/Municipality/State of Maryland
vs. CTG Cul Inc T/A: Mirestone Mobil Agency
Defendant's (Last) Name
2100 Frederick Road Full Middle
Current Street Address
Germanstown City MD State 20876 Apt. No.
Zip Code

DOB Height Weight Sex Race Telephone No. Altitude Hair Eyes

Based on personal knowledge of the undersigned officer the attached affidavit, the defendant is charged with did or did offer to deliver a sense give away, issue or sell a tobacco product to a minor

at 6:02 at 2100 Frederick Road Germanstown MD 20876 on 4/28/06
of: Md. Ann. Code Municipal Infraction County Ordinance Public Local Law/Local Code COMAR
Document/Article MCC Section 24 Sub Section 9C Paragraph

Each day a violation continues is a separate WSSC infraction subject to an additional citation.

I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation.
X Defendant's Signature certified mailed 5/1/06

INSTRUCTIONS

YOU MUST APPEAR IN COURT. A notice of trial date will be mailed to you.

YOU MAY PAY A FINE of \$ 50.00 by 5/1/06 to the District Court office of County Attorney Rockville MD 20850 at 101 Monroe St
This will be deemed an admission of guilt and a trial date will not be set.

YOU MAY ELECT TO STAND TRIAL DO NOT SEND PAYMENT OF FINE. Notify office of County Attorney in writing by 5/1/06 at 101 Monroe St Rockville MD 20850
The District Court will mail you a notice of your trial date and location. AT TRIAL the Court may impose a fine up to \$ 50.00 plus court costs.

IN ADDITION, Agency/Agency is seeking abatement of this infraction. You may be ordered to abate this infraction or be assessed the costs for the abatement, as well as a fine of up to \$1,000, plus court costs.

FAILING TO APPEAR OR PAY THE FINE MAY RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.
 FAILING TO PAY THE FINE OR REQUEST A TRIAL DATE: will deem you liable for the fine assessed; the fine may be doubled and/or a judgment on affidavit may be entered against you including an order of abatement.
 FAILURE TO APPEAR FOR A REQUESTED TRIAL DATE: the fine may be doubled and a judgment on affidavit entered against you.

I solemnly affirm under the penalties of perjury, and based upon personal knowledge or the attached affidavit, that the contents of this citation are true and that I am competent to testify on these matters. The defendant is not now and has not been within the preceding 90 days, in the military service as defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended.

Officer's Signature Brian SO Date 5/1/06
Agency BLC Sub-Agency 926 ID. No. 240-777-1953 Phone

Clerk vs. Licensee

- ▶ Who may receive a citation for sales to minors?
 - Owner (licensee) and/or Clerk
 - Law prohibits the distribution of tobacco products to a minor
 - Distribute means to “give, sell, deliver, dispense, issue,” or “cause or hire a person to give, sell, deliver, dispense, [or] issue”
 - Courts more likely to uphold citations for licensee
- ▶ Who may receive a citation for product placement violations?
 - ONLY owner/licensee subject to product placement penalty

Additional Steps

▶ **What else can be done to reduce sales to minors?**

◦ **Education**

- In-person merchant education
- Media-led public education campaign
- Youth education (health class/youth groups)
- Judges/Prosecutors

◦ **Vendor Letter**

◦ **Non-enforcement compliance checks**

◦ **Youth Involvement**

◦ **Collect data on tobacco licenses, violations and adjudications**

◦ **Provide violation information to Comptroller**

◦ **Collaborate with Merchant/Retailer Associations**

Questions?

PRESENTER

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Public Health Policy

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