A Guide to
Maryland Retail Tobacco
Laws & Local Enforcement Programs
Dear Fellow Marylander:

Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 Americans each year, including 7,500 Marylanders. An estimated 26,800 Maryland high school students currently smoke and an additional 2,200 Maryland youth (under the age of 18) become daily smokers each year.

Youth cigarette smoking in Maryland has decreased significantly since 2000 (23% to 8.7%). However, Maryland youth still smoke more than the national average (8.0%) and at more than double the rate of youth in other states such as California, New York, Rhode Island, and Utah. Additionally, use of other tobacco products, such as electronic nicotine delivery systems (ENDS), has increased in recent years. Today, more Maryland youth use ENDS (20.0%) or cigars (9.9%) than smoke cigarettes.

Enforcing laws against tobacco sales to minors through retail compliance checks and programs is among the most effective ways to reduce youth tobacco use. Effective October 1, 2017, local health department staff and law enforcement may issue civil money penalties to retail clerks and/or business owners who sell tobacco products to a minor.

The Legal Resource Center developed this toolkit in collaboration with the Maryland Department of Health to assist local health and enforcement officials navigate the evolving statutory scheme regulating the sale and use of tobacco products in Maryland. The following materials are intended to supplement the Maryland Tobacco Retailer Guide developed by MDH, and guide local enforcement efforts. Specifically, the toolkit outlines:

1. Federal, state, and local tobacco laws;
2. Federal, state, and local enforcement programs;
3. The new civil money penalties law;
4. Tobacco vs. ENDS laws;
5. How to complete the uniform civil citation; and
6. A step-by-step enforcement guide

This guide is not intended to serve as legal advice; you should always confer with your county attorney on any particular legal questions. If you have any questions about the materials in this guide—or any questions about tobacco regulation—feel free to contact the LRC at (410) 706-0842 or publichealth@law.umaryland.edu.

Very truly yours,

Kathleen Hoke
Director, Legal Resource Center for Public Health Policy
University of Maryland Francis King Carey School of Law
**Tobacco**

To sell tobacco in Maryland, a retailer must obtain a county tobacco retailer license. The type of license required (i.e. cigarette or other tobacco products) depends on the products sold. Licenses can be obtained by applying to the County Clerk at the Circuit Court in the jurisdiction where the business is located and paying the applicable fee. A Retail Cigarette License has an initial application fee of $200 and is thereafter $30 annually to the state and $25 annually to the county of each place of business (except Cecil County which is $50 annually and Montgomery County which is $125 annually). A Retail Other Tobacco Products License is $15 annually; however, this fee is not required when a business holds a Retail Cigarette License. Licenses must be clearly displayed in the place of business and renewed by April 30th each year.

A retail tobacco license may be suspended or revoked for illegal tobacco sales to minors. Store owners and employees may also face fines and criminal sanctions for illegal tobacco sales to minors.

**Electronic Nicotine Delivery Systems (ENDS)**

To sell ENDS in Maryland, retailers must also obtain a license through the Office of the County Clerk at the Circuit Court in the jurisdiction where the business is located.

The application fee is $25. Licenses must be renewed by April 30th each year for a $25 fee. Licenses must also be clearly displayed in the place of business.

Just as with the retail tobacco license, an electronic cigarette license may be suspended or revoked for illegal sales to minors. Additionally, owners and employees may be subject to civil fines and criminal convictions.

**Baltimore County**

A clerk MUST ID every customer under the age of 27. The photo ID must contain a birth date and show that the customer’s age is at least 18. Maryland IDs of those under age 21 are vertically-oriented, rather than horizontally-oriented. For those under age 18 the ID also includes a bold black bar below the photo stating the date until which the individual is under 18 (“Under 18 until XX/XX/XXXX”).

Other acceptable forms of ID include military identification cards, passports, and immigration cards.

**Flavored Cigarettes**

The sale of flavored cigarettes (excluding menthol) is prohibited under federal law. In addition, the sale of clove cigarettes in Maryland is a criminal misdemeanor punishable by a fine of $500.

**Packaging and Promotions**

Cigarettes may ONLY be sold in packages of at least 20. Sale or distribution of unpackaged cigarettes is punishable by a fine of $500 and up to 3 months imprisonment. No manufacturer, distributor, or retailer may distribute free samples of cigarettes, smokeless tobacco, or other tobacco products, except for smokeless tobacco in a qualified adult-only facility.
Maryland law prohibits the sale of ALL tobacco products, including tobacco paraphernalia and electronic nicotine devices (e-cigarettes) or any component or refill for an electronic nicotine device (i.e. any liquid nicotine product commonly referred to as e-juice, e-liquid, or vape juice) to anyone under the age of 18.

SALES TO MINORS

The sale of e-cigarettes or any electronic nicotine device component or refill to a minor is punishable by:

**1st Offense:** Fine of up to $300.

**Additional offenses:** Fine of up to $500 (if within 24 months of a prior violation).

**NOTE:** There is no criminal violation for selling ENDS to minors.

The sale of cigarettes or other tobacco products to a minor may also be a civil offense punishable by:

**1st offense:** Fine of up to $300.

**2nd offense:** Fine of up to $1,000 (if within 24 months of first violation).

**Additional offenses:** Fine of up to $3,000 (if within 24 months of a prior violation).

**NOTE:** The same transaction/offense may not be prosecuted as both a civil AND criminal offense at the state level.

CIVIL PENALTIES

ELECTRONIC CIGARETTES

CIGARETTES OR OTHER TOBACCO PRODUCTS

CRIMINAL PENALTIES

CIGARETTES OR OTHER TOBACCO PRODUCTS
### LOCAL PENALTIES

In addition to State criminal law, the following counties have imposed additional civil penalties for tobacco sales to minors:

**Baltimore City**  
- Fine of up to $1,000 for each offense

**Baltimore County**  
- **Owners** – fines of $500 for first violation, $1,000 fine for second violation, and $1,500 or suspension of all tobacco sales for one month or both for third and subsequent violations
- **Others** – fines of $50 for first violation and $100 for additional violations

**Carroll County**  
- $300 fine for first violation  
- $500 fine for subsequent violations within 24 months

**Cecil County**  
- $300 fine for first violation  
- $500 fine for second violation  
- $750 fine for subsequent violations

**Garrett County**  
- Fine of up to $300

**Howard County**  
- **Owners** – fines of $250 to $500 for first violation and $500 to $1,000 for subsequent violations within 12 months of a prior violation
- **Employees** – fines of $50 to $100 for first violation and $100 to $250 for subsequent violations within 12 months of a prior violation

**Kent County**  
- **Owners** – fines of $300 for first violation and $500 for subsequent violations within 24 months
- **Others** – fines of $50 for first violation and $100 for subsequent violations within 24 months

**Montgomery County**  
- Fine up to $1,000 for first offense and $1,000 for subsequent offenses

**Prince George’s County**  
- **Owners** – fines of up to $300 for first violation and up to $1,000 for subsequent violations
- **Employees** – fines of up to $50 for first violation and $100 for subsequent violations

**St. Mary’s County**  
- $300 fine for first violation  
- $500 fine for subsequent violations within 24 months

### SELF-SERVICE TOBACCO

Cigarettes and smokeless tobacco **MUST** be sold in face-to-face transactions (i.e. behind the counter). Self-service displays or vending machines are prohibited unless the facility prohibits entry by anyone under 18.

The following local jurisdictions require **ALL** tobacco products, not including ENDS, to be placed in a location inaccessible to customers and impose civil penalties for violations:

- Baltimore City
- Baltimore County
- Carroll County
- Charles County
- Garrett County
- Harford County
- Howard County
- Kent County
- Montgomery County
- Prince George’s County
- Talbot County
- Wicomico County

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Red counties = local tobacco ordinance
Federal, state, and local laws restrict the sale of tobacco products and electronic nicotine delivery systems (ENDS) to individuals under 18 years of age. These laws also authorize enforcement programs to monitor retailer compliance and penalize establishments that illegally offer to sell tobacco products and ENDS to youth. In Maryland, federal, state, and local authorities monitor nearly 7,000 licensed tobacco retailers and enforce tobacco sales to minor laws against violators. The three primary enforcement programs operating in the State are: (1) FDA inspections, (2) Synar checks, and (3) local enforcement programs.

**FDA Inspections**

The U.S. Food and Drug Administration monitors compliance with the Family Smoking Prevention and Tobacco Control Act, including illegal sales to minors. FDA inspections can result in a warning letter, a civil fine up to $11,182, as of January 2017, or a no-tobacco-sale order. In 2016, more than 3,000 Maryland retailers were subject to FDA inspections.

**Synar Checks**

The Synar Amendment, adopted by Congress in 1992, requires states to reduce youth access to tobacco products as a condition of receiving Substance Abuse Prevention and Treatment block grant funding from the Substance Abuse and Mental Health Services Administration (SAMHSA). States can lose up to 40% of the block grant funding if more than 20% of retailers fail random, unannounced inspections. In Maryland, a random, 10% statewide sample of licensed tobacco retailers is checked each year.

**Local Enforcement Programs**

Each of Maryland’s 24 counties (including Baltimore City) monitor illegal tobacco sales to minors and conduct regular inspections of licensed tobacco retailers. Local enforcement programs are commonly jointly led by the county health department and the county police or sheriff’s department. Enforcement officials may issue criminal citations (Md. Code Crim. Law § 10-107) or civil citations (Md. Code Health-Gen. § 24-305 and § 24-307) to violators. In addition, the Maryland Office of the Comptroller may reprimand, suspend, or revoke the cigarette, other tobacco product, or ENDS license for repeat violators. A repeat violator may refer to a combination of FDA, Synar, and local compliance failures.

The chart below summarizes each enforcement program, including, the authorizing statute, the enforcing agency, penalties, and types of tobacco products subject to each program.
<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>SYNAR</th>
<th>FDA</th>
<th>LOCAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source of Law</td>
<td>Alcohol, Drug Abuse, and Mental Health Admin. Reorganization Act (Synar Amendment)</td>
<td>Family Smoking Prevention and Tobacco Control Act</td>
<td>Md. Code, Crim. Law § 10-107; Health-General § 24-305; Health-General § 24-307 or County ordinance</td>
</tr>
<tr>
<td>Number of Checks</td>
<td>10% random sample statewide conducted between May and September each year.</td>
<td>Undisclosed; random and targeted</td>
<td>Varies by jurisdiction</td>
</tr>
<tr>
<td>Enforcement</td>
<td>BHA (Behavioral Health Administration)</td>
<td>BHA</td>
<td>Health Officer or designee, or sworn law enforcement</td>
</tr>
<tr>
<td>Penalties</td>
<td>No penalty for retailers. State risks losing substance abuse prevention and treatment block grant dollars if the violation rates exceed 20%.</td>
<td>1st Violation - Warning Letter</td>
<td>Varies by jurisdiction $300 to $3,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2nd Violation in 12 mos. - $279</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3rd Violation in 24 mos. - $559</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4th Violation in 24 mos. - $2236</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5th Violation in 36 mos. - $5591</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6th Violation in 48 mos. - $11,182 or secretary's discretion</td>
<td></td>
</tr>
<tr>
<td>Covered Products</td>
<td>MD Synar checks Cigarettes only, but others may be checked in the future.</td>
<td>Cigarettes Smokeless Tobacco Cigars</td>
<td>Hookah</td>
</tr>
</tbody>
</table>
CIVIL MONEY PENALTIES

MD Code, Health-General § 24-307
Civil Money Penalties for Tobacco Sales to Minors

- Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 Americans each year, including 7,500 Marylanders.¹

- An estimated 600,000 U.S. middle school students and 3 million U.S. high school students smoke cigarettes.

- Studies show that enforcing laws against tobacco sales through compliance checks and programs can significantly reduce youth tobacco use.²

- The Synar Amendment, passed by Congress in 1992, requires states to reduce youth access to tobacco products as a condition for receiving federal substance abuse prevention and treatment funding. States can lose up to 40% of the block grant funding if more than 20% of tobacco retailers fail random, unannounced inspections.

- The state of Maryland failed to satisfy Synar standards in fiscal year 2014 and 2015 with retailer violation rates of 24.1% and 31.4% respectively. State compliance inspections from 2016 indicate that less than 11% of retailers are selling tobacco to minors.

What is Health-General § 24-307?

Health-General § 24-307 is a law that went into effect on October 1st, 2017, which establishes civil money penalties for persons AND businesses that distribute tobacco products, tobacco paraphernalia, or coupons redeemable for tobacco products to minors. Presently, a person AND business may be criminally cited by sworn law enforcement pursuant to Criminal Law § 10-107 for distributing tobacco products, paraphernalia, or coupons redeemable for tobacco products to minors. However, Health General § 24-307 provides greater flexibility to counties because county health officers and other designees may enforce the law and the civil money penalties collected go to the county, not the state.

What is the fine schedule?

A fine not exceeding:
- $300 for a first violation.
- $1,000 for a second violation within 24 months of the first violation.
- $3,000 for each subsequent violation occurring within 24 months after the preceding violation.

• The store clerk who offered to sell a tobacco product.
• The individual or business licensed to distribute tobacco products under Title 16 of the Business Regulation Article.
• Both the clerk and the licensee.

• A County Health Officer.
• A “designee” of a County Health Office.
• “Designee” means a retired law enforcement officer, or an employee of the local health department trained in civil enforcement.
• You may consider contracting with law enforcement as well.

• The State’s Attorney’s Office or the County Attorney’s Office may prosecute illegal tobacco sales to minors.
• The statute requires violations of § 24-307 to be handled in the same way as municipal infractions per § 6-108 through § 6-115 of the Local Government Article. Pursuant to the MD Code, Local Government, § 6-108, the State’s Attorney’s Office is the authority responsible for prosecuting this law. However, the county council has the authority to designate another attorney, such as the County Attorney, to prosecute these infractions in the same manner.

Can a person be convicted of the criminal misdemeanor pursuant to Criminal Law, 10-107 AND cited for the civil money penalty per Health-General, 24-307?

• No. A civil citation may not be issued if a criminal citation has been issued for the same offense.
### Maryland Retail Tobacco Laws

<table>
<thead>
<tr>
<th>Law</th>
<th>Section 10-107 of the MD Criminal Law Code</th>
<th>Section 24-305 of the MD Health-General Code</th>
<th>Section 24-307 of the MD Health-General Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>What does the law prohibit?</strong></td>
<td>Distribution and/or Sale of tobacco products</td>
<td>Distribution and/or Sale of electronic nicotine delivery systems</td>
<td>Distribution and/or Sale of tobacco products</td>
</tr>
<tr>
<td><strong>Is this a criminal violation?</strong></td>
<td>Criminal</td>
<td>Civil</td>
<td>Civil</td>
</tr>
<tr>
<td><strong>Who can enforce the law?</strong></td>
<td>Sworn Law Enforcement ONLY</td>
<td>Sworn Law Enforcement, a County Health Officer or a designee</td>
<td>County Health Officer or a designee</td>
</tr>
<tr>
<td><strong>Potential Penalties</strong></td>
<td>$300 for a first offense</td>
<td>$300 for a first offense</td>
<td>$300 for a first offense</td>
</tr>
<tr>
<td></td>
<td>$1,000 for a second offense if within 24 months</td>
<td>$500 for each subsequent offense</td>
<td>$1,000 for a second offense if within 24 months</td>
</tr>
<tr>
<td></td>
<td>$3,000 for each subsequent offense</td>
<td></td>
<td>$3,000 for each subsequent offense</td>
</tr>
<tr>
<td><strong>Impact on Criminal Record</strong></td>
<td>Conviction added to Criminal Record</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td><strong>Trial Required?</strong></td>
<td>Yes</td>
<td>No (Defendant may request)</td>
<td>No (Defendant may request)</td>
</tr>
<tr>
<td><strong>Hearing</strong></td>
<td>District Court</td>
<td>District Court</td>
<td>District Court</td>
</tr>
<tr>
<td><strong>Fine Allocation</strong></td>
<td>State</td>
<td>County</td>
<td>County</td>
</tr>
</tbody>
</table>
**Type of Law:**
Only sworn law enforcement officials may issue criminal citations (Md. Code Crim. Law § 10-107) for illegal tobacco sales to minors. A health officer or “designee” may issue civil citations for illegal sale of tobacco products or electronic nicotine delivery systems (ENDS) to minors (Md. Code Health-Gen. § 24-305 and § 24-307). Typically, local enforcement programs are a joint effort between the county health department and the county police or sheriff’s department. The type of citation (e.g. criminal versus civil) also impacts (1) whether a trial is required, (2) the penalty associated with a violation, and (3) where fine amounts will be remitted (e.g. county versus state).

**Prohibited Products:** Criminal Law, § 10-107, and Health-General, § 24-307, specifically prohibit the sale of tobacco products to individuals under 18 years of age. In Maryland, tobacco product means any substance containing tobacco, including cigarettes, cigars, smokeless tobacco, snuff, and candy-like products that contain tobacco. Health-General, § 24-305, restricts the sale of electronic smoking devices to individuals under 18 years of age, which includes ENDS and e-liquid products. ENDS and related products are NOT regulated as tobacco products in Maryland.

**Civil v. Criminal Violations:** The individual who offers to sell a tobacco product or ENDS product to a minor (e.g., clerk), or the tobacco license holder (e.g., owner), or both, may receive a civil citation. Alternatively, the clerk, owner, or both, may receive a criminal citation for illegal sale of a tobacco product to a minor. However, the same transaction/offense may not be prosecuted as both civil and criminal offenses.

**Enforcement Authority:** Only sworn law enforcement may enforce Criminal Law, § 10-107, and issue a criminal citation for illegal tobacco sales to an individual under 18 years of age. However, a county health officer or the designee of a county health officer may issue civil citations pursuant to Health General, § 24-305 and § 24-307.

**Penalties:** Any individual or business that offers to sell a tobacco product or ENDS product to a minor will receive a monetary fine ranging from $300 to $3,000. The fine amounts increase with each additional violation. Criminal violators issued a citation under Criminal Law, § 10-107, are not subject to imprisonment.

**Criminal Record:** A violation under Criminal Law, § 10-107 will be a criminal misdemeanor conviction and will appear on the violator’s criminal record. Violations of Health-General, § 24-305 and § 24-307 are civil, not criminal violations and do not appear on a person’s criminal record.

**Trial:** A person or business issued a citation under Criminal Law, § 10-107, must appear in Court and either plea to the charge or request a trial. However, a person or business cited under Health-General, § 24-305 or § 24-307, may pay the fine without appearing in Court OR request a trial.

**Hearing:** All hearings scheduled for any of these alleged violations will take place in the District Court for the county in which the offense took place.

**Fine Allocation:** The monetary fines for violating Criminal Law, § 10-107 are remitted to the state, whereas any fines collected under Health-General, § 24-305 and § 24-307 are remitted to the county. Fines collected through civil citations may be used to help fund the local enforcement program. If interested in learning more about this process, please contact the Legal Resource Center for additional information.
**UNIFORM CIVIL CITATION - INSTRUCTIONS**

**UNIFORM CIVIL CITATION**

<table>
<thead>
<tr>
<th>Weather</th>
<th>Citation Number</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Witness</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Related Case # / Citation(s)</strong></td>
<td></td>
</tr>
</tbody>
</table>

**District Court of Maryland for**

<table>
<thead>
<tr>
<th>County/Municipality/Area</th>
<th>Date</th>
</tr>
</thead>
</table>

**Offense:**

- **You may pay a fine** of $_________ (entire amount required) by ___________ to the:
  - District Court. Payment of the fine will not close the case if abatement action is pending.
  - Agency/Municipality.

**Payment Location**

- **You may elect to stand trial** by sending your request in writing to:
  - District Court.
  - Agency/Municipality.

**Fine:**

- The enforcement officer should request the respondent's signature. Inability to obtain his/her signature will not prevent the citation from being processed.

**You must appear in court.** A notice of trial date will be mailed to you.

**For failure to appear or pay the fine, a warrant may be issued for your arrest.**

**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. Payment of the present fine will not satisfy the abatement action and an order of abatement may still be entered against you.**

**Instructions:**

- **Fill out all highlighted boxes and lines.**
- **Check the 3 boxes indicated.** Ask the employee if they are on active duty in the military service and check the box to indicate that they are not. Sign, print and date where indicated.

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**Citation Number:** Enter citation number, although most are pre-marked.

**District Court of Maryland for:** Select or write in the County the Court is located in followed by the address of the District Court.

**If Citing Employee:** Enter the defendant’s name, address, date of birth and identifying physical features.

**If Citing Store Owner:** Enter the name of the resident agent and their contact information. The information obtained from the license displayed in the store may be used to locate the resident agent by searching via the Department of Assessments and Taxation Website. If the license is not displayed, contact the Comptroller.

**Offense:** Check the “personal knowledge of the undersigned officer” box and describe briefly what took place. Include the time, date and location of the offense. Check the “Md. Ann. Code” box and print the statute “Health-Gen. 24-307 (b)(1).”

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

**YOU MAY PAY A FINE** of $_________ (entire amount required) by ___________ to the:

- **District Court.** Payment of the fine will not close the case if abatement action is pending.
- **Agency/Municipality.**

**Payment Location**

- **You may elect to stand trial** by sending your request in writing to:
  - **District Court.**
  - **Agency/Municipality.**

**Fine:** Indicate the amount owed, which will depend on how many prior offenses took place in the past 24 month period. If unsure, use the first violation amount.

**Agency/Municipality & Trial:** Enter the date that the fine is due along with the name and address of your health department and the date by which election to stand trial must be made.

**Failing to appear or pay a fine may result in a warrant being issued for your arrest.**

**Failure to pay the fine may result in additional charges.**

**Failure to appear may result in a trial date.**

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**10**
**UNIFORM CIVIL CITATION**

**Citation Number**: 123456

**District Court of Maryland for Calvert County**

**Prince Frederick, Maryland 20678**

**Defendant's Name**: John Q

**DOB**: 2/20/1975

**Sex**: MA

**Race**: White

**Eye Color**: Brown

**Hair Color**: Blue

**Address**: 123 Avenue

**City**: Calvert

**State**: MD

**Zip**: 20678

**Date**: 10/01/2017

**Time**: 12:00 PM

**Location of Offense**: Tobacco Store on 456 Road in Prince Frederick, MD 20678

**County**: Calvert

**City**: Prince Frederick

**State**: MD

**Zip**: 20678

**Document #:** 24-307

**Paragraph #:** 1

**INSTRUCTIONS**

- **YOU MUST APPEAR IN COURT.** A notice of trial date will be mailed to you.
- **YOU MAY PAY A FINE of $300** (entire amount required) by 11/01/17 to the:
  - District Court
  - Calvert County Health Department
  - 975 Prince Solomons Road, Prince Frederick, MD 20678

**AND AVOID TRIAL.** This will be deemed an admission of guilt and a trial date will not be set.

**YOU MAY ELECT TO STAND TRIAL by sending your request in writing to the:**

- **District Court**
- **Calvert County Health Department**
- **975 Prince Solomons Road, Prince Frederick, MD 20678**

**DO NOT SEND PAYMENT OF FINE.** The District Court will mail you a notice of your trial date, time, and location. AT TRIAL the Court may impose a fine up to the maximum allowed by statute plus court costs.

- **IN ADDITION,** if seeking abatement of this infraction, you may be ordered to abate or be assessed the costs for the abatement, as well as a fine of up to $1,000, plus court costs. Payment of the preset fine will not satisfy the abatement action or an order of abatement may still be entered against you.

**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:** You may be found guilty of a Code violation and the maximum fines and costs can be imposed.

- **Failure to appear for a requested trial date:** The fine may be doubled and a judgment or affidavit entered against you; you may be found guilty of a Code violation and the maximum fines and costs can be imposed.

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.

**Issuing Officer's Signature**

**Issuing Officer's Printed Name**

**Date**

**Agency**

**Sub-Agency**

**I.D. No.**

**Telephone**

DC-028 (Rev. 10/2018)
Local Enforcement Program Overview

Designate Enforcement Personnel

Health-General § 24-307 authorizes a county health officer or designee to issue citations for the illegal sale of tobacco products to minors. A “designee” means a retired sworn law enforcement officer OR an employee of a local health department trained in civil enforcement. In order to “designate” a civil enforcement officer, a health officer should draft and sign a memorandum designating the individual to conduct compliance checks. The LRC has created model language that may be referenced when drafting a designation letter. However, any specific designation procedure questions should be directed to the County Attorney’s office in your jurisdiction.

Note: The designation must: (1) reference the code section (§ 24-307(b)) and (2) clearly establish the parameters of the authority being delegated.

The law does not establish specific training requirements to conduct retail compliance checks and enforcement training does not have to be tobacco-specific.

Coordinate with the Clerk’s Office and the County/State’s Attorney

The statute allows a violator to simply pay the fine or request a trial date. Any request for trial should be sent to the county health department (as the issuing agency) and then directed to the District Court. Since the State’s Attorney’s Office or the County Attorney’s Office will prosecute any violators that request a trial, enforcement officials and/or the county health department should coordinate with these agencies prior to initiating compliance checks under § 24-307. The LRC has drafted model language for your convenience.

At a minimum, the following issues should be addressed prior to conducting any compliance checks:

» Who will collect the penalty dollars (i.e. checks) and where does the money go?
» What evidence will the Court require?
  Please refer to the “Comptroller’s Best Practices - Tobacco Compliance Checks” document.
» Who will prosecute these cases?
» Where should the citation be sent? (Note: the statute directs the violator to notify the health officer or designee of their decision to elect to stand trial at least 5 business days before the date set in the citation for the payment of the civil penalty)
» What questions do the District Court and/or the County Attorney’s Office have about the program?
Local Enforcement Program Overview

Develop the Enforcement Program

In order to begin conducting compliance checks a local enforcement program should (1) obtain a comprehensive list of licensed tobacco retailers, (2) identify youth to conduct the checks, and (3) develop enforcement protocols.

1) Licensed tobacco retailers
Retailers in Maryland must secure a government-issued license to sell tobacco products or ENDS in the state. Cigarette, Other Tobacco Product, and ENDS licenses are issued by the Clerk of the Circuit Court in each county. Enforcement officials may obtain a list of all licensed retailers in their jurisdiction by contacting the Clerk of the Circuit Court or the Office of the Comptroller. The retail licenses expire each year on April 30, which means a local enforcement program should obtain an updated list each year, if not more regularly.

2) Youth assistants
Compliance checks require the assistance of individuals under 18 years of age. Local enforcement programs typically identify 15-17 year olds from the community to assist in attempting to make illegal tobacco purchases. Youth participants are commonly identified in one of the following ways: (a) offer high school volunteers the opportunity to complete community service hours required for graduation; (b) create a contractual hiring program or offer a stipend; or (c) contract with a community group and provide a stipend or other payment in exchange for volunteers.

3) Enforcement protocols
Local enforcement programs have significant flexibility in determining their own inspection protocols (e.g., identifying stores to check, whether a minor will show ID, etc.). However, enforcement officials should confer with the District Court judges and county/state’s attorneys that will hear and prosecute these cases. Enforcement protocol should reflect the evidence and information required to prosecute and adjudicate these violations. In particular, it is important to consider the following issues:

   i. Which retailers should be inspected? When should inspections be conducted?
   ii. What products should minors attempt to purchase?
   iii. Should the minor carry photo identification?
   iv. Should youth lie about their age when attempting a purchase?
   v. Is it necessary for the enforcement officer to accompany the youth into the store?
   vi. Who will be cited? The clerk, owner, or both?
   vii. Will the citation be issued on the spot, mailed, or served later?
Local Enforcement Program Overview

Complete the Citation

According to the statute, each citation must include:
• The name and address of the person or business charged;
• The nature of the violation (e.g., tobacco sale to a minor);
• The location and time of the violation;
• The amount of the civil penalty;
• The manner, location, and time in which the civil penalty may be paid;
• A notice stating the person’s right to elect to stand trial for the violation; and
• A warning that failure to pay the civil penalty or to contest liability in a timely manner in accordance with the citation is an admission of liability AND may result in entry of default judgment that may include the civil penalty, court costs and administrative expenses.

Report Enforcement Data

The statute requires local health departments to report violation data to the Office of the Comptroller. The Comptroller has requested this information on a biannual basis. Local health departments should report violation data for the period of July 1 – December 31 on or before February 1, and report violation data for the period of January 1 – June 30 on or before August 1 each year. The LRC collaborated with the Office of the Comptroller and the Maryland Department of Health to develop a reporting template.

Please contact the LRC at publichealth@law.umd.edu for additional details or a copy of the reporting template.
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