Federal, State and Local Tobacco Control Laws

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December 4, 2014
Overview

- Importance of Local Compliance Checks
- Federal and State Tobacco Laws
- Local Authority to Regulate Tobacco
Importance of Local Compliance Checks

- Local compliance checks **do not** factor into SYNAR compliance rates, but greatly impact retailer behavior

- **Reported Retailer Violation Rates**
  - **FY09** – 5.1% (Last year of statewide funding for local compliance inspections)
  - **FY10** – 16.8% (Highest rate in U.S.)
  - **FY11** – 17.0% (3rd Highest rate in U.S.)
  - **FY12** – 17.3% (2nd highest rate in U.S.)
  - **FY13** – 16.8% (2nd highest rate in U.S.)
  - **FY14** – 24.1% (Highest rate in U.S.)

- **National Average FY09–FY13 → 9.48%**
Who is in Charge of Tobacco Control?

Tobacco control authority is shared between federal, state and local authorities:

- **Federal**
  - FDA
  - SAMHSA
  - Alcohol and Tobacco Tax and Trade Bureau

- **Maryland**
  - DHMH (CTPC and BHA)
  - Office of the Comptroller

- **Local**
  - County Health Department
  - Local Law Enforcement
  - Other Executive Agencies (i.e. Dept. of Liquor Control)
Federalism in Tobacco Control

- **Family Smoking Prevention and Tobacco Control Act (2009)**
  - “A State or political subdivision (i.e. County or municipality) may enact, adopt, promulgate and enforce any law, rule regulation or other measure with respect to tobacco products that is in addition to, or more stringent than [this Act].”

  - Federal law sets the “floor” or minimum standards for tobacco regulation, but state and local governments can do more
Types of Tobacco Sales Laws

- Sales to Minors
- ID Check
- Product Placement
- Packaging
- Licensing
- Excise Tax
- Samples
- Product Restrictions (i.e. Flavored ban)
# Federal Law vs. Maryland Law

<table>
<thead>
<tr>
<th></th>
<th>Federal Law</th>
<th>Maryland Law</th>
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<tbody>
<tr>
<td><strong>Age to Purchase</strong></td>
<td>18 (for cigarettes and smokeless tobacco)</td>
<td>18 (for all tobacco products)</td>
</tr>
<tr>
<td><strong>ID Check</strong></td>
<td>Required for anyone under 27</td>
<td>-</td>
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<tr>
<td><strong>Vending Machines</strong></td>
<td>Only in 18+ establishments</td>
<td>Only in 18+ establishments</td>
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<tr>
<td><strong>Self-Service Displays</strong></td>
<td>Banned (for cigarettes and smokeless tobacco)</td>
<td>-</td>
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<tr>
<td><strong>Packaging</strong></td>
<td>Ban sale of unpackaged cigarettes</td>
<td>Ban sale of unpackaged cigarettes</td>
</tr>
<tr>
<td><strong>Licensing</strong></td>
<td>-</td>
<td>Required ($25)</td>
</tr>
<tr>
<td><strong>Excise Tax</strong></td>
<td>• $1.01 per pack</td>
<td>• $2.00 per pack</td>
</tr>
<tr>
<td></td>
<td>• Varying rates per/lb. (OTP)</td>
<td>15%–70% (OTP)</td>
</tr>
<tr>
<td><strong>Samples</strong></td>
<td>No Free Samples</td>
<td>No Free Samples</td>
</tr>
<tr>
<td><strong>Product Restrictions</strong></td>
<td>• Flavored cigarette ban</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>• No “Light,” “Mild,” &amp; “Low” labels</td>
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What Can Local Authorities Issue Citations for?

Maryland Law

- **Sale or Distribution of a Tobacco Product to a Minor**
  - Misdemeanor and fine up to $300 (1st) $1,000 (2nd) and $3,000 (3+)

- **Sale of Unpackaged Cigarettes**
  - Misdemeanor and fine up to $500 or up to 3 months imprisonment (or both)

- **Sale of Electronic Cigarettes**
  - Misdemeanor and fine up to $1,000

- **Vending Machines**
  - 18+ establishment and operated by token/card purchased from establishment
  - Misdemeanor and fine up to $100

- **Youth Possession/False ID**
  - Civil penalty

- **Sale of Clove Cigarettes**
  - Misdemeanor and fine up to $500
What Can Local Authorities NOT Issue Citations for?

- Failure to Check ID (except Baltimore County)
- Self-Service Displays (No state law)
- Sale of Flavored Cigarettes
- Sale of tobacco products with “reduced harm” claims (i.e. light, mild, low)
- Licensing, Taxation and Minimum Cost Violations
Local authorities may notify Office of the Comptroller of the following violations:

- No Maryland Tax Stamp
- No Cigarette and/or OTP license
- Sales Below Minimum Cost
- Issuance of Sales to Minors Violations
Local Authority

- Three types of local government in Maryland: Commissioner, Code and Charter

- Every jurisdiction here has broad authority to regulate the sale of tobacco at the local level

- **Local Tobacco Ordinances by Jurisdiction**:
  - Sales to Minors (5)
  - Product Placement (5)
  - Sales to Minors (Electronic Cigarettes) (1)
  - ID Check (1)
  - Flavored Wrappings (1)
  - Sales of Unpackaged Cigarettes (2)
Who may conduct local compliance checks?

- **Law Enforcement** → Every jurisdiction allows law enforcement to enforce state (criminal) and local (civil) tobacco control laws

- **Health Officer or Designee** → Most jurisdictions with local tobacco control ordinances grant authority to Health Officers and/or their staff

- **Other Local Agencies** → Several jurisdictions designate specific agencies or enforcement officials to conduct inspections