# Introduction to Tobacco Enforcement Education For Local Public Health Departments

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# Reasons To Conduct Tobacco Enforcement

- Protect public health
- Reduce youth access to tobacco/nicotine products
- Providing retailers with education and enforcement to assist them in maintaining compliance is the responsibility of local health departments
- CMR 665.055(B) gives local health departments authority to conduct tobacco enforcement

# Role of Local Health Departments in Tobacco Enforcement

The MA Department of Public Health sets baseline retail standards which local health agents carry out. (105 CMR 665.000)

Local boards of health have the power to adopt and enforce reasonable regulations that can be even stricter than state minimum standards (MGL ch. 11 s. 31)

- Smoke-free workplace laws
- Retail sales restrictions
- Youth access compliance

# State Laws

- Minimum sales age/Fenway Rule
- Flavor restrictions (smoking bars exempt)
- Required signage
- State licensing requirements
- Tax stamp on cigarettes
- Manufacturer verification letters: flavor & nicotine content
- Self-service prohibition
- Nicotine content restrictions: non-age restricted  35 mg/mL (3% )
  (age restricted/smoking bars exempt)
- Minimum fines & suspension amounts (tolling period 36 months)

# Local Health Department Regulations, Ordinances, & Codes

- Density options, retailer clustering
- Local tobacco permits, caps on permits
- Minimum pricing policies
- Blunt wrap & flavored rolling paper restrictions
- Nicotine content restriction policies
- Determining self-service in Adult Only Retail Tobacco Stores (AORTS)
- Smoking/vaping in AORTS
- NFG
- Local fine & suspension amounts (tolling period varies by municipality)

# Tobacco Retailer Permitting

- Purpose of local permits
- Permit requirements -DOR license, application process, fees, renewal timeline
- Permit conditions - violations, right to inspect
- Some common permit violations

# What Does Tobacco Enforcement Entail?

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- Routine unannounced retail inspections (consistent but not scheduled)
- Finding & identifying flavored products and flavor enhancing products
- Assessing nicotine content of ENDS in non-age restricted establishments (& pouches if there are local limits)
- Tax stamps on cigarettes
- Required signs and placement
- Products prohibited by local regulations, ordinances & codes
- Public complaint-based inspections
- Youth access compliance checks

# How to Gather & Document Evidence

- Data collection - Inspection reports/ POST
- Photographs
- Confiscation - Please check with your municipal legal department or town counsel

# Enforcement Actions

State Fines and suspension amounts within 36 months:
1st violation - $1,000 fine
2nd violation - $2,000 fine + 1-7 days suspension of tobacco permit
3rd violation - $5,000 fine + 7-30 days suspension of tobacco permit

There is a suspension of up to 30 days for **any** sale to underage person regardless of if it is a first, second, or third violation.

Local fines, suspension amounts, and tolling periods will vary by municipality. Most local regulations include a permit revocation process for retailers with repeated state or local violations.

Please know your local regulations and advise your BOH accordingly.

# Notifying A Retailer of Violations

- 21D ticket- can be used for violations up to $300
- Cease-and-Desist orders - recommended to be issued within 5 days
- Retailers must request a hearing before the Board of Health in writing within 7 days of violation notice
- Hearings must occur no later than 30 days after the order was served
- If a retailer disagrees with the board's decision they may seek a judicial appeal

# Best Practices For Effective Tobacco Enforcement

- Consistent unannounced inspection scheduling
- Clear communication with retailers - Merchant Education visits
- Strong documentation habits
- Community education and outreach
- Data driven enforcement priorities

# Next Steps For Health Departments

- Policy Updates
  - Model Tobacco Sales Regulation Information Training

- Training inspectors
  - Retail Tobacco Inspection Training
  - Merchant Education Training for Tobacco Inspectors
  - Youth Access Compliance Check Training

# Resources:

- MTCP Complaint Line **1-800-992-1895**

- 2019 Tobacco Control Law | Mass.gov
  - Retailer Guidance Letters
  - Retailer and Signage Charts
  - Retailer Inspection form

- Signage
  - www.mass.gov/maclearinghouse - order free of charge

- DOR Complaints
  - DOR Illegal Tobacco Task Force | Mass.gov

mhoa.com/tobacco-control

MHOA Tobacco Control:

Training for Health Department Staff
Guidance Documents for Tobacco Sales Law Implementation

Tobacco Toolkits:

New Program Toolkit  Pre-Hearing Toolkit  Post-Hearing Toolkit

# Thank You.

*Contact Us: tobacco@mhoa.org*