

ATCC

Alcohol, Tobacco, and Cannabis Commission

2024

Enforcement of
Tobacco Sales
to Underage Persons



21

or none

Hon. Wes Moore
Governor

Hon. Aruna K. Miller
Lt. Governor

Jeffrey A. Kelly
Executive Director

Alan Silverstein
Chairman

Eric Morrisette
Vice Chair

Robert Poole
Secretary

Betty Buck
Commissioner

Dourakine Rosarion
Commissioner



ATCC

Alcohol, Tobacco, and Cannabis Commission

The Honorable Bill Ferguson
President
Senate of Maryland State
House, H-107
Annapolis, Maryland 21401

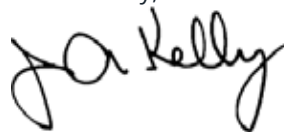
The Honorable Adrienne A. Jones
Speaker
Maryland House of Delegates
State House, H-101
Annapolis, Maryland 21401

RE: Report required by Tax General Article § 2-107(e) (MSAR # 14611)

Dear Elected Officials:

Pursuant to Tax General Article §2-107 E, in accordance with § 2-1246 of the State Government Article, the Alcohol, Tobacco, and Cannabis Commission respectfully submits this report on the Enforcement of Sales of Tobacco Products to Underage Persons.

Sincerely,



Jeffrey A. Kelly
Executive Director

CC: Sarah Albert, Department of Legislative Services (5 copies)

BACKGROUND

The Alcohol and Tobacco Commission (ATC) was established through legislative action by the Maryland General Assembly (Chapter 12, Acts of 2019; Chapters 359 & 360, Acts of 2020) which went into effect as of January 1st, 2021. Prior to the creation of the ATC, related regulatory and enforcement duties fell under the purview of the Comptroller of Maryland. On May 3, 2023, the Commission was renamed the Alcohol, Tobacco, and Cannabis Commission (ATCC) to reflect its new responsibilities related to cannabis (Chapter 254, Acts of 2023). Pursuant to Tax General Article §2-107(e), and in accordance with § 2-1246 of the State Government Article, the Executive Director of the Alcohol, Tobacco, and Cannabis Commission respectfully submits this report.

This report includes, as directed:

- ▶ The aggregate number of licensed tobacco retailers that committed a violation of §10-107 of the Criminal Law Article during the reporting period.
- ▶ The number of prior violations for licensed tobacco retailers and minors that committed a violation (cited under Criminal framework) during the reporting period (Tobacco Sales to underage persons)
- ▶ The subsequent action taken by the Alcohol, Tobacco, and Cannabis Commission against each violator and, for each action taken, the number of violations committed by the violator.

The ATCC does not conduct compliance checks of retailers related to the sale of tobacco products to underage individuals. Rather, local jurisdictions, often working with underage “consumers” (employees, volunteers, or police cadets under 21 years old), conduct unannounced compliance checks and issue citations to those who sell

tobacco products to these underage “consumers.” The ATCC complements the work of local jurisdictions by conducting hearings that target the retail license itself to encourage compliance with the law, limit the availability of tobacco products to underage persons, and evaluate the effort the retailer has taken to prevent sales to underage consumers. The local jurisdictions initiate the hearing process by referring retail stores that have committed violations to the ATCC for potential suspension or revocation of their license to sell tobacco products.

DATA

The local jurisdictions consist of 23 counties and Baltimore City. The Health Departments of these jurisdictions reported the number of citations they issued during the reporting period to the ATCC. Not all jurisdictions had reportable citations. The reported data includes violations of various laws related to the sale of tobacco products to underage individuals. The types of citations issued in each jurisdiction varies based on the underlying facts, as well as the enforcement scope of the officers and inspectors that observe the violation. Generally, only one of these citations can be issued for any individual incident, pursuant to language found in each statute to avoid duplicative charges. The tracked violations include the following statutes:

- ▶ **Md. Annotated Code, Criminal Law Article, §10-107 (“Distribution of tobacco product to a minor”):¹**

A statewide misdemeanor criminal citation which imposes escalating fines on individuals who purchase for, sell, or distribute tobacco products to a person under 21 (other than active duty military members over 18 with valid identification – this exception is repealed effective October 1, 2024). These citations proceed to trial in a Maryland District Court.



► **Health-General Article, §24-305** (“Sale, distribution, or offer for sale of electronic smoking device to individuals under 21 prohibited”):²

A statewide civil citation that is similar to the criminal citation above and can be charged as an alternative to the criminal citation. This statute imposes escalating fines on individuals who purchase for, sell, or distribute electronic smoking devices (“ESDs”) to a person under 21 (other than active duty military members over 18 with valid identification – this exception is repealed effective October 1, 2024). This civil citation can be issued by non-law enforcement employees of local health departments that are trained in civil enforcement. Initial administration and fine collection for these citations is handled by the local health department, unless the charged individual requests a trial before the Maryland District Court.

► **Health-General Article, §24-307** (“Distribution of tobacco product to minor”):³

A statewide civil citation that is similar to the criminal citation above and can be charged as an alternative to the criminal citation and covers the sale of cigarettes and other tobacco products other than ESDs. This civil citation can be issued by non-law enforcement employees of local health

departments that are trained in civil enforcement. Initial administration and fine collection for these citations is handled by the local health department, unless the charged individual requests a trial before the Maryland District Court.

► **Violations of county ordinances (including Baltimore City ordinances)**

Some counties or municipalities also enforce local ordinances related to the sale of tobacco products to underage persons, failure to verify age or check IDs, or other related offenses. These are unique to the jurisdiction and have a variety of enforcement procedures to hold employees or business owners accountable.

The local jurisdictions are required to report violations of the statutes listed above to the Alcohol, Tobacco, and Cannabis Commission twice a year. Each fiscal year is broken up into two 6-month reporting periods. The ATCC received 100% of the required reports. The table on the following page shows the aggregate number of licensed tobacco retailers that committed a violation of the statutes above.

1. Criminal Law Article, §10-107 (Distribution of tobacco product to minor)
2. Health-General Article, §24-305 (Sale, distribution, or offer for sale of electronic smoking device to individuals under 21 prohibited)
3. Health-General Article, §24-307 (“Distribution of tobacco product to minor)

ENFORCEMENT DATA TABLES

TABLE 1 – NUMBER OF VIOLATIONS	July 1st – December 31st	January 1st – June 30th	FY 2024 TOTAL
Criminal Law Article, §10-107 ("tobacco sales to underage persons - criminal citation")	178	259	437
Health-General Article, §24- 305 ("e-cigarette sales to underage persons - civil citation")	11	30	41
Health-General Article, §24- 307 ("tobacco sales to underage persons - civil citation")	28	78	106
County sales to underage persons or those under 21 ordinances	294	728	1022

TABLE 2 – NUMBER OF RETAILERS WITH MULTIPLE VIOLATIONS DURING THE REPORTING PERIOD

Table 2 contains the number of repeat retail violators from the aggregate of all violation categories in Table 1. Repeating a violation does not mandate a referral to the ATCC.

	July 1st – December 31st	January 1st – June 30th	FY 2024 TOTAL
Total	65	244	309

TABLE 3 – YEAR TO YEAR COMPARISON

Table 3 depicts a year-to-year comparison of the aggregate number of licensed tobacco retailers that committed a violation of Criminal Law Article §10-107, Health-General Article §24-305, Health-General Article §24-307, any county ordinances, and the total number of repeat retail violators during the fiscal year.

	FY2021	FY2022	FY2023	FY 2024
Criminal Law Article, §10-107 ("tobacco sales to underage persons - criminal citation")	334	752	652	437
Health-General Article, §24- 305 ("e-cigarette sales to underage persons - civil citation")	3	34	38	41
Health-General Article, §24- 307 ("tobacco sales to underage persons - civil citation")	196	774	670	106
County sales to underage persons or those under 21 ordinances	41	35	111	1022
Total number of retailers with multiple violations during the fiscal year.	68	97	120	309

The ATCC is currently investigating the accuracy of previous county reports that may affect the total numbers in particular fiscal years. The reported violations by local jurisdictions which are under review appear to be unintentionally erroneous, and the ATCC is committed to correcting and publishing accurate data as necessary when its review is complete. The ATCC is confident that through communication and cooperation with local jurisdictions this data will be accurate for future reports.

TABLE 4 – DISPOSITION OF REFERRALS

Table 4 reports the dispositions of each tobacco license hearing request to the ATCC during the reporting period of July 1st, 2023 – June 30th, 2024. Table 5 provides a year-to-year comparison.

JULY 1ST 2023 – JUNE 30TH 2024

Referrals Received	62
Prior Year Carry Over	6
Hearings Held	60
DISPOSITIONS	
Pending (ex. postponement)	52
Reprimand	7
Suspension	3
Dismissed	4

TABLE 5 – YEAR TO YEAR COMPARISON

	FY2021	FY2022	FY2023	FY 2024
Referrals Received	7	12	8	62
Prior Year Carry Over	0	0	0	6
DISPOSITIONS				
No action (ex. business closed or new ownership)	0	0	0	0
Merged	0	0	0	0
Pending (ex. postponement)	0	0	2	52
Warning	7	2	0	0
Reprimand	0	10	4	7
Suspension	0	0	2	3

QUESTIONS?

If you have any questions regarding this report, please contact the Regulatory and Research Section of the Alcohol, Tobacco, and Cannabis Commission at 443-300-6990 or email atcc.info@maryland.gov.

ATCC

Alcohol, Tobacco, and Cannabis Commission



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