



Maryland Grade Card
Population Covered: 6,045,680
Tobacco 21 Since: October 1, 2019

TOBACCO
~~eighteen~~ twenty-one

The Preventing Tobacco Addiction Foundation evaluated all current statewide Tobacco 21 laws for their alignment with best practices that lead to effective prevention of youth initiation of tobacco and nicotine products.

ENFORCEMENT

GRADE: C

Designated Enforcement Agency

Best Practice: Health Department or Designated Agency

Maryland Enforcement: The Maryland Health Department is the designated enforcement agency

Age Verification

Best Practice: Before distributing any tobacco product, the tobacco retailer or the tobacco retailer's agent or employee shall verify that the purchaser is at least 21 years of age. Each tobacco retailer or tobacco retailer's agent or employee shall examine the purchaser's government-issued photographic identification if the purchaser appears to be under 30 years of age.

Maryland Enforcement: ID check is required for any purchaser that appears to be under 27 years of age

Who is the Penalty Placed on?

Best Practice: The primary burden for sales to underage purchasers should fall on the retailer who is profiting from the sales of the product and not the purchaser or non-management employee.

Maryland Enforcement: If cited civilly, the penalty is on the retailer. If cited criminally, a retailer, clerk, or other offender may be penalized.

Number of Compliance Checks

Best Practice: Provide authority for the state, county, or municipality to inspect tobacco retailers for compliance with MLSA 21 and a mandated minimum number of annual compliance checks. Model recommends two per year for every tobacco retail establishment.

Maryland Enforcement: While Maryland law does not require a minimum number of compliance checks, there is a permanent line item in the state budget for Tobacco Enforcement. Funds from this source are granted to all 24 of Maryland's local health departments (based on number of licensed retailers) with a requirement for smaller jurisdictions to conduct compliance checks on 100% of retailers annually and larger jurisdictions 70-80%.

Compliance Checks Done With Underage Decoys Aged 18-20

Best Practice: The designated agency shall conduct compliance checks by engaging persons between the ages of 18 and 20 to enter the tobacco retail establishment to attempt to purchase tobacco products.

Maryland Enforcement: Decoy to be under the age of 21 with no specified minimum age

LICENSING

GRADE: A

Statewide Tobacco Retail License

Best Practice: A comprehensive tobacco retail license allows states and municipalities to regulate all tobacco retailers, fund enforcement programs, and create a penalty structure that suspends or revokes a license for retailers that continue to violate a MLSA 21 law.

Maryland Licensing: Maryland has multiple licenses that cover all products

Tobacco Retail License Program Funds Enforcement

Best Practice: The fee for a tobacco retail sales license shall be set and used to cover the administrative cost for licensing administration, education and training, retail inspections, and unannounced compliance checks. The tobacco retail sales license fee should not exceed the cost of the regulatory program authorized beyond the statute/ordinance.

Maryland Licensing: Maryland's Tobacco Retail License fee funds the enforcement program

Tobacco Retail License Fee

Best Practice: An effective licensing system requires tobacco retailers to pay an annual license fee and allows it to be periodically adjusted. Fee must be adequate to cover License administration, education/training, and enforcement. An annual fee of lower than \$300 is generally inadequate to fund a licensing program.

Maryland Licensing: Maryland's statewide Tobacco Retail License fee is \$15-30, plus counties have additional licenses and fees that vary and renew annually

PENALTIES

GRADE: C

Penalty Type

Best Practice: Establish a civil penalty structure for violations rather than a criminal penalty structure.

Maryland Penalties: Maryland has a civil penalty structure

Violation Accrual Period

Best Practice: 36 months

Maryland Penalties: Maryland has a 24-month violation accrual period

Monetary Penalty and Suspension Structure

Best Practice: 1st violation = \$500

2nd violation = \$750 and (7) day suspension

3rd violation = \$1,000 and (30) day suspension

4th violation = \$1000 and (3) year suspension

Maryland Penalties: 1st Violation = \$300 fine

2nd Violation = \$1,000 fine

3rd Violation and subsequent offenses = \$3,000 fine

License suspension and revocation not specified and are left to the discretion of the Comptroller of Maryland. The Comptroller has a process for considering license suspension or revocation and their authority to do so has been upheld by the Court of Special Appeals. Local health departments regularly refer violators to the Comptroller hearings.

Does the Law Penalize Youth for Purchase, Use or Possession

Best Practice: An evidence-based, best practices tobacco MLSA 21 policy should focus penalties on the tobacco retailer who profits from the illegal sale rather than the youth who is likely addicted to the product. PUP laws may be unlikely to reduce youth smoking significantly.

Maryland Penalties: Maryland has no laws penalizing youth for purchase, use, or possession (PUP) of tobacco products

PREEMPTION

GRADE: C

Does Preemption exist, was it added, or expanded

Best Practice: Local governments have a critical role in reducing the deadly toll of tobacco by regulating sales and restricting youth access to these products to prevent use and addiction. Tobacco 21 legislation should not introduce new tobacco control preemption, nor expand existing tobacco control preemption, and instead should be used as an opportunity to assert local authority or repeal existing tobacco control preemption.

Maryland Preemption: Implied preemption of local sales and distribution laws for tobacco products other than electronic smoking devices exists in Maryland

DEFINITIONS

GRADE: A

Definitions

Best Practice: A comprehensive definition will cover all current, known tobacco and nicotine products, which include not only cigarettes, cigars, and smokeless tobacco, but also products like pipes, rolling papers, electronic smoking devices, and other related devices. A strong definition will also be broad enough to capture future products.

Maryland Definitions: Maryland's Tobacco 21 law includes comprehensive definitions