**Prevention Coordinators’ Responses (19) to Request from Meg Matta (NV)
Tobacco Enforcement/Synar
Compiled by NASADAD on 5/8/2019**

**Request from Meg Matta (NV), asked 4/12/19:**

1. *Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor?*
2. *If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar?*
3. *What strategies have you found to be most effective?*

**Summary of Responses**

A total of 19 states and territories (AL, AS, AR, FL, GU, ID, IL, IN, KY, LA, ME, MS, NY, NC, OR, RI, SC, VA, WA) responded to this request. Fifteen states and territories (AL, AS, AR, FL, GU, ID, IL, IN, LA, ME, NY, OR, RI, VA, WA) allow for monetary fines to be levied on tobacco retail establishments found to be in violation of selling tobacco to minors. Four states (KY, MS, NC, SC) do not allow for monetary fines to be levied on tobacco retail establishments. Other strategies states have found to be effective include conducting additional checks beyond the Synar Inspections, enforcement efforts including suspension of licenses, conducting trainings and providing educational materials, utilizing surveys, supporting local police in efforts similar to Synar, building relationships with retailers, and empowering communities to do their own non-punitive compliance checks and retailer education.

**Individual Responses**

**Alabama, Beverly Johnson**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **Yes, the retail establishment is levied an administrative fine by the Alabama Alcoholic Beverage Control (ABC) Board after the compliance detail has been completed.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar?
3. What strategies have you found to be most effective? **Additional checks beyond the Synar Inspections have been effective. Increasing the number of non-Synar checks keeps the violation rate low.**

**American Samoa, Tuumafua Maiava**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **Yes.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **NA - AS conducts enforcement against retailers for violations.**
3. What strategies have you found to be most effective? **For most retailers, the most effective strategy appears to be enforcement efforts (e.g, hearing process for violators including assessment of penalties (both fine and suspension of license)**

**Arkansas, Tenesha Barnes**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **Yes, Arkansas has a tiered fine scale. 5th violation Permit can be revoked**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **We fine the store, the clerk and require merchant education after 3rd violation for all employees.**
3. What strategies have you found to be most effective? **Utilizing trainings and fines.**

**Florida, Walesca Marrero**

* + - 1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor?  **YES**
			2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **N/A**
			3. What strategies have you found to be most effective?  **Conducting SURVEYS**

**Guam, Linda Flynn**

We do levy fines on retail establishments (not on the clerks) found in violation of tobacco sales to minors.   We have a low violation rate during the Synar Inspection but anecdotally hear that it is relatively easy for minors to purchase cigarettes from “Mom and Pop” neighborhood stores.  We plan to look at asking our local newspapers to publish information in print and on their social media platforms on violators as another strategy to discourage sales to minors.

**Idaho, Melinda Smyser**

Idaho has some specific penalties, both civil and criminal, for distributing tobacco to minors. See Idaho Code Section 39-5708 for civil penalties (<https://legislature.idaho.gov/statutesrules/idstat/Title39/T39CH57/SECT39-5708/>) – civil penalties escalate up to $400.00. See also Idaho Code Section 39-5709 for criminal penalties (<https://legislature.idaho.gov/statutesrules/idstat/Title39/T39CH57/SECT39-5709/>).

Also, per my colleagues in the Consumer Protection Division, underage sting operations and monitoring, when done systematically, have been good deterrents.

**Illinois, Rafael Rivera**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **With recently passed statewide Tobacco 21 legislation, fines for retail tobacco violations have been increased. Illinois has encouraged and required fines for violations referred through Synar inspections.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **N/A**
3. What strategies have you found to be most effective?  **We have two different retail tobacco enforcement programs with considerable overlap between them. The state funded Tobacco Enforcement Program supports local police departments Sheriffs with activities similar to those required of Synar. Our Synar program is supported through our FDA contract activities.**

**Indiana, Davetta Henderson**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **Yes, both the establishment and the clerk can be fined in Indiana.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar?
3. What strategies have you found to be most effective? **Relationships with retailer organizations and retailers paired with retailer education will be the strategies I will be using to lower our retailer violation rate for Indiana.**

**Kentucky, Patti Clark**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor?

**Response: No. In KY only the clerks are fined.**

1. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar?

**We are engaging & funding communities to do their own non-punitive compliance checks based on the Reward and Remind model.  Each store inspected is also given a brochure on KY and federal tobacco laws and is encouraged to take our online Tobacco Retail Underage Sales Training (TRUST)**

**KY also has an FDA contract. Under FDA laws the store owner can be fined.**

1. What strategies have you found to be most effective?

**We have only been implementing the Reward and Program for three years.  The compliance checks conducted through this program are statistically very small -100 to 150. It has not had any discernible impact on our Synar Rate.  We do know however that our online vendor education program, is effective when store owners require their employees to take the training on a regular basis.  A Kentucky convenience store chain comprising over one hundred stores requires all of its employees to take the TRUST training once a year.  The Kentucky Synar Coordinator recently checked the compliance rate of this chain in the FDA's "Compliance Check Inspection of Tobacco Product Retailers database.  The findings were eye opening.   Out of 360 inspections conducted on that retailer’s outlets since the FDA inspections began in Kentucky, in 2011 only six violations were noted; making for a compliance rate of 98.4%.  The challenge here is getting retailers on board so that systematic vendor education becomes part of their employee training requirements.  While our vendor education program has been effective in reducing the number of underage purchases of tobacco products in this particular chain, these success has not been generalized to the point of lowering our Synar rates.  Our Synar rates have been fluctuating since 2015  - 7.8% in 2015 (up from the previous years 5.5 % average), 5.7% in 2016, 10.4% in 2017, 7% in 2018 and 9.7% in 2019. We do not know why the rate has fluctuated so much in the 5 years when for the ten years previous it averaged 6%.**

**Louisiana, Leslie Brougham Freeman**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor?**Yes. Louisiana issues an administrative citation to the clerk/server who sells the tobacco product as well as to the Store/Business Owner.  All clerks who sell or serve alcohol or tobacco products must complete the Responsible Vendor Training Program within 45 days of hire. Those Clerks who are trained and certified as a Responsible Vendor receive a Responsible Vendor Card. OATC handles all administrative citations issued to both “certified” Responsible Vendor (RV) clerks and store owners.  Additional fines can be assessed to the Store/Business Owner if they failed to have their employees complete the Responsible Vendor Training Program within 45 days of hire.**

**Maine, Christine Theriault**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **The State of Maine does allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor. The fine structure is not less than $300 for the first offense, not less than $600 for the second offense and not less than $1,000 for each offense thereafter, plus court costs, must be adjudged. The fine may not be suspended. All tobacco retail establishments must be licensed; suspension or revocation of license is possible with continued violation.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar?
3. What strategies have you found to be most effective? **All tobacco retail establishments are encouraged to participate in the NO BUTS! program, created to help retailers avoid selling tobacco to minors. It is an effort of the State of Maine Office of the Attorney General (OAG) and the Maine Center for Disease Control and Prevention Tobacco and Substance Use Prevention and Control Program (TSUPC). This voluntary training for employers and employees help prevent under-age tobacco sales. It is recommended all register trained employees complete prior to selling tobacco products and on an annual basis. Retailers that participate in the NO BUTS! program can earn State Compliance Credits and avoid fines. A State Compliance Credit may be issued if a store fails an inspection, had no violations within the last three inspections, and the sales clerk completed the NO BUTS! online training prior to the violation. Free materials are also available to help educate register staff and customers.**

**Mississippi, Thia Walker**

Information regarding fines for underage tobacco sales can be found here: <http://www.ago.state.ms.us/wp-content/uploads/2013/09/MS-Laws-Governing-Tobacco-and-Minors.pdf>.

Prevention Specialists in MS are required to do 25 merchant education visits annually at tobacco retailers.  MS has about 30 tobacco free coalitions that also do Merchant Education.

Alcohol & Tobacco Enforcement Officers, with our Attorney General’s office, have a staff of minors that make attempted buys for alcohol and tobacco products all year.  We partner with them in the summer to conduct our Synar surveys.

**New York, Patricia Zuber-Wilson**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **Yes, Public Health Law Article 13-F prescribes minimum and maximum fine amounts for initial and subsequent violations.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **Not applicable; however Public Health Law Article 13-F prescribes additional enforcement measures for repetitive violators, separate from monetary fines, including the suspension or revocation of retailers’ license to sell tobacco products and herbal cigarettes, and the suspension of their license to sell lottery tickets, when applicable.**
3. What strategies have you found to be most effective? **The threat of losing their tobacco license has proven to be very effective as a deterrent.**

**North Carolina, Jessica Dicken**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **In North Carolina, the youth access tobacco law [N.C.G.S. 14-313 (B)] does not allow monetary fines to be levied on tobacco retail establishments, but the clerk can be charged with a Class 2 misdemeanor if found selling or distributing tobacco to persons under the age of 18 years.  However, failure to post the required state signage can impose a $25 fine to a tobacco retailer for the first offense and $75 for each succeeding offense.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **Since 2014, NC has had limited tobacco enforcement, which has resulted in our current 20.8% RVR.  As a result, In the 2018 short legislative session, highly motivated NC legislators apportioned recurring state dollars for tobacco enforcement. This not only designated funding for conducting tobacco retailer compliance checks but deemed Alcohol Law Enforcement (ALE) as the agency responsible for enforcing the state youth access tobacco law. We also encourage prevention providers across the state to disseminate merchant education materials to tobacco retailers in their respective catchment areas, focusing attention on establishments found in violation on the FDA website.  We support their efforts in building relationships with local law enforcement to inform them of repeat offenders in their local communities, in hopes that they will follow up.**  **For the FFY20 ASR, we plan to change some of our Synar protocols to more accurately and efficiently assess the retailer violation rate for the annual Synar survey.**
3. What strategies have you found to be most effective? **We have greatly increased efforts at the local level for tobacco retailer education yet we feel the change of Synar protocols to be most effective although this cannot be substantiated until the next Synar survey estimated to begin June 2019.**

**We also recognize the importance of advocating for tobacco licensing and increased statewide tobacco retail enforcement.  Accordingly, we have started conversations to work collaboratively with our partners across the state.**

**Oregon, Luci Longoria**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **Oregon’s law restricts the sale of tobacco products or inhalant delivery systems to people under 21 years of age (**[**ORS 167.755**](https://www.oregonlegislature.gov/bills_laws/ors/ors167.html)**). Monetary fines are issued to store clerks, managers or owners if the store violates the law. Fines range from $50 to $1,000, depending on who is fined and previous violations. The exact language is below:**

**167.755 Selling tobacco products or inhalant delivery systems to person under 21 years of age; penalties. (1) A person commits the offense of selling tobacco products or inhalant delivery systems to a person under 21 years of age upon the occurrence of one of the following:**

**(a) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, tobacco products;**

**(b) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, an inhalant delivery system;**

**(c) If the person is a manager or other person who supervises the retail sale of tobacco products or inhalant delivery systems, the person is acting within the course and scope of the person’s employment and the person has supervisory authority over a person who violates paragraph (a) or (b) of this subsection; or**

**(d) If the person is an owner of a business that sells tobacco products or inhalant delivery systems at retail, a violation of paragraph (a) or (b) of this subsection occurs at the business.**

**(2)(a) Violation of subsection (1)(a) or (b) of this section is a specific fine violation punishable by a fine not to exceed $50.**

**(b) Violation of subsection (1)(c) of this section is a specific fine violation punishable by a fine not to exceed:**

**(A) $250 for the first or second violation; or**

**(B) $500 for the third or subsequent violation.**

**(c) Violation of subsection (1)(d) of this section is a specific fine violation punishable by a fine not to exceed:**

**(A) $500 for the first or second violation; or**

**(B) $1,000 for the third or subsequent violation.**

1. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **Oregon does not issue fines for violations found during Synar inspections; we issue fines when Enforcement Inspections are conducted, to ensure compliance with ORS 167.755. Oregon had a fairly high retail violation rate for Synar several years ago. We switched inspection methodology so that youth inspectors no longer carried identification and this helped reduce our violation rate.**
2. What strategies have you found to be most effective?

**See above comment on changing inspection methodology.**

**Rhode Island, Maureen Mulligan**

Local police departments can levy fines on retailers in violation.  Even though Rhode Island does permit fines, there is an ongoing effort at the local level to acknowledge those retailers who are in compliance as a result of the Synar Survey.  BHDDH provides a list of retailers in compliance and  Certificates of  Acknowledgement for each retailer to every city and town.  Local police departments are notified of those retailers not in compliance for follow up inspection.

**South Carolina, Michelle Nienhius**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **In SC we do not have a tobacco licensing process for business to sell tobacco products, therefore the only fines that can be levied are against the clerk.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **In SC we have an incentive program (STEP) in place for county providers to receive checks at the end of the state fiscal year (see below for more information). We are currently updating to include new areas for the upcoming fiscal year (adding some categories for vaping products). Can share those revisions at a later date if interested.**
3. What strategies have you found to be most effective? **Environmental prevention strategies to reduce access- compliance checks, in combination with merchant education and media of the efforts**

**Virginia, Gail Taylor**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor? **Yes.**
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **NA**
3. What strategies have you found to be most effective? **Merchant education**

**Washington, Sarah Mariani**

1. Does your state law allow for monetary fines to be levied on tobacco retail establishments (not the clerks) found to be in violation of selling tobacco to a minor?**Yes.
RCW 70.155.100**[**https://app.leg.wa.gov/RCW/default.aspx?cite=70.155.100**](https://app.leg.wa.gov/RCW/default.aspx?cite=70.155.100)
2. If your state does not permit enforcement against retailers, what strategies are you using to lower your Retail Violation Rate for Synar? **N/A.  Enforcement against retailers is allowed.**
3. What strategies have you found to be most effective?**Relevant examples from Washington:**
* **Merchant Education
There is an agreement between Washington’s Liquor and Cannabis Board and the Department of Health on the development of merchant education materials including a training video, year-to-date stickers, signage, and other informational materials.**
* **Community mobilization to increase support for retailer compliance with youth access laws
The Department of Health contracts with 9 regional and 5 priority population contractors to engage in community mobilization efforts including the engagement of youth in conducting retail assessments and providing retailer education.
The Division of Behavioral Health and Recovery supports community-based substance use disorder and prevention coalitions in 82 high need communities across the state.  Each of these communities engages in community mobilization and are required to support Synar compliance activities locally.**