

# Understanding Youth Commercial Tobacco Compliance Checks

There are several different types of federal and state mandated commercial tobacco compliance checks conducted in Minnesota. These checks are an essential part of preventing youth tobacco use.

## State and Local Compliance

### Minnesota State Law

- Requires that licensing authorities in cities or counties conduct unannounced youth compliance checks at least once per year
- Involves youth ages 17 - 20
- Conducted by community health agencies or local law enforcement
- Allows retailer license fees to fund compliance programs
- Mandates tiered penalties of specific amounts be issued to licensed retailers who violate compliance standards\*
- Allows for stronger local ordinances

\*State law was updated in 2020 to specify minimum penalties for retailers of \$300 for a first violation, \$600 for a second violation, and \$1,000 and 7-day suspension and review of license for a third violation within a 36 month period. For more information see [Minn. Stat. § 461.12](#)

### Compliance Checks around the State

#### MN Counties & Cities

Law enforcement in many counties and cities conduct at least one compliance check with retailers every year. Programs may also include data tracking and yearly retailer training.

#### Statewide: Congratulate & Educate

The Minnesota Department of Human Services (DHS) program provides an additional round of local educational compliance checks. These checks are for education not enforcement, so penalties are not a component.

## Federal Compliance Programs

### Synar Program through the Substance Abuse and Mental Health Services Administration (SAMHSA)

- Established by an amendment to the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (1992)
- Conducted by DHS

### Food and Drug Administration (FDA) Tobacco Retail Compliance Inspections

- Established by the Family Smoking Prevention and Tobacco Control Act (2009), which gave the FDA authority to regulate all tobacco products including cigarettes, hookah, e-cigarettes and cigars
- Conducted by DHS under contract with FDA

	FDA	Synar	Local
Processes	All retailers are checked yearly.	A representative sample of retailers (approx. 350) are checked yearly.	All retailers are checked at least once yearly.
	Data is publicly available at <a href="https://www.fda.gov">fda.gov</a> .	Data is publicly available upon request.	Data is usually publicly available upon request.
	Results are not communicated to local licensing authority.	Results are not communicated to local licensing authority.	Municipalities and law enforcement use results to customize local ordinances.
Enforcement	Retailers receive a warning letter after the first violation and civil penalties after each subsequent violation.	Information gathering only, retailers receive no penalties. States with greater than 20% noncompliance can lose federal substance abuse funding.	Retailers are issued mandatory minimum fines and may also be subject to higher local penalties.

## Take Home Points

- Tobacco retailer compliance checks are an essential part of tobacco prevention. They are conducted to ensure that retailers comply with state and local ordinances and do not sell tobacco to youth.
- Local checks are conducted by local licensing authorities independent of FDA and Synar inspections. FDA and Synar checks do not fully represent compliance at the local level.
- Local compliance checks and supplemental programs are the most reliable way to ensure that community retailers are in compliance with local ordinances and state law.

## Sources

last updated: Dec. 2022

1. SAMHSA and FDA. A Strategic Partnership. <https://www.fda.gov/downloads/TobaccoProducts/NewsEvents/UCM284343.pdf>.
2. FDA. Summary of Federal Rules for Tobacco Retailers. <https://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/Retail/ucm205021.htm> Accessed Jan. 2018