TOOLKIT TO ESTABLISH A MUNICIPAL TOBACCO CONTROL PROGRAM

Please be advised that this document was written during the COVID response and the Reopening of Massachusetts in Phases. The protocols contained herein may be in the process of being updated to reflect changes in federal protocol and/or best practices to address safety during the COVID response.
Please use an abundance of caution and recommended health and safety measures to ensure the safety of yourself, the people you work with and the people that you may encounter during your work.

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their review and contributions.

This document is provided for education purposes only and is not to be construed as legal advice. For legal advice, please contact your city or town attorney.

INFRASTRUCTURE

BOARD

OF HEALTH TOBACCO

PROGRAM

Staff/Contractor/Young Adult Buyer Training
MHOA provides free training for Board of Health staff/independent contractors in conducting retail tobacco inspections and compliance checks. The combined training takes approximately three hours.
A municipal identification should always be carried when conducting in store merchant education, retail tobacco inspections and compliance checks. Consult your Board of Health or lead board (for a collaborative) to determine what identification to carry and how to obtain it.
In addition, inspectors need to be appointed by the board. Consult with the Town Clerk on this process as it varies town by town.
I.

Retail Tobacco Inspections
The Retail Tobacco Inspection Training reviews the various documents and tobacco products that you will be taking note during a retail tobacco inspection, along with guidance for resolving situations of non-compliance. The established protocol for conducting retail tobacco inspections is included in this document as APPENDIX A (Page 15).

Il.

Compliance Check Training
The compliance check portion of the training reviews local, state and federal laws, safety for the youth and adult inspectors, state protocol for conducting compliance checks and preparation for Board of Health and court hearings. This training is supplemented by a ride-along with field staff currently conducting these activities. Municipalities that receive funding through the Department of Public Health/Mass. Tobacco Cessation and Prevention Program are not authorized to conduct inspections and compliance checks until they have been trained by MHOA, and are required to follow the approved Compliance Check Protocol, which is included as APPENDIX B (Page 18) in this document. To arrange for this training, contact smccolgan@mhoa.com.

INFRASTRUCTURE

lil.

Additional Staff Training/Subject Matter Development
Staff training should also include familiarizing yourself with a number of websites and documents, including the current local regulations in your municipality(ies). A list of essential websites is APPENDIX C (Page 24) in this document.

IV.

Introductions
Introduce yourself to your Board(s) of Health by attending one of their regular meetings. Be prepared to discuss current regulations and how they can strengthen them if needed. Be prepared to make recommendations if asked.
Introduce yourself to the Statewide Technical Assistance Providers, who will be prepared to discuss the current regulations in your area and assist you in making the above recommendations. TA providers will also orient you to their roles and how they can each assist you.

V.

Young Adult Buyer Training for Compliance Checks
Young adult buyer training is conducted online with an in-person follow-up. To access the online training, contact Molly Butler, FDA State and Synar Coordinator, Molly.Butler@state.ma.us.. Prior to conducting the compliance check, you should conduct on-the-job training for the Buyer and remind them of key points in the Compliance Check Protocol. The protocol also includes a section on recruitment. It will also be helpful to you to contact a neighboring counterpart to see what strategies they have used for Buyer recruitment. The on-the-job training guidance is attached to this document as APPENDIX B (Page 18).

IV.

POST
MTCP has entered into a partnership with Counter Tools, out of the University of North Carolina, to provide state-of-the-art software for data collection, synthesis and reporting. While this is a new partnership, data from municipalities that are funded through a regional grant with DPH/MTCP has been entered in real time. We are now able to offer this to municipalities that are not part of a regional grant, along with access to the POST (Point of Sale Toolkit) system and training provided by Counter Tools. POST provides data on store visits (inspections and compliance checks)

including store mapping, and reports which will assist you in informing your key local stakeholders, tracking sales history of establishments and local demographics. There is general and Massachusetts specific training available to assist you in maximizing the use of POST. The information provided to you by way of the various reports will be helpful to you and your municipality. Please visit their site, countertools.org to learn more about the POST system. For information on POST training and access to the site for your municipality contact smccolgan@mhoa.com.

INFRASTRUCTURE

Vendors/Permit Applications/Permits
l.

Vendor Lists
Obtain current tobacco/vape vendor lists from the board of health(s). This list should be compared to the lists used by the FDA: htto://www.fda.gov/IC ECI/EnforcementActions/WarningLetters/Tobacco/default.htm

and the DOR permit list: httos://www.mass.gov/info-details/dor-cigarette-tobacco-and-vaping-excise-tax#licensedcigarette-retailers,-distributors,-and-minimum-retail-price-lists-

The FDA site has some very informative training videos.
ll.

Vendor Database
Create a database of vendors and their pertinent information frequently found on their permit applications. If there is information not contained in the permit application that would be helpful in the future, make a note to collect that information on the next visit to the establishment. Email addresses of the owner/manager have become increasingly helpful and important to collect.

lil.

Permit Applications and Permits
Determine when each municipality permit renewal process takes place. Consider providing each municipality with a different color of paper for the permit, which could be switched on an annual basis. Like a car’s annual inspection sticker, this will allow you to quickly identify the tobacco sales permit in the establishment, as they receive a number of permits annually from state and municipal government. The mailing of permit applications is also a good opportunity to send out any recent/relevant merchant education. You may want to consider hand delivering some of the applications and/or permits and use this opportunity to educate the retailer and or do an inspection. Prior to applications being sent out, provide the board of health with any recommended changes to the application. See a sample template application as APPENDIX D (Page 25) to this document.

INFRASTRUCTURE

Municipal Regulations
l.

Current Regulations
Obtain and review all current tobacco sales and second hand smoke regulations for your municipality(ies). For the most part these will be health regulations check to see if any of these policies are contained in either city ordinances or town bylaws. Do they at least meet the current state law/federal law/State Attorney General regulations? Take note of what areas the regulations may exceed the state law. It will be helpful to make a chart for each town to refer to while in the field. A sample chart is included as APPENDIX E (Page 28) to this document.

ll.

Enforcement
Does the board have a history of enforcement of the regulations as enacted? Does the municipality use non-criminal disposition (civil ticketing) or issue a health order or a combination of the two (i.e. noncriminal disposition fine for an unacceptable sale price for a cigar and state required fining amount for a sale to minor)? How will fines be issued in each municipality?

ll.

Court
In case of a fine non-payment or a legal challenge from a retailer who has been issues a fine, is your local district court aware of the current regulations? Do they support the enforcement of them? Will you be attending any resulting court hearings or will the health director be representing the health department? What is the protocol for the

city/town attorney to attend?

INFRASTRUCTURE

BUDGET/FINANCES

A large group of cities and towns in Massachusetts are part of regionally funded tobacco control programs. Some single large cities also receive funding individually. The funding is received through state and federal appropriation to the Department of Public Health/Massachusetts Tobacco Cessation and Prevention Program. Funding, always contingent on legislative approval, is sent to acollaborative's "lead municipality". Other member municipalities of a collaborative receive the services of their tobacco control program, but not the funding. A workplan outlining deliverables is required as a condition to accepting
MTCP funding. A typical workplan includes conducting compliance checks, retailer inspections, policy development and responding to second-hand smoke complaints.

There are several cities and towns that are not funded by MTCP for tobacco control. Some of these municipalities receive funding in their municipal budget for tobacco control activities and some do not.

A toolkit has been developed to guide a municipality through the process of obtaining a revolving fund to finance tobacco control efforts with local funds. The
toolkit is attached to this document as APPENDIX F (Page 30).

There are a number of questions that must be answered at the inception of a program, including but not limited to:

a.

Is the program staff going to be paid as a municipal employee or an independent contractor?

1.

Employee:

Will benefits be offered?

2. Contractor: Will they be reimbursed for mileage or is that included in their hourly rate? Is there an established mechanism in the municipality to pay independent contractors?

3.

Both: How much per hour will this person be paid? (MTCP has hourly guidelines). How many hours per week will this person work? Who will supervise this person?

INFRASTRUCTURE

b.

Funds to conduct compliance checks - petty cash — needs to be available to the field staff. How is this money accessed and accounted for?

c.

How will the young buyers be paid? Most municipalities pay the young adults as independent contractors, within MTCP’s recommended hourly guidelines. All young buyers must be paid at least minimum wage. These guidelines can be found in the Compliance Check Protocol, which is APPENDIX B (Page 18) to this document.

PROGRAM

COMPONENT

Merchant Education/Retail Training
I.

Education Visits
One of the purposes of education visits is to give establishment owners/managers new information regarding regulations/laws. Just as important, it gives the opportunity for program staff to see what products are being sold in this establishment, and in this municipality, often introducing new products to you. If you are able, purchase any new products to share with your co-workers on the local and state level.

ll.

Mailings
New product advisories, legal notices regarding hearings and draft regulations are the types of education that can be mailed or emailed to establishments to keep the chain of communication open. A word on snail mail, sending a document by first-class mail is considered "legally sufficient". If you send certified mail a retailer could choose to not accept it so also send a copy by first-class mail.

lll.

© Manager Training
MHOA conducts live group training for managers and owners. The training takes 1.5 hours, and attendees are provided with the power point and useful handouts. This training is free. To conduct a group training in your municipality or as a group of municipalities, contact smccolgan@mhoa.com.

IV.

On-Line Training
MHOA hosts on-line training on their website, www.mhoa.com, for retail clerks. This takes approximately 20 minutes, is free and is anonymous. It is recommended that you visit the site and take the training to enhance your own knowledge of tobacco retail issues.

PROGRAM

COMPONENT

Retail Tobacco Inspections
l.

Inspections
During a retail tobacco inspection, you have the opportunity to remedy on the spot some of the situations that are out of compliance (i.e. missing signs, self-service display). Sometimes this non-compliance calls for the issuance of a fine, sometimes all that is called for is to provide the owner/manager with education/material, like signs, that will lead to their establishment coming into compliance. It is important to note to that retailer’s file what was missing or what was given to the merchant so you have documentation for the future, as you may need to issue a fine on a subsequent visit. The data sheet for retail tobacco inspections is APPENDIX G (Page 39) to this document.

PROGRAM

COMPONENT

Compliance Checks
ll.

Compliance Checks
A compliance check is an unannounced, structured inspection of a permitted retail tobacco establishment where a trained young person, under the supervision of a trained adult, attempts to purchase a tobacco/vape product. Municipalities funded through MTCP are required to conduct specific compliance checks during specific times of the year, asking for specific products during those checks. During unspecified checks, the type of product is at the discretion of the adult supervisor. The data sheet for compliance checks is APPENDIX H (Page 42) to this document.
Check with your municipality as to what their requirements are for insurance coverage. Program funds can be utilized to pay for additional required insurance coverage.
Your municipality will need a physical location to safeguard purchased tobacco/vape products as evidence. A locked desk, file cabinet or safe will provide the needed safeguards.

Ill.

© Required Consent Forms
Prior to conducting a compliance check with young adults, you must obtain consent signed by the youth’s parent/guardian, if the young person is under 18 years old; and a buyer’s agreement, signed by the young person. Prior to using either of these documents, please have them reviewed by your Town Counsel/City Solicitor. Samples are attached as APPENDIX I, J, K, & L (Page 45-48) to this document. An application and medical release are also included but are not required.

IV.

Data Collection for Retail Inspections and Compliance Checks
The Commonwealth of Massachusetts utilizes a data system called POST (Point of Sale Toolkit) which has been developed by Counter Tools, out of the University of North Carolina (www.countertools.org and www.countertobacco.org).

PROGRAM
V.

COMPONENT

Independent Contractors
As an alternative to training existing board of health staff, MHOA works with local boards of health to identify independent contractors that can engage in agreements with municipalities to conduct a variety of services, including merchant education, retail tobacco inspections and compliance checks, as needed by individual boards. For the most part, these contractors are people who work in tobacco control, have been trained in conducting these activities, and have access to trained young adults to assist with compliance checks. Financial negotiations and renumerations to these contractors are the responsibility of the contracting municipality.

APPENDIX

To obtain electronic copies of any/all of these documents contact Sarah McColgan at smccolgan@mhoa.com
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Comptroller
Jeffrey Stevens, RS, CP-FS
Westford

President

Sigalle Reiss, MPH, RS
Norwood

Secretary
Steven Baccari, RS, CHO
Westborough

Vice President

Rae Dick, CP-FS
Westford

FY 20 Retail Inspection Protocol
Protocol for Conducting a Retail Tobacco Inspection

I.

Importance of Conducting a Retail Tobacco Inspection
a.

b.
Cc.

Il.

Maintain presence in the retail environment
Visiting a new store provides you the opportunity to collect information needed that
should be entered into POST.
Determine if the establishment is complying with the local, state, federal tobacco
regulations.

d. Develop or continue to develop a positive working relationship with the retailer.
When to Conduct a Retail Inspection
a.
b.

‘This may vary by city/town, but generally when the store is not at its busiest. You
want the owner’s/manager’s attention during the inspection.
Ifthe store becomes busy step aside. Do not interfere with business. Ask the

owner/manager when 1s the best time to complete the inspection and keep notes for
II.

the following year or for follow-ups.
Identification
a. Identify yourself as an agent for the Board of Health/Health Dept.

Do not identify

yourself as an employee of MT'CP, the state or federal government.
b.

Show your credentials.

c.

Ask to speak to the owner/manager/person in charge and state the purpose of your visit.

d.

IV.

Explain the components of the inspection (what you are looking for: permits, signs,

tax stamps, etc.). Explain that you may have to go behind the counter to check for
tax stamps, single sale of cigarettes, or cheaper single cigars (than the regulation
allows).
If you are refused entry or the opportunity to inspect:
a.

b.

Leave without confrontation
Document the incident with as much information as possible, including date, time,
and name of the person who refused the inspection (if you have it).

Notify the Board of Health/Health Dept. as soon as possible, both verbally and with
a copy of the documentation you have completed.

a.

If you are doing an initial inspection for a new store, complete the Profile, noting
the products available at the store (1.e. do they sell electronic devices, liquid nicotine,
blunts wraps, little cigars).
Ask to see the local Board of Health and Department of Revenue permits for the

current year. Some regulations state that these must be posted conspicuously.
Signs:

e
e
e
e
e

State law sign (all permits)
Cigar Warning Sign if cigars are sold (all permits)
Referral Information for Smoking Cessation Resoutces (all permits)
Health Warning for E-Cigarettes (all permits)
Sale of Flavored Tobacco Products 1s Prohibited (non-age restricted vendors

and adult-only retail tobacco stores)
e
e

Must be 21= to Enter (adult-only retail tobacco stores and smoking bars)
=6Extertor notice of smoking/vaping inside (adult-only retail tobacco stores

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o

where not prohibited and smoking bars)
e
Other signs as required locally
Local Board of Health permit
Department of Revenue Permits

self-service displays
State tax stamp
Evidence of loose cigarette sales (open packs of cigarettes behind or under the counter)

Advertising, “storage”, or sale of prohibited tobacco products
Dealing with Issues of Non-Compliance
a.
No permits
e sale of tobacco should stop until all necessary permits are obtained.
permits can be applied for on-line.

a:

VI.

DOR

Self-service displays, unlocked humidor

VII.

e determine a reasonable amount of time for the violation to be corrected
e state that you will come back to re-inspect after that reasonable time period
No tax stamp
e Report all unstamped cigarettes to the Department of Revenue by filing the Cigarette Complaint Referral Form: https://www.mass.gov/doc/form-ccrf-cigarette-complaint-referralform/download
Restricted products
e <All restricted products must be removed immediately
Missing signs
e provide the owner/manager necessary signs so that they can be displayed immediately.
e Make suggestions as to where to put the sign. Do not put signs on the power wall as it is generally the property of the wholesaler.
f.
Loose cigarette sales
e Issue a ticket for the violation
Documentation of Non-Compliance

Report all violations to the owner or designee.
Document all violations on a multi-part form whenever possible so that a copy can
be left with the owner/manager.

A 21D ticket can be used.

Provide the owner/manager with a copy of the municipal regulations so that you can
reference them regarding the violation.
Record inspection results in POST.

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FY 20 Retail Compliance Check Protocol
This protocol serves as guidance for funded tobacco control programs conducting enforcement of youth
access regulations. The following protocol is meant for you and your program to follow and to offer ways to
perform such activities in a manner that we deem acceptable and effective. Please contact MHOA if you
have questions related to these protocols.
Retail Compliance Checks
I.

Before conducting compliance checks, the following issues must be addressed:
Young Adult Buyer recruiting: If you do not already have a pool of available trained young
buyers you can check to see if there are trained in your area being used by the FDA. Please
contact Molly Butler at molly.butler@state.ma.us to inquire about trained young buyers. If
trained buyers are not available, you can begin by reaching out to recruit from peer leadership
programs, schools, community colleges, churches, friends and neighbors, YMCA/YWCA.

Il.

Parental consent: Programs must obtain parental consent prior to working with young buyers.
If you do not have consent forms developed, MHOA can assist you with a template to present
to your collaborative.
Adult Supervisors: Have adult supervisors been selected? Have the adult supervisor(s)
attended an MT'CP Compliance Check Training? MTCP funds may only be used to retmburse
adult supervisors that have attended an MT'CP compliance check training. All programs are
required to conduct a criminal offender record check (CORD) with the Criminal History Systems
Board for all persons who are candidates to work with minors conducting compliance checks.
Such check shall comply with the requirements of 101 CMR 15.00.
Identifying Tobacco Retailers: Each year, programs must obtain current lists of permitted
tobacco retailers and use that information to update store lists in POST. POST store lists must
also be updated regularly by adding new retailers found while in the field.

Requirements of Youth Buyers:
Buyers must be 16 or 20 years old.
Buyers must be willing and able to ask for tobacco products
Buyers must be willing and able to provide descriptions of clerks who sell tobacco
Buyers must complete MT'CP/FDA training prior to conducting compliance checks

Buyers must be willing and able to testify if necessary (enforcement use only)

III.
Enrolling Young Adult Buyers:
A. Prior to the completion of any compliance check, it is mandatory that programs have a signed Parental
Consent Form on file for each Buyer if they are under 18. This form should include:
Date of birth of minor

-

Signature of parent confirming date of birth or copy of birth certificate
Last four digits of social security number of minor
Permission for youth to testify if needed (enforcement checks only)
Signature of parent giving permission for youth to participate
Proof of social security number is needed for programs to pay youth

B. All Buyers must complete an MT'CP/FDA online and in person training using the outline provided
prior to conducting a compliance check.
IV.
Conducting Compliance Checks - Adult Supervisor Checklist
Items to Bring If Using Paper Compliance Check Forms:
Bag for Buyer to place personal items from pockets

Cash to purchase product and possible co-buys (ow denomination bills and change for vending
machines)
Evidence labels for purchased product
Cash tracking form
Timesheet or receipt form for Buyer to be paid
List of stores/addresses including zip codes and route map
Most up-to-date compliance check forms
Items to Bring If Using Handheld Device for Electronic Forms: (preferred)
Bag for Buyer to place personal items from pockets

Cash to purchase product and possible co-buys (ow denomination bills and change for vending
machines)
Evidence labels for purchased product
Cash tracking form

Timesheet or receipt form for Buyer to be paid
Route map
Tablet
Car Charger for tablet

A few backup compliance check forms (most up-to-date)
Conducting Compliance Checks- Rules for Youth Buyers:
While conducting a compliance check, Buyers should dress the way that they would normally.
Buyers should not try to make themselves look older by wearing excessive makeup, dresses, suits, etc.
If asked, Buyers may never lie about their age. If asked their age, they must tell the truth or avoid
answering the question. Buyers should not plead or threaten during the conversation.

A. Prior to conducting the compliance check: The Buyer should empty his/her pockets to ensure that
he/she does not have any tobacco products.

The Buyer should place any money or any other items from

his/her pockets in a separate bag. This ensures that the Buyer has only the money you gave him or her for
the compliance check. The only other item allowed in the Buyer’s pocket during a check is their cell phone.
Buyer must be given money from your agency for all purchases. Cash must be kept in his/her pockets. We
encourage youth NOT to carry identification for safety reasons.
B. Conducting the Compliance Check: When you arrive at a location, the driver should park out of the

view of the clerk if possible. ‘The Buyer should enter the establishment. The Adult Supervisor must be able
to see the youth enter and leave the establishment. If necessary, the Adult Supervisor should leave the car
and discretely follow youth to the establishment. The Adult Supervisor should not enter the establishment
unless his/her anonymity can be assured.

Purchase steps for Buyers:
1. Buyer stands in shortest line.
2. Buyer attempts the purchase.
3. Buyer should ask for the product requested by adult supervisor. If Buyer is asked for age, always state
correct age or avoid answering the question. Always tell the truth.
4. All e-cigarette checks performed should follow the e-cigarette check protocol outlined in Section VI
below.
5.

If Buyer is asked for ID, Buyer must tell the clerk that he/she does not have one.

6.

Ifthe clerk does not sell: Buyer must stmply leave the store and go directly to the car. Buyer must
not plead with or threaten the clerk.
7. Ifasale is made:
a. Buyer pays for the product and takes a receipt if given. Buyer should never ask for a receipt.
b. Buyer leaves the store and goes directly to the car.
8.

If the cigarettes are in a vending machine, the Buyer should enter the establishment with small bills

and change, and go directly to the vending machine to see if he/she can purchase the cigarettes. Ifa
lock-out device prevents the sale from occurring, the Buyer should go to the cash register/bartender and
request that the machine be unlocked.
9. When the Buyer returns, have him/her report what happened.
10. If there is NOT a sale, simply fill out the compliance check form with input from Buyer.

The Adult

Supervisor must collect all of the information on the MTCP Compliance Check Form. Please complete
the form before you leave the site to ensure it is accurate. Under no circumstances can Buyer
complete the form or enter data on a handheld device.
11.

If there is a sale, please follow the following procedure:

e
e

When Buyer returns to the car, all items are to be given immediately to the Adult Supervisor.
This includes the tobacco product, the receipt (if any), and change.
Count the change to make sure sale price 1s correct.

e

Label the front of the product (or evidence bag) with store data and write time/date of

purchase and cost of the product. ‘Time of purchase should be the instant the Buyer leaves
the store.

e
If your Board of Health or Clerk Magistrate requires a more detailed description of the clerk,
make sure you have an accurate description of the clerk from the Buyer. Complete any
necessary documentation regarding description of the clerk or chain of custody of evidence.
e
Evidence must remain in Adult Supervisor’s possession until returning to the office.
e
Evidence should be placed in a locked area/cabinet until the fine is paid, the permit
suspension hearing or court action has been held.
e
If the sale is made, co-buys must also be given to the adult supervisor as part of the
evidence.
12. Continue with the same procedure for each store. The minor should return to report to the Adult
Supervisor after every attempt so that an accurate form can be filled out for each store.
VI.

E-Cigarette Compliance Check Protocol:
The following guidelines are to be followed when conducting compliance checks for electronic

cigarettes. Buyers should be trained and know how to identify e-cigarettes, e-hookah and liquid
nicotine prior to conducting a check.
Purchase steps for Buyers are as follows:
e

=Provide Buyer with information about the product — where it may be located in the store —
or on the counter, behind the counter.

e

Buyer should request a specific type of electronic cigarette, electronic hookah or specific
flavor of liquid nicotine from the cashier JUUL,NJoy, Blu or Logic).

e

VII.
e

=If product is on the counter, instruct the Buyer to pick up the product and hand it to the
cashier for purchase. Buyer should report to adult supervisor if the product is found on
counter and this information should be noted on the Compliance Check Form.
Quality Assurance Issues:
The time and day of the week of the compliance checks must be rotated. Some checks must occur
on weekends, evenings and school vacation days.

e
e
e
e
e

Checks should be done as consistently as possible throughout the fiscal year. Checks should not be
done just in certain months every year. Inspection patterns can be easily identified by retailers.
§=If possible, vehicle should be rotated. Do not use a marked municipal or police vehicle.
Use an equal mixture of 16 and 17 year-old males and females if possible.
The Buyers should be trained to ask for the products in a realistic manner.
Buyers should not attempt to purchase tobacco if they know anyone inside the store. If this occurs,
send another Buyer into the store if available or go back to the store later. To minimize the chances
of this occurring, have Buyers check stores outside of their hometowns.

VIII.
e

Buyer Safety:
Ifaclerk becomes verbally abusive, the Buyer should leave the store immediately and report the

interaction to the adult supervisor.
e
The safety of the Buyer comes first. The Buyer must always feel safe entering an establishment. If
the Buyer does not feel comfortable, s/he should leave the store. That store should not be checked
at that time. Simply record that information on the compliance check form. Please note that Buyer
should be advised to walk out of the store and directly into the Adult Supervisor’s car if they feel
unsafe.
e
Buyers must be picked up and dropped off for compliance checks at a location convenient to the
Buyer. Please take into account the time of day and location when dropping off Buyers to commute

home.
IX.
MTCP Ticketing Protocol:
It is MT'CP’s protocol to issue fines/tickets at the end of a round of compliance checks later the same day of
the check or to mail/deliver the tickets within 24 hours of the sale and place a phone call to the retailer to

give notice of non-compliance. These protocols reduce the risk of “phone trees” that could potentially bias
subsequent checks. ‘These procedures also help to protect the safety and anonymity of the Buyer.
MTCP has adopted this protocol as a result of the strong recommendation of the federal government
(SAMHSA), who oversees the Synar block grant.
Notification immediately after the sale is NOT

recommended. Nationwide, SAMHSA

has found that issuing

tickets immediately after the sale of tobacco has a strong potential of biasing subsequent compliance checks
performed that same day.
If an MT'CP funded Board of Health requires that tickets be issued immediately after a sale, a letter
from the Board of Health must be sent to the MT'CP Contract Manager explaining the rationale.
The

Contract Manager

must issue a waiver for this deviation from MTCP

protocol.

X. Fiscal Expenditures:
Payment of Adult Supervisors of compliance checks
MTCP funded staff may be paid regular salary to conduct compliance checks. All job descriptions must
clearly indicate that evening and weekend hours are expected. MTCP funds cannot be used to pay funded
program staff or other municipal staff (inspectors, police, etc.) for overtime.

Independent contractors can be employed following municipal or agency procedures. MTCP funds may be
used to pay independent contractors. Independent contractors may be paid in either of the following ways:
By the hour:
e
Contractors may be paid an hourly rate for their services.
e

The MTCP

recommended hourly rate range for independent contractors is $25 to $30.

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Samples of all forms are available from the Massachusetts Health Officers Association Tobacco Program.
The Massachusetts Health Officers Association Tobacco Control Program is a technical assistance
program for cities and towns funded by the Massachusetts Department of Public Health/Massachusetts

Tobacco Control Program.

TOBACCO

RELATED/HELPFUL WEBSITES

FDA Tobacco Violations:

The FDA conducts compliance checks in all Massachusetts retailers. The results are posted on the FDA
website approximately 8 weeks after the compliance check:

https://www.accessdata.fda.gov/scripts/oce/inspections/oce

_insp searching.cfm

Mass.gov

The Department of Public Health/Massachusetts Tobacco Cessation and Prevention Program show
health indicators related to tobacco use, tobacco sale rates to minors and current local tobacco policy.
https://www.mass.gov/massachusetts-tobacco-cessation-and-prevention-program-mtcp
makesmokinghistory.org
Tobacco Free Mass and Tobacco Free Kids
Tobacco Free Mass is an important statewide advocacy group, working to ensure that the
Massachusetts legislature enacts progressive statewide tobacco policy and provides funding for the
Massachusetts Tobacco Control Program.

Tobacco Free Kids works on a national level to advocate and educate for state and national policy on
tobacco control.

https://www.tobaccofreekids.org/
https://tobaccofreema.org/
Massachusetts Health Officers Association
MAHEB is the trade association for the board of health members in 351 communities, providing health
related legal guidance to its members.

https://www.mahb.org/
Massachusetts Health Officers Association
MHOA

is the trade association for the health department staff in 351 communities in Massachusetts,

providing training and resources to its members.
https://mhoa.com

NP

INSTRUCTIONS

FOR USE OF THE SAMPLE PERMIT APPLICATION

Fill in the name of the town in the header.
Make sure the name of your permit is correct in the header, #14, #15 and #17.
On page 2, if you do not have the following policies, delete them:

#7, #8, #9, #10, #11, #12 and #20.
Adjust the time on the penalties in #13, if needed.

25

Town of XXX Tobacco

Product Sales Permit Application 2020

The owner must complete both sides of this form. A permit may be issued only after all required information, attachments and
signatures are received. All permits must be approved by the Board of Health/Health Department.

Establishment Name (listed on DOR

DBA (“Doing Business As” Name)/

(

)

Business License)

Store Front Name

(

Phone

Owner Name

(

)

Mobile Phone

Establishment

)

Owner

(Street, Community, ZIP)

()
Phone

Owner Mobile Phone

Owner Address

(Street, Community, ZIP)

Address

Establishment Email

Owner

Email

Manager Name

Establishment Information
Is this a chain store?

[_] Yes

[_] No

Is this an adult only retail tobacco store?

[_] Yes

[_] No

Is the establishment within 500 ft. of a school?

[_] Yes

[_] No

Is the establishment within 500 ft. of a playground?

[_] Yes

Check other restricted products sold in the establishment.

[_] Keno

[_] No
[_] Liquor

[_] Other

[_] Lottery

Check the establishment type

[_] Gas Station Only

[_] Supermarket

[_] Grocery

[_] Convenience Store

[_] Gas Mini-mart

[_] Liquor Store

[_] Tobacconist

[_] Pharmacy

[_] Restaurant

[_] Private Club

[_] Other: List

Check any products sold in your establishment

(_] Cigarettes Packs

[_] Small Cigars/Cigarillos

[_] Roll Your Own

[_] Electronic Nicotine Delivery Systems
cigarettes)

_] Cigarette Cartons

[_] Little Cigars (Omega, Winchester)

[_] Chewing Tobacco

(_] E-Liquids

(_] Single Cigars <$5

[_] Tipped Cigars (Black and Mild)

[_] Loose Tobacco

(_] Bunt Wraps

[_] Single Cigars >$5

[_] Rolling Papers

[_] Smokeless Tobacco

[_] Flavored Tobacco Products

[_] Other: List
Permit Information
License /Permit #
Does the establishment have a liquor license?

[_] Yes

[] No

Department of Revenue Tobacco Sales Permit(s)

L] Yes

LINo

Please attach.

Signatures

Permit Applicant Signature

Date

Board of Health/Health Department Signature

Date

For Internal Use
Approved:

[_] Yes

[]No

Permit Fee: $

Fee Paid

Permit #:

26

[_] Yes

Date:

[_] No

Other:

1.

It is against the law to sell any tobacco product including electronic nicotine delivery systems (e.g. e-cigarettes) to anyone under 21 years old regardless of how old the person looks.

2.

Anyone selling tobacco products including electronic nicotine delivery systems must conclusively establish the customer’s age as over 21 years old by means of government-issued photographic ID.

3.

Anyone selling tobacco products including electronic delivery systems must check and verify official government issued photo ID for anyone less than 27 years of age.

4.

| consent to unannounced, periodic inspections and compliance checks of the permitted retail establishment.

The sale of single or loose cigarettes or cigarettes in packages of fewer than 20 cigarettes is prohibited.

7.

| may not sell or distribute a single cigar with a retail value of under $2.50, or a package of two or more cigars for less than $5.00 or more.

8.

| may not distribute any free samples of tobacco products including electronic delivery products (e.g. e-cigarettes) and | may not accept any means, instruments or devices that allow for the redemption of tobacco products for free or cigarettes at a price below the minimum retail price determined by the Massachusetts Department of Revenue.

9.

Tobacco vending machines are prohibited.

10.

Non-residential Roll-Your-Own machines are prohibited

11.

Flavored tobacco products and vape products can only be sold in licensed smoking bars, for on-site consumption only.

12.

Unflavored e-cigarettes with nicotine content over 35 mg/ml can only be sold in adult-only retail tobacco stores and licensed smoking bars. Flavored e-cigarettes with any strength of nicotine content can only be sold in licensed smoking bars, for on-site consumption only.

13.

Blunt wraps are prohibited.

14.

Penalties for violation of the regulation include monetary fines and/or suspension of this Permit.

15.

Iflsell the permitted establishment, the buyer will be unable to receive this Permit unless any outstanding fines have been paid and any permit suspensions have been served.

16.

This Permit will not be renewed if the permit holder has failed to pay all fines and served all permit suspension issued and the time period to appeal has expired.

17.

| may not allow any employee to sell tobacco products including electronic nicotine delivery systems (e.g. e-cigarettes) until such employee reads this regulation, state and federal laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file, that he/she has read the regulation and applicable state laws.

18.

| must prominently display a copy of this Permit.

19.

| must provide the Board of Health with proof of all current applicable licenses from the Massachusetts Department of Revenue (DOR) and my DOR business permit (Attach a copy of each permit/license).

[]

20.

| must display Department of Public Health signs stating, “It is Illegal to Sell or Give Tobacco Products (Including E-Cigarettes) to Anyone Under 21”, the State Law sign; Health Warning Sign for E-cigarettes; Sale of Flavored E-cigarettes is Prohibited sign. Adult-only Retail Tobacco Stores must also display a sign stating you must be 21+ to enter.

O

21.

| must display signs provided by the Board of Health that discloses referral information about cessation.

OoOodaddadO

OOdd

6.

O

Self-service tobacco product including electronic nicotine delivery system displays from which the customer may select products are prohibited.

oO

OOOodoodddaoOo

A check mark signifies your understanding and agreement. | understand and agree that:

| have received, read and understand the Board of Health regulation “Restricting the Sale of Tobacco Products” and agree to abide by it.
Signature

Date

Print Name

Chart of Towns
SALES REGULATIONS
Hanover
Number of Retailers

Pembroke
8

Rockland

21

Weymouth
22

66

Definition of tobacco product

No sales within 500 feet of a school
No new permits with in so many feet of existing one
Flavored Tobacco-Adults Only
MLSA 21

<<<
21

21

Y
Y

N?
N 4th ?

4th sale

21

Y
222

Capping # of Retail License

22222"%2~<<

No permit renewal if there is 3 sales to MLSA

226<~22<~2<<

No permit renewal if outstanding fines exist

<2<22<

Must have cessation signSale of Cheap Cigars/minimum package and price

N
22222)22~<2

Expanded

Norwell
22

21

21

<<<<<<
<<

Fining structure mirrors state law

100/200/300

300/300/300

100/200/300

100/300/500

100/200/300

Tolling period for violations

36 Months

36 Months

24 Months

12 Mnth revoke 1 yr

36 Months

Suspension Periods

3,21,90

7/30 days

7/30/ days

3/10 no more than 30

Shall vs May

Neither

Both

May

Shall

7/30 days
Shall

E-cigarettes to Minors

Y

Y

Y

N

Y

Ban RYO machines
Pharmacies
Ban of tobacco product sales in educational institution

</</</<
<<

Vending Machines-Lock out and Bar

<<

No less than 20 cigarettes /Out of package
Self Service Displays (only allowed for 21)

<~<<2<<<<z

Ban of free tobacco products and coupons

Z2~<x~22<~~<~
22

Z2<~2<<<\</z

Ban of Blunt Wraps

Violations
No permit-

$50/day

1st Violation

3 days $100

2nd Violation within a 12 or 24month period

21 days $200

3rd Violations within 12 or 24 month period

90 days $300

4th Violations with in a 24 or 36month period

12-36 mths revocation

$300

28

$100

$100

$100

7 days 24/$200 3 days12/$300

7 days/36$200

30 Days $300

30 d 24/$300

10-30 days 12 $500

30days/36/$3(

|36/may revoke

24 revocation

12 revocation

36 revocation

7 Days $300

ETS REGULATIONS
Hanover
Number of Retailers

Norwell
22

Pembroke

Rockland

21

22

8

Weymouth
66

Ban Smoking Locally In:
Y

N/A

Municipal-owned athletic fields
Municipal -owned beaches

Outdoor Rest/Bar Locations

N

Public transportation, bus and taxi waiting areas

Y

Expanded the smoking ban to include e-cigs

Y

Y-25 FEET

<<2Z2222<
<<

N/A

parks and playgrounds

Y

222222222222

Nursing Homes
Hotels, motels and B&B Rooms

Municipal-owned

2222222

Membership Assoc (private clubs)

22\222°

Buffer Zones around municipal Blds__—sfeet

22i2avyur,r

222222222222

Retail Tobacco Stores(Tobacconists and smoke shops)

22

Smoking Bars (cigar bars and hookah bars)

Violations
1st Violation
2nd Violation
3rd Violation

$100/each violation

29

$20
$50
$200

$100
$200
$300

$100
$200
$300

A BRIEF GUIDE FOR LOCAL HEALTH DEPARTMENTS TO MUNICIPAL FEES AND REVOLVING FUNDS

Sarah McColgan, Tobacco Control Director
Massachusetts Health Officers Association
2020

A Technical Assistance Project for cities and towns funded through a MA DPH grant to the
Massachusetts Health Officers Association

30

ESTABLISHING A REVOLVING

FUND FOR TOBACCO

The purpose of establishing a revolving fund within the Health

Department to be dedicated to tobacco control efforts is to provide the health department with a source of income to sustain activities which will provide the community with

education and enforcement.

Regardless of whether or not a

community is part of a collaborative funded through the Department of Public Health/Massachusetts Tobacco Control Program, state and municipal funding for tobacco control activities have frequently been insufficient and inconsistent

over the last 20 years. A dedicated revolving fund will provide the health department with resources to conduct retail tobacco inspections and compliance checks in tobacco retailers; and continue to educate the community of the effects of tobacco use, including vaping, and the resources available to assist with cessation.

Here is some information that may be helpful in efforts to

establish a revolving fund:
PURPOSE: The purpose of establishing a municipal revolving fund is to provide a department with the financial resources outside of the municipal budget to conduct specified activities.

These resources can originate from fees, charges or other receipts from that department.
BOH AUTHORITY: Chapter 111, Sec. 31 of M.G.L. states, “Boards of Health may make reasonable health regulations.”
FEES: Chapter 40, Section 22F states “Any municipal board or officer empowered to issue a license, permit, certificate, or to

render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or

regulations wherein the entire proceeds of the fee remain with such issuing city or town...” Municipalities are allowed to recover 100% of the cost of providing fee-based services

including direct and indirect costs.
DETERMINING COST: To determine a reasonable fee, considerations include, but are not limited to: (1) staff time to conduct and inspection; (2) staff time to document the

inspection, write reports; (3) mailing and filing charges; (4) follow-up time; (5) keeping of records.

PROCESS:

When a department has determined that a fund of

money is available that can be certified as not having been used to compute the most recent tax levy, the process can begin to

establish a revolving fund which would give that department the resources to conduct specified activities. In obtaining the approval of the Select Board or Mayor, the requesting

department should be prepared to: (1) give an overview of Board of Health responsibilities in the area of concern; (2) describe the projected costs of the activities to be conducted; (3) identify the resources which would pay for these activities or services without utilizing property tax dollars. The same information should be presented to the finance Committee or Budget Office. For towns, once approval to proceed is received,

the warrant article should be drafted and submitted for approval of the appropriate voting body.

A revolving fund must specify: (1) the program or activities for which the fund may be expended; (2) the departmental receipts in connection with those programs or activities that Shall be credited to the revolving fund;(3) the board, department or officer authorized to expend from such fund; and (4) any reporting or other requirements the city or town my impose.
RELEVANT LAWS:

Title Vil, Chapter 44, Section 53E1/2: No revolving fund can be made for the purpose of paying wages or salaries for full-time

employees unless the fund is also charged with the costs of fringe benefits associated with those wages. The total amount of income and expenses must be reported annually. If a fund is not being reauthorized or the purpose for the fund is being

changed, at the end of the fiscal year the balance of the fund reverts to surplus revenue unless the legislative body votes to

transfer the balance to another fund established under this section. The ordinance or by-law establishing a revolving fund Shall specify: (1) the programs or activities for which the fund may be expended; (2) the departmental receipts that will be credited to the fund; (3) the board, department or officer

authorized to spend the fund; and (4) any reporting or other requirements the city or town may impose. The establishment of the fund cannot begin later than the beginning of the fiscal year.
Municipal Modernization Act: Enacted during the 2015-2016 legislative session. The relevant change it brought to revolving funds for Board of Health tobacco control was that the fund can be established through a one-time enactment of a by-law or ordinance at the local level, eliminating annual authorization for everything except the total budget amount. The Act also eliminated the cap that can be spent from the funds.

MODEL BY-LAW OR ORINANCE:
Prior to using the model, municipalities should consult with municipal counsel to ensure consistency with style, organization and format, and compliance with applicable charter provisions and statutory requirements.

MODEL
DEPARTMENTAL REVOLVING FUND BY-LAW/ORDINANCE
G.L. c. 44, § 53E%
Model should not be used without the advice of municipal counsel
Footnotes are not part of Model and are informational only

ARTICLE/ORDER. To see if the town/city will vote to amend the general bylaws/ordinances of the town/city by adding a new section to establish and authorize revolving funds for use by certain town/city departments, boards, committees, agencies or officers under Massachusetts General Laws Chapter 44, § 53E'%, or take any other action relative thereto.
(Majority vote to adopt or amend general by-law/ordinance)

VOTED: To amend the general by-laws/ordinances of the town/city by adding the following new section:

[FOR ALL MUNICIPALITIES]
DEPARTMENTAL REVOLVING FUNDS
1. Purpose. This by-law/ordinance establishes and authorizes revolving funds for use by town/city departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E’.
2. Expenditure Limitations.1 A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law/ordinance without appropriation subject to the following limitations:
A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund [, except for those employed as school bus driversz].
B. No liability shall be incurred in excess of the available balance of the fund.
C. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting/town/city council on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the select board and finance committee/mayor and city council.

3. Interest.3 Interest earned on monies credited to a revolving fund established by this
bylaw/ordinance shall be credited to the general fund.

1 Expenditure limitations set by G.L. c. 44, § 53E.
2 Add exception set by G.L. c. 44, § 53E’ 1f authorizing a fund for non-mandated school bus service.
3 Interest treatment set by G.L. c. 44, § 53E’”.

4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E’/4 and this
by-law/ordinance, the laws, charter provisions, by-laws/ordinances, rules, regulations,
policies or procedures that govern the receipt and custody of town/city monies and the
expenditure and payment of town/city funds shall apply to the use of a revolving fund
established and authorized by this by-law/ordinance. The town accountant/city auditor shall
include a statement on the collections credited to each fund, the encumbrances and
expenditures charged to the fund and the balance available for expenditure in the regular
report the town accountant/city auditor provides the department, board, committee, agency or
officer on appropriations made for its use.
5. Authorized Revolving Funds

[FORMAT
5.1

1 — Separate subsections establishing each fund]

Revolving Fund.

5.1.1 Fund Name. There shall be a separate fund called the
Revolving Fund authorized
for use by the
Department/Board/Committee/A gency/Officer.
5.1.2 Revenues.4 The town accountant/city auditor shall establish the Revolving Fund as a
separate account and credit to the fund all of the (Insert list of specific fees, charges or other
receipts to be credited to the fund) charged and received by the
Department/Board/Committee/A gency/Officer in connection with (Insert
departmental program or activity generating the monies).
5.1.3 Purposes and Expenditures.s During each fiscal year, the Department
Head/Board/Committee/A gency/Officer may incur liabilities against and spend monies from the
Revolving Fund for (Insert list of types of program or activity expenses that may
be charged to the fund) in connection with
(Insert departmental program or
activity generating the monies).
(Insert any program or activity expenses that may not be charged to the fund, 1.e., will be
funded through a regular budget appropriation, require prior approval or are subject to
some other limitation or condition).
5.1.4 Other Requirements/Reports. (Insert any specific reporting or other requirements the
town/city wants to apply to this fund).

5.1.5 Fiscal Years. The
Revolving Fund shall operate for fiscal years that begin on or
after July 1,
. Insert any sunset or termination provision that the town/city wants to
apply to this fund)

4G.L. c. 44, § 53E% requires by-law/ordinance to specify fund revenues.
5G.L. c. 44, § 53E″% requires by-law/ordinance to specify who 1s authorized to
spend from fund and the expenses of
the program or activity for which fund monies may be spent.

[FORMAT 2 — Table establishing each fund]
The Table establishes:
A. Each revolving fund authorized for use by a town/city department, board, committee, agency
or officer,
B. The department or agency head, board, committee or officer authorized to spend from each
fund,

C. The fees, charges and other monies charged and received by the department, board,
committee, agency or officer in connection with
the program or activity for which the fund is established that shall be credited to each fund by the
town accountant/city auditor,7
D. The expenses of the program or activity for which each fund may be used,8
E. Any restrictions or conditions on expenditures from each fund;
F. Any reporting or other requirements that apply to each fund, and
G. The fiscal years each fund shall operate under this by-law/ordinance.
B
Department,

A
.
Revolving
Fund

6G.L. c. 44,
7G.L. c. 44,
8G.L. c. 44,
monies may

Board,

Committee,
| Agency or

Cc
Fees,

Charges or
Other

.
.
Officer
Receipts
.
.
Authorized to | Credited to
Spend from
Fund
Fund

D

E

Program or

gr
Activity
E

xpenses

Restrictions

a:
or Conditions
on Expenses

Payable from | Payable from
Fund

Fund

F

Other
G
.
.
Requireme | Fiscal
nts/
Reports

§ 53E% requires by-law/ordinance to specify who is authorized to spend from fund.
§ 53E% requires by-law/ordinance to specify fund revenues.
§ 53E″% requires by-law/ordinance to specify the expenses of the program or activity for which fund
be spent.

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Years

Store Inspection Form
Inspector Name:
Store Name:

Date:

/

/

Address:

City:

MA, zip:
O AM
O PM

Time

1. Can you visit this store?
O Yes

O
No, store does not exist or is permanently
closed

O No, temporary/short-term or seasonal closure
O No, unsafe

O No, store closed at time of visit
O No, members only

O No, other reason not listed

2. Purpose of visit
O Routine inspection visit

O

Complaint received

O Failed compliance check follow-up

O

Suspension of permit

O Retailer requested education

O Other:

3. Was the inspection completed? O Yes

ONo

If NO, please select the reason:

OcComplaint received

O Do not sell tobacco
O Other:

Yes

No

4a. Is the local board of health permit posted?

CJ

C]

4b. Is the DOR tax license posted?

CJ

C]

Ac. Is required state law signage (MGLch270,G and 6A) posted?
Ad. Is a “no smoking” sign(s) posted? Yes/No

[]

T]

T]

T]

4e. Is a minimum legal sale age sign posted?

T]

T]

4f. Is a cessation sign(s) posted?

T]

T]

4g. Is a vaping health warning sign(s) posted?

T]

T]

4h. Is a cigar health warning sign(s) posted?

T]

T]

4i. Is a sale of flavored tobacco prohibited sign

T]

T]

O

O

Signage

posted?

Adult-Only Retailers and Smoking Bars ONLY
4j. Is a “Must be 21+ to enter” exterior sign posted?

4k. If smoking or tobacco use is allowed inside,

T]

C]

[]

C]

is there an exterior warning sign that
smoking/vaping allowed inside?

4l. If smoking or tobacco use is allowed inside, is
there an interior warning sign that
smoking/vaping allowed inside?

Location Compliance: Adult-Only Retailers and Smoking Bars ONLY
Yes

No

CJ

C]

5b. Is any tobacco in a self-serve location?

CJ

C]

5c. Do all self-service locations meet legal
standards?

CJ

C]

5d. Are any tobacco vending machines present?

[]

T]

Yes/No
5e. Do tobacco vending machines meet all
regulation standards?

CJ

C]

5a. Does the establishment have a doorbell,
buzzer, or locking mechanism for preventing
minors from entering the store?

Violations
6. Were any violations found? Check ALL that apply

L] None
LJ Loose cigarettes sold
LJ Flavored products or flavored enhancers (including mint/menthol flavors) sold

L] Missing or incomplete manufacturer document certifying products are not flavored
L] Vape products with nicotine content over 35 mg/ml sold
L] Missing or incomplete manufacturer document displaying nicotine content of available vape
products

L] Missing local BOH and DOR permits
LI Missing signage
L Advertising for products not sold in store
LJ Tobacco products sold on or in front of counter
L Noncompliance with local cigar packaging/pricing regulation

CL Other:
7. What action was taken? Check ALL that apply

L) Educational warning
C1 $1,000 fine
C1 $2,000 fine
0 $5,000 fine
L] Other fine (please specify):
LI Cease and desist order issued

L] Establishment referred for suspension
LI Referral given to another agency (e.g. Department of Revenue, Attorney General’s office, local
Board of Health)

Merchant Education
8. Employee/Merchant Name:

9. Employee/Merchant Title: O Owner
O Supervisor

O Manager
O Clerk

10. Which of the following topics were discussed with the merchant? Check ALL that apply
LJ] Checked local BOH and DOR permits
L] Reviewed regulations/tobacco sales laws

L Retailers’ responsibilities
LI Proper identification
L] Compliance checks (minors may look older)

LI Penalties
LJ Trainings
L] Required signage and placement

LI Smoke-free/vape-free workplace law
11. Which of the following materials were given? Check ALL that apply

L Copy of regulations
L] State signage (MGL ch 270, G and 6A)
LJ Local signage
L) Retailer kit/training materials
CL Other:
12. If state or local signage was provided to retailers, specify which signs:

13. Any field notes?

Store Enforcement Form
Inspector Name:

Date:

Store Name:

/

/

Address:

City:

MA, zip:
O AM
O PM

Time

1. Were you able to conduct the check?

O Yes

O

O No, store closed at time of visit
O No, members only

O No, unsafe

No, store does not exist or is permanently
closed
O No, temporary/short-term or seasonal closure

O No, other reason not listed

2. Enter Adult Supervisor’s Name or ID:

Enter youth date of birth:

3. Enter youth ID:

Select youth gender:

O Female

O Male

/ /

O Other

4. Was the inspection completed? O Yes

ONo _

O

O

Wholesale only/cartons

O Machine broken

O

Presence of police

O

O

Drive-thru only

O Tobacco out of stock

O

Permit suspended

O Clerk reports they “don’t sell” even
though they have a permit and tobacco is
visible
O Other:

O

Youth under 21 denied entrance at door

Do not sell tobacco

Youth inspector knows the clerk

IfNO, please select the reason:

Age Verification
Yes

No

5. If purchaser is under 21, were they able to
enter an adult-only establishment?

LJ

LJ

6. Was the purchaser asked for ID?

LJ

LJ

7. Was the purchaser asked their age?

LJ

LJ

8. Was this an ID-based check?

LJ

LJ

Visit Details
9. What type of tobacco did the purchaser attempt to purchase?

O
O
O
O

Loose cigarette
Cigarette tobacco/roll-your-own
Large premium cigars
Hookah tobacco

O

Other:

O Cigarettes
O Cigarillos/little cigars/blunts
O Chew/snuff/dip/snus
O Electronic nicotine delivery system (ENDS)/Eliquid

10. Enter Product Brand:
Yes

No

11. Was the product flavored (including
mint/menthol)?

T]

T]

12. Was the sale made?

CJ

C]

13. Was the purchaser asked their age?

CJ

C]

T]

T]

T]

T]

T]

T]

Smoking Bars ONLY

14. If product was flavored, could purchaser
take product off-site?
15. How much did the product cost?

16. Was a receipt given?
17. Purchaser made payment using:

O
O
O
O
O
O
O

$1 bill(s)
S5 bill(s)
$5 and $1 bills
$10 bill(s)
$20 bill(s)
Change
Other:

18. Were other products purchased?
19. What action was taken? Check ALL that apply

O
O
O
O

Educational warning
$1,000 fine
$2,000 fine
$5,000 fine

O

Other fine (please specify):

O

Cease and desist order issued

O
O

Establishment referred for suspension
Referral given to another agency (e.g. Department of Revenue, Attorney General’s office, local

Board of Health)
Merchant Education

20. What is the clerk’s gender?

O

Male

21. What is the approximate age of the clerk?

O

Female
O Teen
O Adult

22. Any field notes?

44

O

Unknown

O Young Adult
O Older Adult

Sample Underage Buyer Tobacco Compliance Application

All information will be kept confidential!
The following information is needed so that Underage Buyer can be contacted about the training,
conducting checks, and be paid. A representative of the
Board of
Health will be contacting you to set up the training. Starting pay is $13.00/hr with the opportunity for a

50 cent raise for each six month period worked.
Name:
Home Address:
City/Town:
Cell Phone Number:
Email:

Date of Birth:
Zip Code:
Home Phone Number:

School Attending (if applicable):
City/Town of School:
Parent/Guardian Name:
Parent/Guardian Phone Number:
Parent/Guardian Email:

Social Security Number:

Have you used any tobacco products (cigarettes, JUUL /vapes, cigars, cigarillos, chewing tobacco, snus,

etc.) in the past 30 days?
A. Yes

B. No

C. Don’t know

*Please note: the use of tobacco products does not exclude you from working for the Tobacco
Compliance Check program.

Please tell us anything about your availability (Ex. Not available in the fall because of sports).
Preferred Method of Communication:

(Please circle)

Text

HonePhone

Please mail or scan and email the following items to the

of Health:
v

Underage Purchaser Tobacco Compliance Application

v

Parent Consent and Release Form

v¥

Underage Purchaser Agreement

Y

Aclear photograph of yourself

Y

Medical Treatment Authorization Form

¥

Government Issued Birth Certificate (copy) or Identification

Y

Social Security Card (copy)

¥

CORI Acknowledgement Form (if the Buyer is 18 +)

4S

Cell Phone

Email
Board

Sample Parent/Guardian Consent and Release Form

Dear Parent/Guardian:
Your son or daughter has expressed an interest in assisting, the Board of Health and the Massachusetts Tobacco Cessation and Prevention (MTCP) Program in preventing the illegal sale of tobacco products to underage persons. With your permission, your son/daughter will help us to conduct compliance checks by visiting local tobacco retailers and attempting to purchase tobacco products. Your son’s/daughter’s activities will be under the direct

supervision of a representative from the

Board of Health.

Each potential undercover purchaser will be trained with respect to standard compliance check procedure. Money to purchase tobacco products will be provided. Any tobacco products purchased by the underage purchaser involved in this project will be retained by the staff person and labeled as evidence. Massachusetts law does not prohibit those underage from buying tobacco, so your son/daughter will not be violating any law by participating in compliance checks. While your

son/daughter will spend the majority of their time conducting checks, they may also need to be called as a witness to testify regarding the compliance check in which they participated. Stipends will vary based

on the program your son/daughter is conducting checks for.
project will entail, please feel free to call the

(

If you have any questions about what the
Board of Health at

)
PARENT OR GUARDIAN CONSENT AND RELEASE FORM

e | give my consent for my son/daughter’s participation in the tobacco compliance check project described above, including the orientation and training.

e | give my consent for my son/daughter’s information to be submitted on the Criminal Offended Record Information Acknowledgement form. (for Buyers 18 +)

e | give consent for my son/daughter to ride in a vehicle with an adult working on the compliance check.
e Identities of Underage Purchasers are to remain as confidential as possible. However, in the event of possible enforcement or judicial action, the Underage Purchaser’s identity may be revealed and the

Underage Purchaser may need to provide a declaration and/or give testimony in a hearing.
e | give consent for my son/daughter’s contact information to be shared with representatives from Boards of Health in order to contact my son/daughter to conduct compliance

checks. As parent and/or
legal guardian, | agree on behalf of myself, my son/daughter, or our heirs, successors and assigns, to
hold harmless and defend the
Board of Health, and its agents,
employees, officers and directors, as well as the sponsors of the activity and their agents, employees,
officers and directors from any and all actions, claims, demands, damages, costs, expenses and all
consequential damage arising from or in connection with my son/daughter attending the activity or in
connection with any illness or injury or cost of medical treatment in connection therewith; provided,

however, that this indemnity will not apply with respect to any claims for injury to the extent of any
available and applicable motor vehicle insurance or other liability insurance. If | have any questions
about this program, | understand that | can contact the
Board

of Health at (

)

Underage Purchaser Name (please print):
Parent/Guardian’s Name (please print):

Date of Birth:

Parent/Guardian’s Signature:

Date:

Underage Buyer Agreement

Name (please print):
INSTRUCTIONS: Please read each item below. Your signature signifies your agreement to the

following:
1. | understand that the purpose of the Tobacco Compliance Check project is to encourage the increased

enforcement of laws that ban the sale of tobacco to underage young people.
2. | agree that | will meet with Tobacco Compliance Officers at the location and time specified for each
compliance check.

3. | certify that | will not work with any Tobacco Compliance Officer that | am related to.
4. | understand that specific information about the compliance checks | will conduct are confidential,
and that | will not discuss such details such as store names and locations unless directed to do so by
Tobacco Compliance Officers.
5. | understand that Massachusetts law does not ban underage persons from attempting to purchase

tobacco; therefore, | will not be violating any laws while participating in this activity.
6. | agree not to pursue or participate in any attempt to purchase tobacco products except when | am
supervised by Tobacco Compliance Officers.
7. | agree to give any tobacco products, change or unused money that is not my own to the Tobacco
Compliance Officers.
8. | am aware that | may need to complete narrative reports and/or may be called as a witness to testify
regarding the compliance check in which | participated.
9. | agree to follow the procedures explained to me during the Tobacco Compliance Check training
session while conducting tobacco compliance checks. | will alert my Tobacco Compliance officer of any

conflicts of interest that | may have, including if any member of my family or anyone | know owns or
works at an establishment that | am assigned to check.

10. | understand that | must be available to testify as a witness in administrative hearings.
11. | understand that this position requires that | be of good moral character including being honest, fair,

ethical and of high integrity.

Underage Buyer’s Signature

Date

Medical Treatment Authorization

This form is to be filled out by the parent/guardian of the underage buyer and will be kept on file in the
case of an emergency during work hours.

PLEASE NOTE:

The original, signed document is to be given

to the Adult Compliance Officer on your first day of work. A copy of this will also be placed in your file.
Underage Buyer’s Name:
Home Address:
Date of Birth:

Gender:

Medical Information:

Primary Care Physician’s Name:
Phone #: (
)
Medical Insurance Provider:

Policy #:

Allergies to Medications:
Medical conditions for which treatment is being received:
Prescription drugs currently being taken:
Other pertinent medical information:

AUTHORICATION AND CONSENT OF PARENT(S) OR LEGAL GUARDIANS(S):
As custodian of the aforementioned young person, | grant my authorization and consent for a
designated adult to administer general first aid treatment for minor injuries or illnesses. If the injury or
illness is severe, | authorize him or her to seek professional emergency personnel to attend, transport,
and treat my son/daughter and to issue consent for any medical care deemed advisable by a licensed
medical professional or institution. | authorize the designated adult to exercise best judgement upon

the advice of medical or emergency personnel.
Effective Date:

Signed this

day of

, 20

Parent/Guardian Signature:
Printed Name: