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**Massachusetts Tobacco Cessation and Prevention Program (MTCP)
FY26 Retail Inspection Protocol**

This protocol serves as guidance for MTCP-funded tobacco control programs conducting retail inspections of licensed tobacco establishments for compliance with state and local tobacco regulations. Municipalities should follow this protocol, which was developed to perform inspection activities in an acceptable and effective manner. **All funded programs, inspectors, and any employee deemed appropriate to conduct and record inspections, must be trained in this protocol** and have their own unique Point of Sale Toolkit (POST) login information; this is the warehouse that collects inspection data. Please contact MTCP if you have questions related to these protocols.

In addition to these protocols, our Technical Assistance partners have guidance documents for local boards of health available at www.mhoa.com. These guidance documents go into further detail on specific topics. You are also encouraged to reach out to one of our Technical Assistance providers for further guidance.

Protocol for Conducting a Retail Tobacco Inspection

I. Importance of Conducting a Retail Tobacco Inspection

- a. Develop and maintain a positive working relationship with the retailer.
- b. Maintain presence in the retail environment.
- c. Collect, edit, and document retailer information in POST.
- d. Determine if the establishment is complying with the local, state, and federal tobacco regulations.

II. Items needed in order to conduct a Retail Tobacco Inspection

- a. List of names and addresses of establishments sorted in logical and efficient route order.
- b. Copies of current Board of Health tobacco regulations.
- c. Electronic recording device for data collection (laptop, iphone, ipad etc.).
- d. Pen, pad of paper, ticket book (if municipality issues tickets on the spot for non-criminal local policies or as a warning).
- e. Required signage, backup paper copies of inspection form.

III. When to Conduct a Retail Inspection

- a. This may vary by city/town, but generally when the store is not at its busiest. (Programs in the past have found that Monday and Tuesday mornings have worked best for them). You want the owner's/manager's attention during the inspection.
- b. If the store becomes busy step aside. Do not interfere with business. Ask the owner/manager when the best time is to complete the inspection and keep notes for the following year or for follow-ups.

IV. Identification

- a. Identify yourself as an agent for the Board of Health/Health Dept. Do not identify yourself as an employee of MTCP, the state or federal government.
- b. Show your credentials (a business card or badge, for example).
- c. Ask to speak to the owner/manager/person in charge and state the purpose of your visit.
- d. Explain the components of the inspection (what violations you are looking for).
- e. Explain that you will need to go behind the counter. This is to check for tax stamps, sale of single cigarettes, or cheaper single cigars (price lower than the regulation allows).
- f. Explain that your program is not funded based on non-compliance so you are on their side helping them to comply with the regulations.

V. If you are refused entry or the opportunity to inspect:

- a. Leave without confrontation. However, you should remind the person you are speaking with that compliance with unannounced inspections are part of the agreement of holding a tobacco permit and that failure to comply with inspections will result in a 30 days prohibition on the sale of tobacco products. Some local regulations include language about penalties for refusing to comply.
- b. 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).
- c. Notify the Board of Health/Health Dept. as soon as possible, both verbally and with a copy of the documentation you have completed.

VI. What to look for during Inspections

- a. Make sure you are at the assigned store/address – make note of any changes. Double check name on sign(s) and building matches retailer name in POST – permit name and ownership information may be different and should be entered under the “corporation information” field.
- b. If you are doing an initial inspection at a new store, complete the retailer detail information in POST, noting the products available at the store (i.e. do they sell electronic devices, liquid nicotine, little cigars, etc.). You should also capture the store type (i.e. Chain, Liquor, Gas, etc)
- c. Ask to see the local Board of Health and Department of Revenue permits for the current year. Most regulations state that these must be posted conspicuously.
 - a. Local Board of Health permit (obtained from local Board of Health)
 - b. Department of Revenue License (obtained online at [MassTaxConnect](#))
- d. Check for the following products (Some products could fall under local or state regulations.)
 - Minimum pricing/packaging violations
 - Blunt Wrap Ban
 - Vending machines

- Commercial “Roll Your Own” Machine
- Free samples/coupons that cause price to go below the state minimum
- Self-service displays
- State tax stamp on cigarettes (report to DOR if missing, do not enforce)
- Evidence of loose cigarette sales (open packs of cigarettes behind or under the counter)
- Flavored tobacco products
- Nicotine content of ENDS products (35 milligrams per milliliter or less at Convenience Stores/Gas Stations with a Retail Tobacco License)
- Nicotine content on smokeless/pouches if in local regulations
- Advertising for tobacco products the store is not authorized to sell

- e. Signage – The table below shows what signs are required at the different establishment types. All State signs can be downloaded and/or ordered for FREE at mass.gov/maclearinghouse

Sign	Convenience Stores/Gas Stations With a Retail Tobacco License	Adult-Only Tobacco Retail Store (21+)	Smoking Bars (21+)
Minimum Legal Sales Age*	✓	✓	✓
State Law (MGL ch 270, sections 6 and 6A)	✓	✓	✓
Referral Information for Smoking Cessation Resources*	✓	✓	✓
Health Warning for E-cigarettes	✓	✓	✓
Sale of Flavored E-Cigarettes is Prohibited	✓	✓	
Must be 21+ to Enter		✓	✓
Exterior notice of smoking/vaping inside		✓**	✓

** Please note the regulation 105 CMR 665 finalized on February 12, 2020, requires only those retail tobacco stores that allow on-site consumption post signage warning of possible smoking, vaping, or tobacco product use onsite.

Local Signage – In addition to the state requirements, some localities can have language requiring retailers to display additional signs. Check local regulations.

VII. Dealing with Issues of Non-Compliance

- a. No/outdated license.
- State License: Retailers must hold a license for each type of tobacco product they sell. DOR offers three (3) different licenses – renewed in the fall every two (2) years:

Updated for: July 2025

1. Cigarettes
 2. Cigars and Smoking Tobacco
 3. Electronic Nicotine Delivery System (ENDS)
- Sale of tobacco must stop until all necessary licenses are obtained.
 - DOR licenses can be applied for on-line at [MassTaxConnect](#)
 - Most municipalities require an annual permit, check with your local Board or health department.
 - b. Self-service displays, unlocked humidor
 - Many violations can be corrected immediately.
 - Notify retailer that you will re-inspect after a reasonable time period.
 - c. No Tax Stamp and/or banned/restricted products.
 - Photograph all noncompliant products at time of inspection.
 - Report unstamped or out of state stamped products to DOR
 - [Illegal Tobacco Task Force - Intelligence Referral](#)
ittf@dor.state.ma.us
 - If questionable product is suspected to be flavored, follow the guidance from MHOA listed under “**Flavored Products and Flavor Enhancers.**”
 - Products should be removed from sales floor immediately and a cease & desist order issued. In advance, you should have a discussion with your BOH and town council regarding confiscation.
 - Further guidance available through www.MHOA.com and through our Technical Assistance providers.
 - d. Missing signs
 - Provide the owner/manager necessary signs so that they can be displayed immediately. Additional signs can be ordered by the retailer at massclearinghouse.ehs.state.ma.us
 - Make suggestions, while adhering as to where to put the signs. Do not suggest putting the signs on the power wall as it is generally the property of the wholesaler.
 - Determine a reasonable amount of time for the violation to be corrected.
 - Notify retailer you will come back to re-inspect after a reasonable time period.
 - Ticket accordingly if signs have been provided in the past.
 - e. Loose cigarette sales
 - Plan for/Assign a follow-up reinspection
 - Create a compliance check for loose cigarettes at establishment.

VIII. Documentation of Non-Compliance

- a. Report all violations to the owner or designee.
- b. Most state penalties would receive a Cease-and-Desist Order. Local Board of Health program issuing the Cease and Desist would determine the permit suspension amounts within the parameters given in law. Boards of Health should predetermine the number of days and keep consistent.
 1. First Violation: \$1,000 (additional required permit suspension of up to 30 days for sale to a person under 21)
 2. Second Violation (within 36 months): \$2,000 and a prohibition on the sale of tobacco products may be imposed for up to a 7-day

3. Third or more violations within 36 months: \$5,000 and a prohibition on the sale of tobacco products may be imposed for up to a 30-day
 4. For state signage non-compliance, a \$50 fee in addition to the fees above
- c. Be sure to include photo evidence where relevant, particularly for known or suspected non-compliant products.
 - d. Provide the owner/manager with a copy or a weblink to the municipal regulations.
 - e. Record inspection results in POST.
 - f. Track ticket/payment results accordingly and close out violation status when completed.
 - g. Plan to visit the establishment during the period where the establishment is prohibited from selling tobacco products to ensure tobacco products are not being sold.
 - a. Consider being there or visiting on the first day to supervise product removal. Some regulations stipulate that the products must be removed from the establishment.
 - b. Consider sending in an adult “secret shopper” during the prohibition period
 - h. Once case is settled, enter information in POST under “Violation Status” to close case.