



Violations and Penalties

Through licensing and related regulations, local governments (cities and counties) have the opportunity to address the sale of tobacco and related devices and products (such as electronic cigarettes) in the retail environment. This fact sheet provides an overview of considerations involved when determining the appropriate penalties for violations. It is one in a series of resources providing Minnesota-specific information on local retail tobacco licensing and point-of-sale options.

Background

We expect people to follow our tobacco laws. But when they don't, there can be consequences. Effective licensing penalties encourage compliance and reduce the need for costly enforcement actions. Penalties should be reasonable, and an enforcement program must be administered responsively. For more information on enforcement programs, see *Compliance and Local Enforcement Programs*.

Administrative penalties can include fines, license suspensions and revocations, and education. The appropriate combination of penalties will depend on the interests, resources, and experience of the community.

The maximum penalty for a:

Petty misdemeanor is a \$300 fine.

Misdemeanor is a \$1,000 fine and/or 90 days imprisonment.

Gross misdemeanor is a \$3,000 fine and/or one year imprisonment.

Criminal Consequences

Minnesota law prohibits and penalizes certain activities:

- **Sales to minors:** Selling tobacco to someone under 18 years of age (a "minor") is a misdemeanor. A second violation within five years is a gross misdemeanor.
- **Furnishing to minors:** Furnishing tobacco products to a minor (e.g. an adult purchasing tobacco on behalf of a minor) is a misdemeanor. Subsequent violations are gross misdemeanor offenses.
- **Possession, use, or purchase by minors:** The possession, use, purchase, or attempted purchase of tobacco products by a minor is a petty misdemeanor. Penalties do not apply to minors who purchase or attempt to purchase tobacco during supervised compliance checks.
- **Identification:** Using false identification to misrepresent age, or lending identification to a

minor to purchase or attempt to purchase tobacco, are misdemeanor offenses. The identification may be seized and the right to drive will be suspended for 90 days.

Administrative Penalties

State law also provides mandatory minimum penalties for retail licensing-related violations:

- **Retailers:** Licensees who sell (or whose employees sell) to minors, or violate other state retail tobacco laws (self-service, child-resistant packaging for e-liquids, kiosk sales, etc.) are subject to:
 - First violation: \$75,
 - Second violation within 24 months: \$200, and
 - Third violation within 24 months of first violation: \$250 and license suspension of at least 7 days.
- **Clerks:** The fine for individuals (e.g. sales clerks) who sell to minors is \$50.
- **Minors:** Local governments must consult with educators, parents, children, and the courts to develop alternative penalties for minors. Suggested penalties include education programs, community service, and notice to parents and schools.

Policy Options

Local governments can adopt additional, more stringent consequences for retail tobacco licensing violations. Communities should consider:

- **Engaging local stakeholders:** Bring together law enforcement, public health, educators, parents, youth, and the courts to discuss what options may be most effective. Build off existing programs and systems when possible.
- **Focusing on the retailer:** License holders typically have greater incentive to comply with the law. Focusing limited enforcement resources

on licensees may be most effective.

- **Reinforcing supervisory responsibilities:** Specifically hold licensees responsible for the actions of their employees.
- **Incorporating other laws:** Make a violation of any federal, state, or local tobacco control law a violation of the license and subject to penalties.
- **Mandatory trainings:** Require retailers and/or their employees to complete mandatory trainings after violations occur.
- **Follow-up inspections:** Conduct additional compliance checks where violations occur.
- **Public awareness:** Publish compliance check results in the local newspaper.
- **Increasing fine amounts:** Fines vary from community to community, ranging from the state minimums upwards to \$1000. Comparing penalties to those imposed for illegal liquor sales or other licensing violations may be helpful.
- **Additional suspensions:** Consider suspending licenses for first and/or second violations.
- **Longer suspensions:** Provide longer suspension periods for violations.
- **Expanding the “look-back”:** Increase the period of time that past violations will be considered for more severe consequences.
- **License revocations:** Specify that the privilege to sell tobacco will be revoked if a specific number of violations occur.



CONTACT US

Please feel free to contact the Public Health Law Center at (651) 290-7506 or publichealthlaw@mitchellhamline.edu with any questions about the information included in this fact sheet or to discuss concerns you may have about implementing these policy options.