

OREGON'S TOBACCO-RELATED REGULATIONS

- **Endangering the Welfare of a Minor** ORS 163.575 (D)
Criminal sanctions for the distribution, sale or causation of sale of tobacco, in any form, to a person under 18 years of age.
 - **Prohibits Free Distribution to Minors** ORS 431.840
 - **Retailer Signage Requirements regarding prohibition of distribution to minors** ORS 431.840
 - **Random Inspections of tobacco retailers** ORS 431.853
Requires Oregon Health Authority to conduct random inspections of wholesalers and retailers.
 - **Tobacco possession by minors prohibited** ORS 167.400
 - **Tobacco purchase by minors prohibited** ORS 167.401
 - **Location of Vending Machines** ORS 167.402
Prohibition on the placement of tobacco vending machines in any location legally accessible to persons under 18 years of age.
 - **Locating Tobacco Products in Retail store** ORS 167.407
Prohibits retail store owners from locating tobacco products in a location where customers can access products without assistance of an employee.
 - **Sales of Tobacco through Mail** ORS 323.703
Prohibits delivery sale of tobacco products to underage individuals.
 - **Requirements for persons mailing or shipping tobacco** ORS 323.709
Requires person accepting purchase order for a delivery sale to certify the consumer is of legal purchase age.
 - **Public Instruction on Effects of Tobacco** ORS 336.067 (E)
Directs public instruction to provide instruction regarding effects of tobacco, alcohol, drugs and controlled substances on the human system.
 - **Prohibition against possession by minors at public facilities** ORS 339.883
Prohibits public or private schools, youth correction facilities or juvenile detention facilities from allowing any person under 18 years of age to possess tobacco products.
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From the Portland Business Journal

:<http://www.bizjournals.com/portland/blog/health-care-inc/2014/08/after-leading-nation-in-tobacco-sales-to-kids.html>

After leading nation in tobacco sales to kids, Oregon finds a fix

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For the first time in several years, Oregon has made big strides in reducing tobacco sales to minors.

The retailer violation rate for sales to kids hit 16.3 percent in the past year, down from 22.5 percent the year before, when it was the highest in the country, according to the Oregon Health Authority. Out of 835 attempted buys, 136 were successful.

Oregon's rate peaked in 1995-96, at 39.3 percent, and has hovered in the teens, for the most part, since 1998.

Even with the recent decrease, Oregon's rate likely remains among the highest in the country. The national average last year was 9.6 percent, according to a new report from the Substance Abuse and Mental Health Services Administration.

"We're headed back in the right direction," said Jeff Ruscoe, prevention team lead for the Health Authority's Addictions and Mental Health Division. "We're obviously still not happy with 16.3 percent, because there are still too many kids, one in six, able to buy. We would just as soon none be able to."

The federal Synar Amendment requires states to enact and enforce laws prohibiting the sale or distribution of tobacco products to anyone under 18. Each state is required to conduct annual, random, unannounced inspections of retail tobacco outlets and report the findings to the U.S. Dept. of Health and Human Services.

Rusco attributes Oregon's recent decline in sales to minors to stepped up inspections by state police throughout the year, outside of the Synar-mandated inspections. Budget cuts and shifting priorities had caused those inspections to fall.

"For a number of years, there was very little enforcement at all and complacency goes on," Ruscoe

said. "Now that they know enforcement is out there again, they're being more responsible. We'd still like to see more training, more checking of IDs."

Officers use 16-year-olds to try to buy tobacco products. If a retailer sells to the minor, the clerk is immediately cited and fined, usually in the amount of \$435, Ruscoe said.

One side benefit of the decrease in violations is that it places Oregon outside the danger zone to lose federal funding. States that have a noncompliance rate of more than 20 percent may lose 40 percent of their federal Substance Abuse Prevention and Treatment Block Grant funding. For Oregon, would translate to \$7 million, Ruscoe said.

Tobacco use is the leading preventable cause of death and disease in the U.S., with 480,000 deaths attributed to smoking or secondhand exposure each year. Nearly all tobacco use begins during youth and young adulthood.

The Multnomah County Health Department, in partnership with Upstream Public Health and the Oregon Health Equity Alliance, is currently conducting an assessment of tobacco retailers in Multnomah County, said Mel Rader, co-director of Upstream Public Health. The partnership is visiting 450 retail outlets to look at which products are being sold and the prices.

Rader said unlike almost every state, Oregon doesn't license tobacco retailers, and that would impact sales to minors.

"We need to do a lot more to get in line with where we should be," Rader said. "We need a stronger enforcement system, along with licensing and to do something about e-cigarettes, which have no restrictions on age right now."

Elizabeth covers health care for the Portland Business Journal. [Sign up for her Health Care Inc. NW newsletter](#) to keep tabs on what's happening in the rapidly changing industry.

**Analysis of FDA Compliance Check Data
FFY 2014 By State through 9/30/14**

State	TOTAL ALL TYPES OF INSPECTIONS				FFY 2014				FFY 2014				INSPECTIONS NOT Involving a Minor			
	Total Compliance Checks	Number of "NO Violations"	Number of Warnings Letters	Number of Civil Money Penalties	Total Compliance Checks	Number of "NO Violations"	Number of Warnings Letters	Number of Civil Money Penalties	Total Compliance Checks	Number of "NO Violations"	Number of Warnings Letters	Number of Civil Money Penalties	Total Compliance Checks	Number of "NO Violations"	Number of Warnings Letters	Number of Civil Money Penalties
1 AK	61	60	1	0	1,046	997	49	0	0	0	0	0	61	60	1	1.64%
2 AL	3,471	3,395	76	0	2,19%	0	2,19%	0	0	0	0	2,425	2,398	27	1.11%	
3 AR	3,850	3,637	174	39	5.53%	39	5.53%	0	0	0	0	1,698	1,670	28	1.65%	
4 AZ	1,201	1,074	94	33	10.57%	33	10.57%	0	0	0	0	410	392	18	4.39%	
5 CA	2,297	2,200	94	3	4.22%	3	4.22%	0	0	0	0	1,045	1,041	4	0.38%	
6 CO	3,091	2,819	246	26	8.80%	26	8.80%	0	0	0	0	1,200	1,141	59	4.92%	
7 CT	1,463	1,118	223	122	23.58%	122	23.58%	0	0	0	0	79	36	43	54.43%	
8 DC	139	131	6	2	5.76%	2	5.76%	0	0	0	0	107	107	0	0.00%	
9 DE	1,136	1,113	22	1	2.02%	1	2.02%	0	0	0	0	530	528	2	0.38%	
10 FL	454	448	6	0	1.32%	0	1.32%	0	0	0	0	203	198	5	2.46%	
11 GA	1,355	1,301	54	0	3.89%	0	3.89%	0	0	0	0	805	803	2	0.25%	
12 HI	279	270	9	173	164	9	5.20%	0	0	0	0	106	106	0	0.00%	
13 IA	2,479	2,417	59	893	846	44	5.26%	0	0	0	0	1,586	1,571	15	0.95%	
14 ID	2,489	2,334	153	1,684	1,529	153	9.20%	0	0	0	0	805	805	0	0.00%	
15 IL	2,407	2,016	321	1,248	993	185	20.43%	0	0	0	0	1,159	1,023	136	11.73%	
16 IN	8,262	7,767	432	4,285	3,799	423	11.34%	0	0	0	0	3,977	3,968	9	0.23%	
17 KS	2,557	2,509	48	1,365	1,318	47	3.44%	0	0	0	0	1,192	1,191	1	0.08%	
18 KY	2,556	2,519	37	1,446	1,414	32	2.21%	0	0	0	0	1,110	1,105	5	0.45%	
19 LA	2,687	2,539	136	1,596	1,484	120	8.27%	0	0	0	0	1,081	1,075	6	1.47%	
20 MA	6,451	5,956	460	4,183	3,697	451	11.62%	0	0	0	0	2,268	2,259	9	0.40%	
21 MD	1,434	1,086	260	1,174	828	258	29.47%	0	0	0	0	260	258	2	0.77%	
22 ME	3,316	3,274	42	1,707	1,669	38	2.23%	0	0	0	0	1,609	1,605	4	0.25%	
23 MI	2,161	1,677	402	1,622	1,207	333	25.59%	0	0	0	0	539	470	69	12.80%	
24 MN	4,900	4,637	241	2,711	2,487	202	8.26%	0	0	0	0	2,189	2,150	39	1.78%	
25 MO	3,569	3,014	392	2,435	1,925	347	20.34%	0	0	0	0	1,134	1,089	45	3.97%	
26 MS	5,265	5,149	115	2,725	2,616	108	4.00%	0	0	0	0	2,540	2,533	7	0.28%	
27 MT	1,116	1,090	25	589	580	8	1.53%	0	0	0	0	527	510	17	3.23%	
28 NC	3,145	2,815	324	1,412	1,252	154	11.33%	0	0	0	0	1,733	1,563	170	9.81%	
29 ND	35	34	1	0	2.86%	0	0	0	0	0	0	35	34	1	2.86%	
30 NE	67	67	0	0	8.22%	0	0	0	0	0	0	73	67	6	8.22%	
31 NH	562	489	68	322	264	53	18.01%	0	0	0	0	240	225	15	6.25%	
32 NJ	3,395	2,992	365	2,240	1,858	344	17.05%	0	0	0	0	1,155	1,134	21	1.82%	
33 NM	294	294	0	0	0.00%	0	0.00%	0	0	0	0	294	294	0	0.00%	
34 NV	331	314	17	0	5.14%	0	0	0	0	0	0	331	314	17	5.14%	
35 NY	387	386	1	0	2.77%	0	0	0	0	0	0	397	386	11	2.77%	
36 OH	970	905	65	792	727	65	8.21%	0	0	0	0	178	178	0	0.00%	
37 OK	1,592	1,473	110	776	661	106	14.82%	0	0	0	0	816	812	4	0.49%	
38 OR	58	56	2	0	3.45%	0	0	0	0	0	0	58	56	2	3.45%	
39 PA	7,599	7,089	464	3,966	3,490	430	12.00%	0	0	0	0	3,633	3,599	34	0.94%	
40 RI	1,734	1,633	98	1,085	987	95	9.03%	0	0	0	0	649	646	3	0.46%	
41 SC	9,595	8,581	953	4,653	3,805	787	18.22%	0	0	0	0	4,942	4,776	166	3.36%	
42 SD	140	129	11	77	76	1	0.00%	0	0	0	0	63	53	10	15.87%	
43 TN	1,295	1,201	82	679	599	68	11.78%	0	0	0	0	616	602	14	2.27%	
44 TX	5,556	5,296	242	3,007	2,768	221	7.95%	0	0	0	0	2,549	2,528	21	0.82%	
45 UT	1,131	1,096	34	834	801	32	3.96%	0	0	0	0	297	295	2	0.67%	
46 VA	1,875	1,736	128	1,039	916	112	11.84%	0	0	0	0	836	820	16	1.91%	
47 VT	186	186	0	24	24	0	0.00%	0	0	0	0	162	162	0	0.00%	
48 WA	9,707	8,997	639	5,274	4,668	535	11.49%	0	0	0	0	4,433	4,329	104	2.35%	
49 WI	636	547	78	279	222	46	20.43%	0	0	0	0	357	325	32	8.96%	
50 WV	2,922	2,632	274	1,982	1,709	257	13.77%	0	0	0	0	940	923	17	1.81%	
51 WY	44	41	3	0	6.82%	0	0	0	0	0	0	44	41	3	6.82%	
TOTAL	123,718	114,539	8,103	68,232	60,285	6,871	1,076	11.65%	0	0	0	55,486	54,254	1,232	0	2.22%

response and reminding Mulch's Country Mart of its continuing obligation to be in compliance with the Act and its implementing regulations.

PROPOSED PENALTY

12. Retailers who have violated regulations promulgated under Section 906(d) of the Act (21 U.S.C. § 387f(d)) may incur a civil money penalty up to the amounts provided in the following table:

Number of Violations	Civil Money Penalty
1	\$0.00 w/ warning letter
2 within a 12 month period	\$250
3 within a 24 month period	\$500
4 within a 24 month period	\$2,000
5 within a 36 month period	\$5,000
6 or subsequent within a 48 month period	\$11,000

See 21 C.F.R. § 17.2; *Guidance for FDA and Tobacco Retailers, Civil Money Penalties and No-Tobacco-Sale Orders for Tobacco Retailers*, June 2014

(available at

<http://www.fda.gov/downloads/TobaccoProducts/GuidanceComplianceRegulatoryInformation/UCM252955.pdf>).