

FFY 2009 Annual Synar Reports YOUTH TOBACCO SALES

In Brief

- The national weighted average rate of tobacco sales to minors (RVR) as reported by States and the District of Columbia in their Federal fiscal year (FFY) 2009 Annual Synar Reports is 10.9 percent. This represents an increase in the weighted RVR from FFY 2008—the first time in the history of the Synar program that the average RVR has increased.
- The increase in the average RVR may be due to States reducing the number of enforcement inspections they conduct in the face of State budget cuts.
- FFY 2009 is the fourth year in Synar history for which the Secretary found no State out of compliance with the Synar requirements.

Overview of the Problem

Tobacco use is the leading cause of death and disease in the United States, with 443,000 deaths annually attributed to smoking (Centers for Disease Control and Prevention [CDC], 2008). Each year, tobacco use results in more deaths than AIDS, unintentional injuries, suicide, homicide, and alcohol and drug abuse combined (Heron et al., 2009). In general, tobacco use begins as a pediatric issue. In fact, 80 percent of adult smokers who are nicotine dependent report that they started smoking before the age of 18 (Office of Applied Studies, 2009).

SAMHSA's Response to Youth Tobacco Use Through the Synar Program

As the data show, if we can stop youth from beginning to smoke while they are underage, the chance that they will become smokers as adults is greatly reduced. The Synar Amendment, named for its sponsor, Congressman Michael Synar of Oklahoma, was developed in this context. The Synar Amendment and its implementing regulation require States (i.e., all States, the District of Columbia, and the eight U.S. jurisdictions) to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under the age of 18.

Prevention of retail tobacco sales is one strategy within a larger public health approach to reduce the consumption of tobacco products. Preventing the use of tobacco products by young people provides an important opportunity to reduce or prevent the death and disability that potentially accompany tobacco use. One part of a comprehensive strategy to reduce youth tobacco use is to reduce youth access to tobacco



products. Research has shown that youth who perceive easy access to tobacco products through retailers are more likely to acquire and experiment with these products, thereby increasing their risk for smoking initiation (Doubeni et al., 2008; Stead and Lancaster, 2005). Additionally, perceived accessibility also increases the risk of regular smoking (Doubeni et al., 2008).

The Substance Abuse and Mental Health Services Administration (SAMHSA) is charged with the responsibility of monitoring State implementation of the Synar program, including enforcement of tobacco sales to youth across the United States and U.S. jurisdictions, as a means of reducing youth access to tobacco.

Comprehensive Youth Tobacco Access Control Programs Reduce Youth Access to and Use of Tobacco Products

Researchers who have studied youth access to tobacco recommend that several key components be included in a comprehensive youth tobacco access control program. These include:

- Designating an agency with clear responsibility for enforcement and oversight of the State tobacco access control program
- Providing adequate and guaranteed funding for enforcement and supporting activities
- Disposition of meaningful penalties
- No preemption of local ordinances
- Implementation of comprehensive merchant and community education campaigns (DiFranza, 1999; Levy et al. 2000; Stead and Lancaster, 2000, 2005)
- Comprehensive State youth tobacco access control laws, including licensure with a graduated fine structure, and/or license revocation
- Price increases on tobacco products.

Research has shown that enforcing State youth tobacco access control laws results in changes in retailer sales practices, thereby reducing illegal tobacco sales to minors. As a result of these changes in sales practices, youth who are experimenting with tobacco or considering initiation of tobacco use will have a more challenging time locating reliable and convenient sources for purchasing tobacco and will likely be discouraged from establishing the habit of regular tobacco use (Doubeni et al., 2008; Forester et al., 1998).

Furthermore, the implementation of policies to support youth tobacco access control measures, as well as regular enforcement practices, establishes a normative climate in which the sale of tobacco products to minors and the use of tobacco by youth are perceived as unacceptable by the community at large (Forester et al., 1998).

In fact, recent research shows that enforcement of youth access laws through the Synar program is directly responsible for a portion of the decline in youth smoking. Specifically, recently published research by Joseph DiFranza, M.D., and colleagues that looked at merchant compliance with youth

tobacco access laws between 1997 and 2003 and data on tobacco use during the same time period from the Monitoring the Future survey found that after controlling for price changes, media campaigns, and smoking restrictions, the odds ratio for daily smoking among tenth graders was reduced by 2 percent for each 1 percent increase in merchant compliance with youth access laws (DiFranza et al., 2009).

The Synar Amendment

In July 1992, Congress enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (P.L. 102-321), which includes the Synar Amendment (section 1926), aimed at decreasing youth access to tobacco. This amendment requires States to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under 18 years old. To determine compliance with the legislation, the amendment requires each State and U.S. jurisdiction to conduct annual, random, unannounced inspections of retail tobacco outlets and to report the findings to the Secretary of the U.S. Department of Health and Human Services (DHHS). States that do not comply with the requirements set forth in the amendment are subject to a penalty of 40 percent of their Federal Substance Abuse Prevention and Treatment (SAPT) Block Grant funding.

The Synar Regulation

Because it plays a lead Federal role in substance abuse prevention, SAMHSA was charged with implementing the Synar Amendment. In January 1996, SAMHSA issued the Synar Regulation to provide guidance to the States. The regulation stipulates that to comply with the Synar Amendment, each State must have in effect a law prohibiting any manufacturer, retailer, or distributor of tobacco products from selling or distributing such products to any individual under age 18. States also must:

- Enforce such laws to a degree that can reasonably be expected to reduce the illegal sale of tobacco products to individuals under age 18.
- Develop a strategy and negotiate a timeframe with SAMHSA for achieving an RVR of 20 percent or less by FFY 2003.
- Conduct annual, random, unannounced inspections of over-the-counter tobacco outlets and vending machines to ensure compliance with the law. These inspections are to be conducted in such a way as to provide a valid sample of outlets accessible to youth.
- Submit an annual report that details the actions undertaken by the State to enforce its law and includes information on the overall success the State has achieved during the previous FFY in reducing tobacco availability to youth, the methods used to identify outlets, its inspection procedures, and its plans for enforcing the law in the next FFY.

States measure their progress in reducing youth access to tobacco via annual, random, unannounced inspections (also known as the Synar survey). SAMHSA, through its Center for Substance Abuse Prevention (CSAP), Division of State Programs, annually reviews each State's Synar survey and results, and provides technical assistance to help States comply with the requirements.

Major Findings

Community studies conducted before 1996 indicated that RVRs in a number of States were in the 60- to 90-percent range. In FFY 1997, the first year for which States reported Synar data, the national weighted average RVR was 40.1 percent. Major findings for FFY 2009 include:

- The national weighted average rate of tobacco sales to minors (RVR) as reported by States and the District of Columbia (DC) in their FFY 2009 Annual Synar Reports is 10.9 percent. This represents an increase in the weighted RVR from FFY 2008—the first time in the history of the Synar program that the average RVR has increased.
- FFY 2009 is the fourth year in Synar history for which the Secretary found no State out of compliance with the Synar regulation.
- In FFY 2009, 43 of the 51 States and DC achieved an RVR below 15.0 percent (down from 46 States in FFY 2008), and 22 of the 51 achieved an RVR below 10.0 percent (down from 26 States in FFY 2008).

Upward Trend in Retailer Violation Rates Observed in FFY 2009

Data reported by the States in the 12-year period from FFY 1997 through FFY 2008 indicate a clear downward trend in RVRs associated with implementation of the Synar Regulation. However, for the first time in the history of the Synar program, the average weighted RVR increased between FFY 2008 and FFY 2009.

There are several potential reasons for the increase. First, one of the greatest predictors of a State's RVR is the amount and reach of a State's youth tobacco access enforcement efforts. Specifically, States that have consistent statewide enforcement of youth tobacco access laws in which every tobacco retailer in the State is inspected by law enforcement at least once every year to determine their compliance with access laws and retailers found in violation of the law are given monetary penalties tend to have much lower RVRs than States without such rigorous enforcement programs.

However, the Synar Regulation specifically forbids States from spending SAPT Block Grant monies to fund the enforcement of their access laws. Consequently, States must utilize other sources of funding (usually State general funds, Master Settlement Agreement funds, or funds dedicated for this purpose to a State enforcement agency) for enforcement purposes. In a worsening economy, and as State budgets decrease, these funds are at risk.

As a result, some States are reducing the number of enforcement inspections they conduct, which may potentially result in higher RVRs. At the same time, many States have been cutting the budgets of their comprehensive tobacco control programs. Many tobacco control experts believe that cuts in comprehensive tobacco control programs have led to the leveling off of current cigarette use among youth between 2003 and 2007, after a period of rapid decline between 1997 and 2003 (CDC, 2008). We are seeing a similar leveling off in the RVRs reported by States.

CSAP is working with States to address this issue. For example, CSAP held sessions at the 10th National Synar Workshop on the impact of the recession on Synar: what States are doing to maintain outcomes with less money and how to use local tobacco licensing to help fund enforcement. Additionally, Congress recognized the importance of funding rigorous enforcement of youth tobacco access laws by including a mechanism in the Family Smoking Prevention and Tobacco Control Act, which was signed into law by President Obama on June 22, 2009, for the Food and Drug Administration (FDA) to contract with States to fund the enforcement of youth access laws. This funding will help to alleviate some of the barriers States face in enforcing youth access laws as a result of budget cuts. FDA expects to begin contracting with States to enforce youth tobacco access laws in the summer of 2010.

Table 1—Comparison of Reported Retailer Violation Rates for FFYs 1997–2009

Fiscal Year	Highest Reported Rate	Lowest Reported Rate	Weighted Average Rate
1997	72.7%	7.2%	40.1%
1998	58.8%	5.5%	25.4%
1999	46.9%	4.1%	20.5%
2000	55.8%	6.3%	20.0%
2001	36.0%	6.0%	17.5%
2002	33.7%	4.5%	16.3%
2003	30.2%	5.4%	14.1%
2004	41.9%	3.9%	12.8%
2005	38.0%	0.9%	11.6%
2006	19.2%	2.2%	10.8%
2007	22.7%	3.2%	10.5%
2008	17.0%	4.1%	9.9%
2009	18.8%	1.6%	10.9%

All 50 States and DC Achieved the Overall Synar Goal

Between FFY 1997 and FFY 2002, all States and U.S. jurisdictions were legislatively required to negotiate individual RVR targets with SAMHSA in order to be found in compliance with the Synar Regulation. Since FFY 2003, all States and U.S. jurisdictions have been required to meet the federally established RVR target of 20 percent (+/- 3 percent margin of error allowed for States that conduct a sample). FFY 2006 was the first year that all States and DC were found in compliance with all Synar regulatory requirements, and this trend has continued in FFY 2009.

The State RVRs listed below were determined by the results of a series of random, unannounced compliance checks of tobacco retailers conducted by each State during the period from October 1, 2007, to September 30, 2008. These rates represent the percentage of inspected retail outlets that sold tobacco products to an inspector under 18 years old. The national weighted average was computed by weighting each State's reported RVR by that State's population.

Table 2—Synar Retailer Violation Rates (FFY 2009)

State Name	Target	Reported	State Name	Target	Reported
Alabama	20.0%	11.7%	Montana	20.0%	5.5%
Alaska	20.0%	15.1%	Nebraska	20.0%	12.1%
Arizona	20.0%	6.7%	Nevada	20.0%	5.2%
Arkansas	20.0%	4.8%	New Hampshire	20.0%	11.7%
California	20.0%	12.6%	New Jersey	20.0%	11.9%
Colorado	20.0%	11.0%	New Mexico	20.0%	6.1%
Connecticut	20.0%	13.7%	New York	20.0%	7.0%
Delaware	20.0%	2.8%	North Carolina	20.0%	17.4%
District of Columbia	20.0%	9.2%	North Dakota	20.0%	1.6%
Florida	20.0%	7.3%	Ohio	20.0%	15.9%
Georgia	20.0%	12.1%	Oklahoma	20.0%	17.9%
Hawaii	20.0%	11.2%	Oregon	20.0%	18.8%
Idaho	20.0%	11.5%	Pennsylvania	20.0%	5.1%
Illinois	20.0%	12.5%	Rhode Island	20.0%	11.7%
Indiana	20.0%	11.2%	South Carolina	20.0%	11.6%
Iowa	20.0%	10.0%	South Dakota	20.0%	9.2%
Kansas	20.0%	15.9%	Tennessee	20.0%	13.1%
Kentucky	20.0%	4.7%	Texas	20.0%	11.3%
Louisiana	20.0%	7.1%	Utah	20.0%	8.4%
Maine	20.0%	5.8%	Vermont	20.0%	12.9%
Maryland	20.0%	5.1%	Virginia	20.0%	13.9%
Massachusetts	20.0%	11.6%	Washington	20.0%	15.4%
Michigan	20.0%	14.3%	West Virginia	20.0%	17.9%
Minnesota	20.0%	8.3%	Wisconsin	20.0%	7.2%
Mississippi	20.0%	3.8%	Wyoming	20.0%	9.0%
Missouri	20.0%	9.6%			

The U.S. Jurisdictions

Section 212 of the Omnibus Appropriations Act of 2009 (P.L. 111-8) contains language that prevents the Secretary of DHHS from withholding substance abuse prevention funds, pursuant to section 1926, from a U.S. jurisdiction that receives less than \$1 million in SAPT Block Grant funds, and that fails to meet the required 20-percent noncompliance rate. This provision applies to the following U.S. jurisdictions: the Virgin Islands, American Samoa, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. This provision does not apply to the District of Columbia and Puerto Rico, which both received more than \$1 million in SAPT Block Grant funds in FFY 2009.

While SAMHSA is prohibited from withholding substance abuse funds from jurisdictions that do not comply with the Synar regulatory requirements, SAMHSA maintains oversight of Synar program development in all U.S. jurisdictions, including visits for program review and enhancement. This support has enabled the U.S. jurisdictions to develop effective youth tobacco access control programming and to demonstrate significant progress in reducing youth access to tobacco. Five jurisdictions that receive less than \$1 million in SAPT Block Grant funds have made significant progress and met the FFY 2009 Synar regulatory requirements, despite the challenges posed by their special circumstances. These jurisdictions are American Samoa, the Federated States of Micronesia, Guam, the Commonwealth of the Northern Mariana Islands, and Palau.

Table 3—Synar Retailer Violation Rates for the U.S. Jurisdictions (FFY 2009)

Jurisdiction Name	Target	Reported
American Samoa	20.0%	3.1%
Commonwealth of the Northern Mariana Islands	20.0%	8.4%
Federated States of Micronesia	20.0%	18.5%
Guam	20.0%	6.3%
Palau	20.0%	19.4%
Puerto Rico	20.0%	8.5%
Republic of the Marshall Islands	20.0%	93.2%
U.S. Virgin Islands	20.0%	41.0%

Comprehensive Strategies Are Most Effective

In its oversight of State Synar youth tobacco access control programs over the past 13 years, SAMHSA has observed that compliant States share multiple characteristics. Specifically, these States employ a comprehensive strategy that combines vigorous enforcement, political support from the State government, and a climate of active social norms that discourage youth tobacco use. Tobacco access control programs in these successful States tend to be well coordinated and include an array of strategies. These strategies often include:

- New policy and regulatory activities, including statewide tobacco retailer licensing
- Partnership with SAMHSA, CDC, and other tobacco-directed State programs
- State and local law enforcement agencies actively enforcing State tobacco laws
- Merchant and community education targeted in areas with higher noncompliance rates that is made available in the language of the local community and is sensitive to cultural differences
- Extensive media advocacy
- Use of community coalitions to mobilize community support for restricting youth access to tobacco.

Conclusion

The results of the random, unannounced inspections required by the Synar Amendment and its implementing regulation show that States have made significant progress in enforcing youth tobacco access laws and in reducing the percentage of retailers who sell tobacco products to minors. Over the past 13 years, all States and DC have reached the overall Synar goal, achieving an RVR of no more than 20 percent. Many of the U.S. jurisdictions have also reached this goal, and the others are continuing to develop and improve their Synar programs.

SAMHSA plans to continue to provide extensive technical assistance to the States and jurisdictions to assist them in implementing these comprehensive strategies, with the goal of eliminating the availability of tobacco products to minors, and so spare future generations the long-term disease and death attributable to tobacco use.

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