

# **ANNUAL SYNAR REPORT**

**42 U.S.C. 300x-26**

OMB № 0930-0222

**FFY 2017**

**State: North Dakota**

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## INTRODUCTION

The Annual Synar Report (ASR) format provides the means for states to comply with the reporting provisions of the Public Health Service Act (42 U.S.C. 300x-26) and the Tobacco Regulation for the Substance Abuse Prevention and Treatment Block Grant (SABG) (45 C.F.R. 96.130 (e)).

### **How the Synar report helps the Center for Substance Abuse Prevention**

In accordance with the tobacco regulations, states are required to provide detailed information on progress made in enforcing youth tobacco access laws (FFY 2016 Compliance Progress) and future plans to ensure compliance with the Synar requirements to reduce youth tobacco access rates (FFY 2017 Intended Use Plan). These data are required by 42 U.S.C. 300x-26 and will be used by the Secretary to evaluate state compliance with the statute. Part of the mission of the Center for Substance Abuse Prevention (CSAP) is to assist states<sup>1</sup> by supporting Synar activities and providing technical assistance helpful in determining the type of enforcement measures and control strategies that are most effective. This information is helpful to CSAP in improving technical assistance resources and expertise on enforcement efforts and tobacco control program support activities, including state Synar program support services, through an enhanced technical assistance program involving conferences and workshops, development of training materials and guidance documents, and onsite technical assistance consultation.

### **How the Synar report can help states**

The information gathered for the Synar report can help states describe and analyze substate needs for program enhancements. These data can also be used to report to the state legislature and other state and local organizations on progress made to date in enforcing youth tobacco access laws when aggregated statistical data from state Synar reports can demonstrate to the Secretary the national progress in reducing youth tobacco access problems. This information will also provide Congress with a better understanding of state progress in implementing Synar, including state difficulties and successes in enforcing retailer compliance with youth tobacco access laws.

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<sup>1</sup>The term “state” is used to refer to all the states and territories required to comply with Synar as part of the Substance Abuse Prevention and Treatment Block Grant Program requirements (42 U.S.C. 300x-64 and 45 C.F.R. 96.121).

## **Getting assistance in completing the Synar report**

If you have questions about programmatic issues, you may call CSAP's Division of State Programs at (240) 276-2550 and ask for your respective State Project Officer, or contact your State Project Officer directly by telephone or email. If you have questions about fiscal or grants management issues, you may call the Grants Management Officer, Office of Financial Resources, Division of Grants Management, at (240) 276-1422.

## **Where and when to submit the Synar report**

The ASR must be received by SAMHSA no later than December 31, 2016 and must be submitted in the format specified by these instructions. Use of the approved format will avoid delays in the review and approval process. The chief executive officer (or an authorized designee) of the applicant organization must sign page one of the ASR certifying that the state has complied with all reporting requirements.

The state must upload one copy of the ASR using the online WebBGAS (Block Grant Application System). In addition, the following items must be uploaded to WebBGAS:

- FFY 2017 Synar Survey Results: States that use the Synar Survey Estimation System (SSES) must upload one copy of SSES Tables 1–5 (in Excel) to WebBGAS. States that do not use SSES must upload one copy of ASR Forms 1, 4, and 5, and Forms 2 and 3, if applicable, (in Excel), as well as a database with the raw inspection data to WebBGAS.
- Synar Inspection Form: States must upload one blank copy of the inspection form used to record the result of each Synar inspection.
- Synar Inspection Protocol: States must upload a copy of the protocol used to train inspection teams on conducting and reporting the results of the Synar inspections. This document should be different than the Appendix C attached to the Annual Synar Report
- A scanned copy of the signed Funding Agreements/Certifications

Each state SSA Director has been emailed a login ID and password to log onto the Synar section of the WebBGAS site.

Additionally, the state must submit one signed original of the report (including the signed Funding Agreements/Certifications), as well as one additional copy of the signed Funding Agreements/Certifications, to the Grants Management Officer at the address below:

Grants Management Officer  
Division of Grants Management  
Office of Financial Resources  
Substance Abuse and Mental Health Services Administration

### **Regular Mail:**

1 Choke Cherry Road, Rm.7-1091  
Rockville, Maryland 20857

### **Overnight Mail:**

1 Choke Cherry Road, Rm.7-1091  
Rockville, Maryland 20850



— State of —  
**North Dakota**  
*Office of the Governor*  
**Jack Dalrymple**  
*Governor*

July 1, 2013

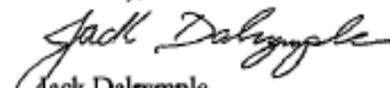
Ms. Virginia Simmons  
Supervisory Grants Management Specialist  
Office of Financial Resources, Division of Grants Management  
Substance Abuse and Mental Health Services Administration  
1 Choke Cherry Road, Room 7-1109  
Rockville, MD 20850

Dear Ms. Simmons:

As Governor of North Dakota, I hereby designate Maggie D. Anderson, Executive Director of the North Dakota Department of Human Services, to make any and all assurances required by the Public Health Services Act for the Community Mental Health Services Block Grant, the Substance Abuse Prevention and Treatment Block Grant, and the Projects for Assistance in Transition from Homelessness Grant. This designation shall remain in effect as long as I am Governor of North Dakota and Ms. Anderson is the Executive Director of the North Dakota Department of Human Services.

All correspondence regarding the above-mentioned grants should continue to be sent to the Director of the department's Division of Mental Health and Substance Abuse Services, 1237 West Divide Avenue, Suite 1C, Bismarck, ND 58501-1208.

Sincerely,

  
Jack Dalrymple  
Governor

37:63:71

## FFY 2017: FUNDING AGREEMENTS/CERTIFICATIONS

The following form must be signed by the Chief Executive Officer or an authorized designee and submitted with this application. Documentation authorizing a designee must be attached to the application.

### **PUBLIC HEALTH SERVICES ACT AND SYNAR AMENDMENT**

42 U.S.C. 300x-26 requires each state to submit an annual report of its progress in meeting the requirements of the Synar Amendment and its implementing regulation (45 C.F.R. 96.130) to the Secretary of the Department of Health and Human Services. By signing below, the chief executive officer (or an authorized designee) of the applicant organization certifies that the state has complied with these reporting requirements and the certifications as set forth below.

### **SYNAR SURVEY SAMPLING METHODOLOGY**

The state certifies that the Synar survey sampling methodology on file with the Center for Substance Abuse Prevention and submitted with the Annual Synar Report for FFY 2017 is up-to-date and approved by the Center for Substance Abuse Prevention.

### **SYNAR SURVEY INSPECTION PROTOCOL**

The state certifies that the Synar Survey Inspection Protocol on file with the Center for Substance Abuse Prevention and submitted with the Annual Synar Report for FFY 2017 is up-to-date and approved by the Center for Substance Abuse Prevention.

**State:** North Dakota

**Name of Chief Executive Officer or Designee:** Maggie D. Anderson

**Signature of CEO or Designee:**

**Title:** Executive Director

**Date Signed:**

**If signed by a designee, a copy of the designation must be attached.**

**SECTION I: FFY 2016 (Compliance Progress)**

**YOUTH ACCESS LAWS, ACTIVITIES, AND ENFORCEMENT**

42 U.S.C. 300x-26 requires the states to report information regarding the sale/distribution of tobacco products to individuals under age 18.

**1. Please indicate any changes or additions to the state tobacco statute(s) relating to youth access since the last reporting year. If any changes were made to the state law(s) since the last reporting year, please attach a photocopy of the law to the hard copy of the ASR and also upload a copy of the state law to WebBGAS. (see 42 U.S.C. 300x-26).**

**a. Has there been a change in the minimum sale age for tobacco products?**

Yes  No

*If Yes, current minimum age:*  19  20  21

**b. Have there been any changes in state law that impact the state’s protocol for conducting Synar inspections?**

Yes  No

*If Yes, indicate change. (Check all that apply.)*

- Changed to require that law enforcement conduct inspections of tobacco outlets
- Changed to make it illegal for youth to possess, purchase or receive tobacco
- Changed to require ID to purchase tobacco
- Changed definition of tobacco products
- Other change(s) *(Please describe.)* \_\_\_\_\_

**c. Have there been any changes in state law that impact the following?**

- Licensing of tobacco vendors  Yes  No
- Penalties for sales to minors  Yes  No
- Vending machines  Yes  No
- Added additional product
- Categories to youth access law  Yes  No

**2. Describe how the Annual Synar Report (see 45 C.F.R. 96.130(e)) and the state Plan (see 42 U.S.C. 300x-51) were made public within the state prior to submission of the ASR. (Check all that apply.)**

- Placed on file for public review
- Posted on a state agency Web site *(Please provide exact Web address and the date when the FFY 2016 ASR was posted to this Web address.)*

*Web address:* \_\_\_\_\_

*Date published:* \_\_\_\_\_

- Notice published in a newspaper or newsletter
- Public hearing

- Announced in a news release, a press conference, or discussed in a media interview
  - Distributed for review as part of the SABG application process
  - Distributed through the public library system
  - Published in an annual register
  - Other *(Please describe.)* public notice posted on ND Department of Human Services website:
- 

**3. Identify the following agency or agencies** *(see 42 U.S.C. 300x-26 and 45 C.F.R. 96.130).*

- a. The state agency (ies) designated by the Governor for oversight of the Synar requirements:**

ND Department of Human Services, Behavioral Health Division

Has this changed since last year's Annual Synar Report?

- Yes  No

- b. The state agency(ies) responsible for conducting random, unannounced Synar inspections:**

ND Department of Human Services, Behavioral Health Division

Has this changed since last year's Annual Synar Report?

- Yes  No

- c. The state agency(ies) responsible for enforcing youth tobacco access law(s):**

ND Office of the Attorney General (on a statewide basis), but enforcement generally takes place at the local level (see Question 5a)

Has this changed since last year's Annual Synar Report?

- Yes  No

**4. Identify the following agencies and describe their relationship with the agency responsible for the oversight of the Synar requirements.**

- a. Identify the state agency responsible for tobacco prevention activities (the agency that receives the Centers for Disease Control and Prevention's National Tobacco Control Program funding).**

ND Department of Health

- b. Has the responsible agency changed since last year's Annual Synar Report?**

- Yes  No

- c. Describe the coordination and collaboration that occur between the agency responsible for tobacco prevention and the agency responsible for oversight of the Synar requirements. (Check all that apply.) The two agencies**

- Are the same

- Have a formal written memorandum of agreement
- Have an informal partnership
- Conduct joint planning activities
- Combine resources
- Have other collaborative arrangement(s) *(Please describe.)* \_\_\_\_\_
- No relationship

**d. Does a state agency contract with the Food and Drug Administration's Center for Tobacco Products (FDA/CTP) to enforce the youth access and advertising restrictions in the Family Smoking Prevention and Tobacco Control Act?**  
 Yes  No (if no, go to Question 5)

**e. If yes, identify the state agency responsible for enforcing the youth access and advertising restrictions in the Family Smoking Prevention and Tobacco Control Act (the agency that is under contract to the Food and Drug Administration's Center for Tobacco Products (FDA/CTP)).**

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**f. Has the responsible agency changed since last year's Annual Synar Report?**  
 Yes  No

**g. Describe the coordination and collaboration that occur between the agency contracted with the FDA to enforce federal youth tobacco access laws and the agency responsible for oversight of the Synar requirements. (Check all that apply.) The two agencies:**

- Are the same
- Have a formal written memorandum of agreement
- Have an informal partnership
- Conduct joint planning activities
- Combine resources
- Have other collaborative arrangement(s) *(Please describe.)* \_\_\_\_\_
- No relationship

**h. Does the state use data from the FDA enforcement inspections for Synar survey reporting?**  
 Yes  No

**5. Please answer the following questions regarding the state's activities to enforce the state's youth access to tobacco law(s) in FFY 2015 (see 42 U.S.C. 300x-26 and 45 C.F.R. 96.130(e)).**

**a. Which one of the following describes the enforcement of state youth access to tobacco laws carried out in your state? (Check one category only.)**

- Enforcement is conducted exclusively by local law enforcement agencies.
- Enforcement is conducted exclusively by state agency (ies).
- Enforcement is conducted by both local *and* state agencies.

- b. The following items concern penalties imposed for all violations of state youth access to tobacco laws by LOCAL AND/OR STATE LAW ENFORCEMENT AGENCIES (this does not include enforcement of local laws or federal youth tobacco access laws). Please fill in the number requested. If state law does not allow for an item, please mark “NA” (not applicable). If a response for an item is unknown, please mark “UNK.” The chart must be filled in completely.

PENALTY	OWNERS	CLERKS	TOTAL
Number of <u>citations issued</u>	16	34	50
Number of <u>fin es assessed</u>	9	18	27
Number of <u>permits/licenses suspended</u>	2		2
Number of <u>permits/licenses revoked</u>	0		0
Other (Please describe.)			

- c. Are citations or warnings issued to retailers or clerks who sell tobacco to minors for inspections that are part of the Synar survey?

Yes  No

If “Yes” to 5c, please describe the state’s procedure for minimizing risk of bias to the survey results from retailers alerting each other to the presence of the survey teams:

- d. Which one of the following best describes the level of enforcement of state youth access to tobacco laws carried out in your state? (Check one category only.)

- Enforcement is conducted only at those outlets randomly selected for the Synar survey.
- Enforcement is conducted only at a subset of outlets not randomly selected for the Synar survey.
- Enforcement is conducted at a combination of outlets randomly selected for the Synar survey and outlets not randomly selected for the Synar survey.

- e. Did every tobacco outlet in the state receive at least one compliance check that included enforcement of the state youth tobacco access law(s) in the last year?

Yes  No

- f. What additional activities are conducted in your state to support enforcement and compliance with state youth tobacco access law(s)? (Check all that apply and briefly describe each activity in the text boxes below each activity.)

Merchant education and/or training

Retailer Site Visits – in-person visits were conducted with tobacco retailers where the tobacco access laws are explained to the clerks and owners.

- Incentives for merchants who are in compliance (e.g., nonenforcement compliance checks in which compliant retailers are given positive reinforcement and noncompliant retailers are warned about youth access laws)

Retailers who pass inspections are given a letter of appreciation. Retailers who fail receive a letter of noncompliance which explains the laws and consequences.

- Community education regarding youth access laws

- Media use to publicize compliance inspection results

A public notice is created and disseminated providing the public with the inspection results. Local communities also conduct media efforts such as taking out full-page newspaper ads each quarter and publishing all businesses inspected by who passed and who failed.

- Community mobilization to increase support for retailer compliance with youth access laws

Community mobilization is generally supported by local tobacco programs funded by the Center for Tobacco Prevention and Control Policy only if local ordinance mandates compliance checks.

- Other activities (*Please list.*) \_\_\_\_\_

f.

## SYNAR SURVEY METHODS AND RESULTS

The following questions pertain to the survey methodology and results of the Synar survey used by the state to meet the requirements of the Synar Regulation in FFY 2015 (see 42 U.S.C. 300x-26 and 45 C.F.R. 96.130).

**6. Has the sampling methodology changed from the previous year?**

Yes  No

*The state is required to have an approved up-to-date description of the Synar sampling methodology on file with CSAP. Please submit a copy of your Synar Survey Sampling Methodology (Appendix B). If the sampling methodology changed from the previous reporting year, these changes must be reflected in the methodology submitted.*

**a. Describe how and when was this change communicated to SAMHSA**

**7. Please answer the following questions regarding the state’s annual random, unannounced inspections of tobacco outlets (see 45 C.F.R. 96.130(d)(2)).**

**a. Did the state use the optional Synar Survey Estimation System (SSES) to analyze the Synar survey data?**

Yes  No

*If Yes, attach SSES summary tables 1, 2, 3, and 4 to the hard copy of the ASR and upload a copy of SSES tables 1–5 (in Excel) to WebBGAS. Then go to Question 8. If No, continue to Question 7b.*

**b. Report the weighted and unweighted Retailer Violation Rate (RVR) estimates, the standard error, accuracy rate (number of eligible outlets divided by the total number of sampled outlets), and completion rate (number of eligible outlets inspected divided by the total number of eligible outlets).**

**Unweighted RVR** \_\_\_\_\_

**Weighted RVR** \_\_\_\_\_

**Standard error (s.e.) of the (weighted) RVR** \_\_\_\_\_

**Fill in the blanks to calculate the right limit of the right-sided 95% confidence interval.**

**RVR Estimate**      +      (1.645      ×      )      =  
 plus      (1.645      times      Standard Error )      equals      **Right Limit**

**Accuracy rate** \_\_\_\_\_

**Completion rate** \_\_\_\_\_

c. **Fill out Form 1 in Appendix A (Forms 1–5).** *(Required regardless of the sample design.)*

d. **How were the (weighted) RVR estimate and its standard error obtained?**  
*(Check the one that applies.)*

- Form 2 (Optional) in Appendix A (Forms 1–5) *(Attach completed Form 2.)*  
 Other *(Please specify. Provide formulas and calculations or attach and explain the program code and output with description of all variable names.)*

e. **If stratification was used, did any strata in the sample contain only one outlet or cluster this year?**

- Yes  No  No stratification

*If Yes, explain how this situation was dealt with in variance estimation.*

f. **Was a cluster sample design used?**

- Yes  No

*If Yes, fill out and attach Form 3 in Appendix A (Forms 1–5), and answer the following question.*

*If No, go to Question 7g.*

**Were any certainty primary sampling units selected this year?**

- Yes  No

*If Yes, explain how the certainty clusters were dealt with in variance estimation.*

g. **Report the following outlet sample sizes for the Synar survey.**

	Sample Size
<b>Effective sample size</b> (sample size needed to meet the SAMHSA precision requirement assuming simple random sampling)	
<b>Target sample size</b> (the product of the effective sample size and the design effect)	
<b>Original sample size</b> (inflated sample size of the target sample to counter the sample attrition due to ineligibility and noncompletion)	
<b>Eligible sample size</b> (number of outlets found to be eligible in the sample)	
<b>Final sample size</b> (number of eligible outlets in the sample for which an inspection was completed)	

h. **Fill out Form 4 in Appendix A (Forms 1–5).**

**8. Did the state's Synar survey use a list frame?**

Yes  No

*If Yes, answer the following questions about its coverage.*

**a. The calendar year of the latest frame coverage study: 2013**

**b. Percent coverage from the latest frame coverage study: 96.0%**

**c. Was a new study conducted in this reporting period?**

Yes  No

*If Yes, please complete Appendix D (List Sampling Frame Coverage Study) and submit it with the Annual Synar Report.*

**d. The calendar year of the next coverage study planned: 2018**

**9. Has the Synar survey inspection protocol changed from the previous year?**

Yes  No

*The state is required to have an approved up-to-date description of the Synar inspection protocol on file with CSAP. Please submit a copy of your Synar Survey Inspection Protocol (Appendix C). If the inspection protocol changed from the previous year, these changes must be reflected in the protocol submitted.*

**a. Describe how and when was this change communicated to SAMHSA**

**b. Provide the inspection period: From 07/01/16 to 9/30/16**  
MM/DD/YY MM/DD/YY

**c. Provide the number of youth inspectors used in the current inspection year:**

6 (3 male and 3 female)

NOTE: If the state uses SSES, please ensure that the number reported in 9b matches that reported in SSES Table 4, or explain any difference.

**d. Fill out and attach Form 5 in Appendix A (Forms 1–5). (Not required if the state used SSES to analyze the Synar survey data.)**

**SECTION II: FFY 2017 (Intended Use):**

Public law 42 U.S.C. 300x-26 of the Public Health Service Act and 45 C.F.R. 96.130 (e) (4, 5) require that the states provide information on future plans to ensure compliance with the Synar requirements to reduce youth tobacco access.

**1. In the upcoming year, does the state anticipate any changes in:**

- Synar sampling methodology  Yes  No  
Synar inspection protocol  Yes  No

*If changes are made in either the Synar sampling methodology or the Synar inspection protocol, the state is required to obtain approval from CSAP prior to implementation of the change and file an updated Synar Survey Sampling Methodology (Appendix B) or an updated Synar Survey Inspection Protocol (Appendix C), as appropriate.*

**2. Please describe the state’s plans to maintain and/or reduce the target rate for Synar inspections to be completed in FFY 2017. Include a brief description of plans for law enforcement efforts to enforce youth tobacco access laws, activities that support law enforcement efforts to enforce youth tobacco access laws, and any anticipated changes in youth tobacco access legislation or regulation in the state.**

The ND Department of Human Services, Behavioral Health Division will be developing a Merchant Education program in collaboration with Department of Health and the Center for Tobacco Prevention and Control Policy. Once complete, information will be disseminated to all retailers and educational classes will be offered. This will take place in addition to the already occurring Tobacco Retailer Site Visits. These site visits are an in-person visit with tobacco retailers in counties that show higher than average Synar and FDA compliance failure rates. During the visit, tobacco access laws are discussed and the importance of compliance with these laws is stressed with the clerks, managers, and owners.

The Division is partnering with the Center for Tobacco Prevention and Control Policy to enhance enforcement efforts and conduct statewide tobacco compliance checks through local law enforcement agencies and Local Public Health Units.

The ND Department of Health will continue tobacco prevention and education efforts. Community education, media use, and community mobilization will continue. The Division will continue issuing a public notice and announcing the results of the most recent Synar Survey.

The Department of Health’s Tobacco Prevention and Control Program and the Center cooperate on tobacco prevention and control efforts within North Dakota.

Many community coalitions remain active in promoting stricter ordinances and laws and some will continue to conduct compliance checks that are tied to enforcement. These efforts have raised, and will continue to raise, awareness of youth access to tobacco.

**3. Describe any challenges the state faces in complying with the Synar regulation. (Check all that apply and describe each challenge in the text box below it.)**

- Limited resources for law enforcement of youth access laws

Limited funding is available to support officers in enforcement of youth access laws. Also, limited workforce within law enforcement agencies, especially within the vastly rural parts of the state, makes it difficult commit to regular enforcement activities for youth access laws.

- Limited resources for activities to support enforcement and compliance with youth tobacco access laws

Limited funding is available to support enforcement of youth tobacco access laws, which is a major barrier in getting buy-in from law enforcement to put extra resources towards tobacco enforcement efforts.

- Limitations in the state youth tobacco access laws

Penalties for minors possessing or purchasing tobacco is minimal and seldom enforced. A minor who possesses or purchases tobacco is an infraction with a \$25 fee associated with it.

- Limited public support for enforcement of youth tobacco access laws

- Limitations on completeness/accuracy of list of tobacco outlets

- Limited expertise in survey methodology

- Laws/regulations limiting the use of minors in tobacco inspections

- Difficulties recruiting youth inspectors

- Issues regarding the balance of inspections conducted by youth inspectors age 15 and under

- Issues regarding the balance of inspections conducted by one gender of youth inspectors

- Geographic, demographic, and logistical considerations in conducting inspections

North Dakota has 36 of 53 counties that are "frontier" (fewer than 6 persons per square mile). Distance, size of communities, and population dynamics affect many aspects of the issues related to decreasing use of tobacco by youth. Rural

communities are losing young adults to outmigration. The youth/aging ratio decreases as older persons remain in their communities and as other older persons return to their roots in North Dakota to live out their retirement. Forty-eight counties have experienced net declines in population over the last two decades. Having an increasing aging population affects distribution of resources as aging adults require more and more, leaving fewer resources for youth. Logistically, youth inspectors and adult escorts must plan to conduct Synar compliance checks over a number of days and travel hundreds of miles by car in order to reach the statewide sample of outlets. Youth inspectors from different areas of the state are employed in order to reduce the number of outlets inspected and miles traveled by each youth.

- Cultural factors (e.g., language barriers, young people purchasing for their elders)

- Issues regarding sources of tobacco under tribal jurisdiction

Tribes are sovereign Nations; therefore, the State is unable to conduct compliance checks on the reservations without permission from tribal authorities. The Department of Health has been working with the tribes in tobacco prevention and control issues and has been successful in hiring coordinators in each tribal area. In addition, efforts have been made to create a compact with tribal authorities to tax tobacco products. At this time, one tribe has made a compact with the state. The Department of Health will continue to work with North Dakota tribes to further these goals. The Department of Human Services, too, will continue to build relationships with the tribes of North Dakota.

- Other challenges (*Please list.*)

## APPENDIX A: FORMS 1–5

### FORM 1 (Required for all states not using the Synar Survey Estimation System (SSES) to analyze the Synar Survey data)

Complete Form 1 to report sampling frame and sample information and to calculate the unweighted retailer violation rate (RVR) using results from the current year’s Synar survey inspections.

**Instructions for Completing Form 1:** In the top right-hand corner of the form, provide the state name and reporting federal fiscal year (FFY 2017). Provide the remaining information by stratum if stratification was used. Make copies of the form if additional rows are needed to list all the strata.

Column 1: *If stratification was used:*

1(a) Sequentially number each row.

1(b) Write in the name of each stratum. All strata in the state must be listed.

*If no stratification was used:*

1(a) Leave blank.

1(b) Write “state” in the first row (indicates that the whole state is a single stratum).

*Note for unstratified samples: For Columns 2–5, wherever the instruction refers to “each stratum,” report the specified information for the state as a whole.*

Column 2: 2(a) Report the number of over-the-counter (OTC) outlets in the sampling frame in each stratum.

2(b) Report the number of vending machine (VM) outlets in the sampling frame in each stratum.

2(c) Report the combined total of OTC and VM outlets in the sampling frame in each stratum.

Column 3: 3(a) Report the estimated number of eligible OTC outlets in the OTC outlet population in each stratum.

3(b) Report the estimated number of eligible VM outlets in the VM outlet population in each stratum.

3(c) Report the combined total estimated number of eligible OTC and VM outlets in the total outlet population in each stratum.

*The estimates for Column 3 can be obtained from the Synar survey sample as the weighted sum of eligible outlets by outlet type.*

Column 4: 4(a) Report the number of eligible OTC outlets for which an inspection was completed, for each stratum.

4(b) Report the numbers of eligible VM outlets for which an inspection was completed, for each stratum.

4(c) Report the combined total of eligible OTC and VM outlets for which an inspection was completed, for each stratum.

Column 5: 5(a) Report the number of OTC outlets found in violation of the law as a result of completed inspections, for each stratum.

5(b) Report the number of VM outlets found in violation of the law as a result of completed inspections, for each stratum.

5(c) Report the combined total of OTC and VM outlets found in violation of the law as a result of completed inspections, for each stratum.

Totals: For each subcolumn (a–c) in Columns 2–5, provide totals for the state as a whole in the last row of the table. These numbers will be the sum of the numbers in each row for the respective column.



## **FORM 2 (Optional)**

### **Appropriate for stratified simple or systematic random sampling designs.**

Complete Form 2 to calculate the weighted RVR. This table (in Excel form) is designed to calculate the weighted RVR for stratified simple or systematic random sampling designs, accounting for ineligible outlets and noncomplete inspections encountered during the annual Synar survey.

**Instructions for Completing Form 2:** In the top right-hand corner of the form, provide the state name and reporting federal fiscal year (FFY 2017).

- Column 1: Write in the name of each stratum into which the sample was divided. These should match the strata reported in Column 1(b) of Form 1.
- Column 2: Report the number of outlets in the sampling frame in each stratum. These numbers should match the numbers reported for the respective strata in Column 2(c) of Form 1.
- Column 3: Report the original sample size (the number of outlets originally selected, *including* substitutes or replacements) for each stratum.
- Column 4: Report the number of sample outlets in each stratum that were found to be eligible during the inspections. Note that this number must be less than or equal to the number reported in Column 3 for the respective strata.
- Column 5: Report the number of eligible outlets in each stratum for which an inspection was completed. Note that this number must be less than or equal to the number reported in Column 4. These numbers should match the numbers reported in Column 4(c) of Form 1 for the respective strata.
- Column 6: Report the number of eligible outlets inspected in each stratum that were found in violation. These numbers should match the numbers reported in Column 5(c) of Form 1 for the stratum.
- Column 7: Form 2 (in Excel form) will automatically calculate the stratum RVR for each stratum in this column. This is calculated by dividing the number of inspected eligible outlets found in violation (Column 6) by the number of inspected eligible outlets (Column 5). The state unweighted RVR will be shown in the Total row of Column 7.
- Column 8: Form 2 (in Excel form) will automatically calculate the estimated number of eligible outlets in the population for each stratum. This calculation is made by multiplying the number of outlets in the sampling frame (Column 2) times the number of eligible outlets (Column 4) divided by the original sample size (Column 3). Note that these numbers will be less than or equal to the numbers in Column 2.
- Column 9: Form 2 (in Excel form) will automatically calculate the relative stratum weight by dividing the estimated number of eligible outlets in the population for each stratum in Column 8 by the Total of the values in Column 8.
- Column 10: Form 2 (in Excel form) will automatically calculate each stratum's contribution to the state weighted RVR by multiplying the stratum RVR (Column 7) by the relative stratum weight (Column 9). The weighted RVR for the state will be shown in the Total row of Column 10.
- Column 11: Form 2 (in Excel form) automatically calculates the standard error of each stratum's RVR (Column 7). The standard error for the state weighted RVR will be shown in the Total row of Column 11.
- TOTAL:** For Columns 2–6, Form 2 (in Excel form) provides totals for the state as a whole in the last row of the table. For Columns 7–11, it calculates the respective statistic for the state as a whole.

**FORM 2 (Optional) Appropriate for stratified simple or systematic random sampling designs.**

Calculation of Weighted Retailer Violation Rate										
										State: _____
										FFY: 2017
(1) Stratum Name	(2) N Number of Outlets in Sampling Frame	(3) n Original Sample Size	(4) n1 Number of Sample Outlets Found Eligible	(5) n2 Number of Outlets Inspected	(6) x Number of Outlets Found in Violation	(7) p=x/n2 Stratum Retailer Violation Rate	(8) N'=N(n1/n) Estimated Number of Eligible Outlets in Population	(9) w=N'/Total Column 8 Relative Stratum Weight	(10) pw Stratum Contribution to State Weighted RVR	(11) s.e. Standard Error of Stratum RVR
<b>Total</b>										

- N - number of outlets in sampling frame
- n - original sample size (number of outlets in the original sample)
- n1 - number of sample outlets that were found to be eligible
- n2 - number of eligible outlets that were inspected
- x - number of inspected outlets that were found in violation
- p - stratum retailer violation rate (p=x/n2)
- N' - estimated number of eligible outlets in population (N'=N\*n1/n)
- w - relative stratum weight (w=N'/Total Column 8)
- pw - stratum contribution to the weighted RVR
- s.e. - standard error of the stratum RVR

**FORM 3 (Required when a cluster design is used for all states not using the Synar Survey Estimation System [SSES] to analyze the Synar survey data.)**

Complete Form 3 to report information about primary sampling units when a cluster design was used for the Synar survey.

**Instructions for Completing Form 3:** In the top right-hand corner of the form, provide the state name and reporting federal fiscal year (FFY 2017).

Provide information by stratum if stratification was used. Make copies of the form if additional rows are needed to list all the strata.

Column 1: Sequentially number each row.

Column 2: *If stratification was used:* Write in the name of stratum. All strata in the state must be listed.

*If no stratification was used:* Write “state” in the first row to indicate that the whole state constitutes a single stratum.

Column 3: Report the number of primary sampling units (PSUs) (i.e., first-stage clusters) created for each stratum.

Column 4: Report the number of PSUs selected in the original sample for each stratum.

Column 5: Report the number of PSUs in the final sample for each stratum.

TOTALS: For Columns 3–5, provide totals for the state as a whole in the last row of the table.

<b>Summary of Clusters Created and Sampled</b>				
<b>State:</b> _____				
<b>FFY:</b> 2017 _____				
(1) Row #	(2) Stratum Name	(3) Number of PSUs Created	(4) Number of PSUs Selected	(5) Number of PSUs in the Final Sample
<b>Total</b>				

**FORM 4 (Required for all states not using the Synar Survey Estimation System [SSES] to analyze the Synar Survey data)**

Complete Form 4 to provide detailed tallies of ineligible sample outlets by reasons for ineligibility and detailed tallies of eligible sample outlets with noncomplete inspections by reasons for noncompletion.

**Instructions for Completing Form 4:** In the top right-hand corner of the form, provide the state name and reporting federal fiscal year (FFY 2017).

Column 1(a): Enter the number of sample outlets found ineligible for inspection by reason for ineligibility. Provide the total number of ineligible outlets in the row marked "Total."

Column 2(a): Enter the number of eligible sample outlets with noncomplete inspections by reason for noncompletion. Provide the total number of eligible outlets with noncomplete inspections in the row marked "Total."

<b>Inspection Tallies by Reason of Ineligibility or Noncompletion</b>			
		<b>State:</b> _____	
		<b>FFY:</b> 2017	
<b>(1) INELIGIBLE</b>		<b>(2) ELIGIBLE</b>	
<b>Reason for Ineligibility</b>	<b>(a) Counts</b>	<b>Reason for Noncompletion</b>	<b>(a) Counts</b>
Out of business		In operation but closed at time of visit	
Does not sell tobacco products		Unsafe to access	
Inaccessible by youth		Presence of police	
Private club or private residence		Youth inspector knows salesperson	
Temporary closure		Moved to new location	
Unlocatable		Drive-thru only/youth inspector has no driver's license	
Wholesale only/Carton sale only		Tobacco out of stock	
Vending machine broken		Ran out of time	
Duplicate		Other noncompletion reason(s) ( <i>Describe.</i> )	
Other ineligibility reason(s) ( <i>Describe.</i> )			
<b>Total</b>		<b>Total</b>	

**FORM 5 (Required for all states not using the Synar Survey Estimation System [SSES] to analyze the Synar survey data)**

Complete Form 5 to show the distribution of outlet inspection results by age and gender of the youth inspectors.

**Instructions for Completing Form 5:** In the top right-hand corner of the form, provide the state name and reporting federal fiscal year (FFY 2017).

Column 1: Enter the number of attempted buys by youth inspector age and gender.

Column 2: Enter the number of successful buys by youth inspector age and gender.

If the inspectors are age eligible but the gender of the inspector is unknown, include those inspections in the “Other” row. Calculate subtotals for males and females in rows marked “Male Subtotal” and “Female Subtotal.” Sum subtotals for Male, Female, and Other and record in the bottom row marked “Total.” Verify that the total of attempted buys and successful buys equals the total for Column 4(c) and Column 5(c), respectively, on Form 1. If the totals do not match, please explain any discrepancies.

<b>Synar Survey Inspector Characteristics</b>		
		<b>State:</b> <u>North Dakota</u>
		<b>FFY:</b> <u>2017</u>
	(1) Attempted Buys	(2) Successful Buys
<b>Male</b>		
15 years		
16 years		
17 years		
18 years		
<b>Male Subtotal</b>		
<b>Female</b>		
15 years		
16 years		
17 years		
18 years		
<b>Female Subtotal</b>		
<b>Other</b>		
<b>Total</b>		

## **APPENDIXES B & C: FORMS**

### Instructions

Appendix B (Sampling Design) and Appendix C (Inspection Protocol) are to reflect the state's CSAP-approved sampling design and inspection protocol. These appendixes, therefore, should generally describe the design and protocol and, with the exception of Question #10 of Appendix B, are not to be modified with year-specific information. Please note that any changes to either appendix must receive CSAP's advance, written approval. To facilitate the state's completion of this section, simply cut and paste the previously approved sampling design (Appendix B) and inspection protocol (Appendix C).

## APPENDIX B: SYNAR SURVEY SAMPLING METHODOLOGY

State: North Dakota  
 FFY: 2017

**1. What type of sampling frame is used?**

- List frame (*Go to Question 2.*)
- Area frame (*Go to Question 3.*)
- List-assisted area frame (*Go to Question 2.*)

**2. List all sources of the list frame. Indicate the type of source from the list below. Provide a brief description of the frame source. Explain how the lists are updated (method), including how new outlets are identified and added to the frame. In addition, explain how often the lists are updated (cycle). (*After completing this question, go to Question 4.*)**

*Use the corresponding number to indicate Type of Source in the table below.*

- 1 – Statewide commercial business list
- 2 – Local commercial business list
- 3 – Statewide tobacco license/permit list
- 4 – Statewide retail license/permit list
- 5 – Statewide liquor license/permit list
- 6 – Other

Name of Frame Source	Type of Source	Description	Updating Method and Cycle
North Dakota Office of Attorney General’s list of Retail Tobacco Products Licenses	3	State requires licensing of all tobacco retailers, with annual renewal. Chains are required to have separate licenses for each physical location. Bars and liquor stores were deleted from frame because of ND’s legal restriction for minors entering adult only establishments for conducting research. Also deleted from frame were private membership clubs, outlets on Indian reservations and military bases.	List is updated continually as new businesses apply, and renewal of licensing takes place on July 1 of each year. Duplicates were eliminated.

**3. If an area frame is used, describe how area sampling units are defined and formed.**

**a. Is any area left out in the formation of the area frame?**

- Yes    No

*If Yes, what percentage of the state’s population is not covered by the area frame?*

\_\_\_\_\_ %

**4. Federal regulation requires that vending machines be inspected as part of the Synar survey. Are vending machines included in the Synar survey?**

Yes  No

If No, please indicate the reason(s) they are not included in the Synar survey. Please check all that apply.

- State law bans vending machines.
- State law bans vending machines from locations accessible to youth.
- State has a contract with the FDA and is actively enforcing the vending machine requirements of the Family Smoking Prevention and Tobacco Control Act.
- Other (Please describe.) \_\_\_\_\_

If Yes, please indicate how likely it is that vending machines will be sampled.

- Vending machines are sampled separately to ensure vending machines are included in the sample
- Vending machines are sampled together with over the counter outlets, so it is possible that no vending machines were sampled, however they are included in the sampling frame and have a non-zero probability of selection
- Other reasons (Please describe.) \_\_\_\_\_

5. Which category below best describes the sample design? (Check only one.)

Census (STOP HERE: Appendix B is complete.)

**Unstratified statewide sample:**

- Simple random sample (Go to Question 9.)
- Systematic random sample (Go to Question 6.)
- Single-stage cluster sample (Go to Question 8.)
- Multistage cluster sample (Go to Question 8.)

**Stratified sample:**

- Simple random sample (Go to Question 7.)
- Systematic random sample (Go to Question 6.)
- Single-stage cluster sample (Go to Question 7.)
- Multistage cluster sample (Go to Question 7.)
- Other (Please describe and go to Question 9.) \_\_\_\_\_

6. Describe the systematic sampling methods. (After completing Question 6, go to Question 7 if stratification is used. Otherwise go to Question 9.)

7. Provide the following information about stratification.

a. Provide a full description of the strata that are created.

The plan has 17 strata. Random sampling is done within each stratum.  
Twenty-seven percent of tobacco retailers accessible to youth are located on the east border counties. Seven percent of tobacco retailers accessible to youth are

located on the west border counties. Over 60 percent of tobacco retailers are located in eleven cities, each represented below in separate strata.

- 1 Cass
- 2 Grand Forks/Traill/Pembina
- 3 Burleigh
- 4 Benson/Towner/Cavalier/Pierce/Eddy/Nelson/Rolette
- 5 Dickey/Sargent/Logan/McIntosh/LaMoure
- 6 Ward
- 7 Grant/Oliver/Sheridan/Emmons/McLean
- 8 Barnes/Stutsman
- 9 Morton/Mercer
- 10 Griggs/Kidder/Wells/Steele/Foster
- 11 Burke/Divide/Montrail/McKenzie
- 12 Billings/Dunn/Golden Valley/Slope/Bowman/Adams/Hettinger
- 13 Ramsey/Walsh
- 14 Richland/Ransom
- 15 Bottineau/Renville/McHenry
- 16 Stark
- 17 Williams

The total number of outlets sampled varies from year to year, depending on number of outlets in the frame size and the prior year's RVR, for example.

**b. Is clustering used within the stratified sample?**

- Yes** (Go to Question 8.)  
 **No** (Go to Question 9.)

**8. Provide the following information about clustering.**

- a. Provide a full description of how clusters are formed.** (If multistage clusters are used, give definitions of clusters at each stage.)

- b. Specify the sampling method (simple random, systematic, or probability proportional to size sampling) for each stage of sampling and describe how the method(s) is (are) implemented.**

**9. Provide the following information about determining the Synar Sample.**

**a. Was the Synar Survey Estimation System (SSES) used to calculate the sample size?**

**Yes** (Respond to part b.)

**No** (Respond to part c and Question 10c.)

**b. SSES Sample Size Calculator used?**

**State Level** (Respond to Question 10a.)

**Stratum Level** (Respond to Question 10a and 10b.)

**c. Provide the formulas for determining the effective, target, and original outlet sample sizes.**

--

**10. Provide the following information about sample size calculations for the current FFY Synar survey.**

**a. If the state uses the sample size formulas embedded in the SSES Sample Size Calculator to calculate the state level sample size, please provide the following information:**

**Inputs for Effective Sample Size:**

RVR: 17.80%

Frame Size: 760

**Input for Target Sample Size:**

Design Effect: 0.9

**Inputs for Original Sample Size:**

Safety Margin: 30%

Accuracy (Eligibility) Rate: 89.10%

Completion Rate: 100%

**b. If the state uses the sample size formulas embedded in the SSES Sample Size Calculator to calculate the stratum level sample sizes, please provide the stratum level information:**

Stratum ID	Stratum Size	Stratum RVR	Stratum Cost	Stratum Sample Size [Proportional]
1	104			50
2	84			41
3	44			21
4	56			27
5	39			19
6	49			24
7	31			15

8	34	17
9	46	22
10	29	14
11	38	18
12	36	18
13	39	19
14	27	13
15	27	13
16	35	17
17	42	20
		368

- c. **If the state does not use the sample size formulas embedded in the SSES Sample Size Calculator, please provide all inputs required to calculate the effective, target, and original sample sizes as indicated in Question 9.**

## APPENDIX C: SYNAR SURVEY INSPECTION PROTOCOL SUMMARY

State: North Dakota  
FFY: 2017

*Note: Upload to WebBGAS a copy of the Synar inspection form under the heading “Synar Inspection Form” and a copy of the protocol used to train inspection teams on conducting and reporting the results of the Synar inspections under the heading “Synar Inspection Protocol.”*

### 1. How does the state Synar survey protocol address the following?

#### a. Consummated buy attempts?

- Required  
 Permitted under specified circumstances (Describe:      )  
 Not permitted

#### b. Youth inspectors to carry ID?

- Required  
 Permitted under specified circumstances (Describe:      )  
 Not permitted

#### c. Adult inspectors to enter the outlet?

- Required  
 Permitted under specified circumstances (Describe: Adult inspectors may enter the outlet first to check for safety issues, signs, and location of tobacco products.)  
 Not permitted

#### d. Youth inspectors to be compensated?

- Required  
 Permitted under specified circumstances (Describe:      )  
 Not permitted

### 2. Identify the agency(ies) or entity(ies) that actually conduct the random, unannounced Synar inspections of tobacco outlets. (Check all that apply.)

- Law enforcement agency(ies)  
 State or local government agency(ies) other than law enforcement  
 Private contractor(s)  
 Other

List the agency name(s): **ND Department of Human Services, Behavioral Health Division contracts with a private contractor to conduct the actual inspections.**

**DLN Consulting was awarded the bid in 2016.**

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**3. Are Synar inspections combined with law enforcement efforts (i.e., do law enforcement representatives issue warnings or citations to retailers found in violation of the law at the time of the inspection?)?**

- Always    Usually    Sometimes    Rarely    Never

**4. Describe the type of tobacco products that are requested during Synar inspections.**

**a. What type of tobacco products are requested during the inspection?**

- Cigarettes  
 Small Cigars  
 Cigarillos  
 Smokeless Tobacco  
 Electronic Cigarettes/Electronic Nicotine Delivery Systems (ENDS)  
 Other

**b. Describe the protocol for identifying what types of products and what brands of products are requested during an inspection.**

Youth inspectors request Camel or Marlboro cigarettes each time.

**5a. Describe the methods used to recruit, select, and train adult supervisors.**

The Behavioral Health Division contracts with an agency to conduct the actual inspections. The contractor divides the state into “regions,” as necessary, for surveying purposes and recruits adult supervisors from each.

Each adult supervisor must then attend a training session conducted by the contractor using protocol set forth by the State, which follows the training document developed by CSAP. The contractor must then submit proof to the State that each of the inspectors attended a training session, usually in the form of a signed sign-in sheet from the day of the training.

**5b. Describe the methods used to recruit, select, and train youth inspectors.**

The Behavioral Health Division contracts with an agency to conduct the actual inspections. The contractor divides the state into “regions,” as necessary, for surveying purposes and recruits youth inspectors from each. Attempts are made to have an even number of male and female youth inspectors.

Each youth must complete a Youth Application form, as well as consent forms signed by their parent or guardian. Each youth inspector must then attend a training session conducted by the contractor using protocol set forth by the State, which follows the training document developed by CSAP. The contractor must then submit proof to the State that each of the inspectors attended a training session, usually in the form of a signed sign-in sheet from the day of the training.

**6. Are there specific legal or procedural requirements instituted by the state to address**

**the issue of youth inspectors' immunity when conducting inspections?**

**a. Legal**

Yes  No

*(If Yes, please describe.)*

**b. Procedural**

Yes  No

*(If Yes, please describe.)*

**7. Are there specific legal or procedural requirements instituted by the state to address the issue of the safety of youth inspectors during all aspects of the Synar inspection process?**

**a. Legal**

Yes  No

*(If Yes, please describe.)*

**b. Procedural**

Yes  No

*(If Yes, please describe.)*

Adult supervisors sometimes do enter the facility prior to the youth inspector to check for safety of the location. Parents or guardians of youth inspectors must sign consent forms, including medical, and all adult supervisors must have proof of current insurance.

**8. Are there any other legal or procedural requirements the state has regarding how inspections are to be conducted (e.g., age of youth inspector, time of inspections, training that must occur)?**

**a. Legal**

Yes  No

*(If Yes, please describe.)*

**b. Procedural**

Yes  No

*(If Yes, please describe.)*

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# APPENDIX D: LIST SAMPLING FRAME COVERAGE STUDY

(LIST FRAME ONLY)

State: North Dakota  
FFY: 2017

1. Calendar year of the coverage study: \_\_\_\_\_

2. a. Unweighted percent coverage found: \_\_\_\_\_%  
b. Weighted percent coverage found: \_\_\_\_\_%  
c. Number of outlets found through canvassing: \_\_\_\_\_  
d. Number of outlets matched on the list frame: \_\_\_\_\_

3. a. Describe how areas were defined. (e.g., census tracts, counties, etc.)

b. Were any areas of the state excluded from sampling?

Yes  No

*If Yes, please explain.*

4. Please answer the following questions about the selection of canvassing areas.

a. Which category below best describes the sample design? (Check only one.)

Census (Go to Question 6.)

**Unstratified statewide sample:**

Simple random sample (Respond to Part b.)

Systematic random sample (Respond to Part b.)

Single-stage cluster sample (Respond to Parts b and d.)

Multistage cluster sample (Respond to Parts b and d.)

**Stratified sample:**

Simple random sample (Respond to Parts b and c.)

Systematic random sample (Respond to Parts b and c.)

Single-stage cluster sample (Respond to Parts b, c, and d.)

Multistage cluster sample (Respond to Parts b, c, and d.)

Other (Please describe and respond to Part b.) \_\_\_\_\_

b. Describe the sampling methods.

c. Provide a full description of the strata that were created.

d. Provide a full description of how clusters were formed.

5. Were borders of the selected areas clearly identified at the time of canvassing?

Yes  No

6. Were all sampled areas visited by canvassing teams?

Yes (*Go to Question 7.*)  No (*Respond to Parts a and b.*)

a. Was the subset of areas randomly chosen?

Yes  No

b. Describe how the subsample of visited areas was drawn. Include the number of areas sampled and the number of areas canvassed.

7. Were field observers provided with a detailed map of the canvassing areas?

Yes  No

*If No, describe the canvassing instructions given to the field observers.*

8. Were field observers instructed to find all outlets in the assigned area?

Yes  No

*If No, respond to Question 9.*

*If Yes, describe any instructions given to the field observers to ensure the entire area was canvassed, then go to Question 10.*

9. If a full canvassing was not conducted:

a. How many predetermined outlets were to be observed in each area? \_\_\_\_\_

b. What were the starting points for each area? \_\_\_\_\_

c. Were these starting points randomly chosen?

Yes  No

d. Describe the selection of the starting points.

- e. Please describe the canvassing instructions given to the field observers, including predetermined routes.

10. Describe the process field observers used to determine if an outlet sold tobacco.

11. Please provide the state's definition of "matches" or "mismatches" to the Synar sampling frame? (i.e., address, business name, business license number, etc).

12. Provide the calculation of the weighted percent coverage (if applicable).

**CHAPTER 12.1-31  
MISCELLANEOUS OFFENSES**

**Please scroll to begin reading  
12.1-31-03**

**12.1-31-03. Sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use by minors prohibited.**

1. a. It is an infraction for any person to sell or furnish to a minor, or procure for a minor, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. As used in this subdivision, "sell" includes dispensing from a vending machine under the control of the actor.
- b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a self-service display. This subdivision does not apply to a:
  - (1) Vending machine or other coin-operated machine that is permitted under section 12.1-31-03.1; or
  - (2) Self-service display that is located in a tobacco specialty store.
2. It is a noncriminal offense for a minor to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under eighteen years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking

- devices, or alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.
3. It is a noncriminal offense for a minor to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually the minor's own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products.
  4. A city or county may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use of tobacco, electronic smoking devices, or alternative nicotine products by minors which includes prohibitions in addition to those in subsection 1, 2, or 3. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 3 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for a minor fourteen years of age or older who has been charged with an offense under subsection 2 or 3. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
  5. A minor fourteen years of age or older found to have violated subsection 2 or 3 must pay a fee of twenty-five dollars.
    - a. Any individual who has been cited for a violation of subsection 2 or 3 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
    - b. If an individual cited for a violation of subsection 2 or 3 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
    - c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
  6. The prosecution must prove the commission of a cited violation under subsection 2 or 3 by a preponderance of the evidence.
  7. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.
  8. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.
  9. As used in this section:
    - a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].

- b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].
- c. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.
- d. "Tobacco specialty store" means a retail store that:
  - (1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and
  - (2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.
- e. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

**12.1-31-03.1. Vending machines prohibited - Penalty.**

- 1. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a vending machine, except as provided in subsection 2.
- 2. Subsection 1 does not apply to:
  - a. A vending machine that is located in an area in which minors are not permitted access; or
  - b. A vending machine that dispenses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through the operation of a device that requires a salesperson to control the dispensation of such product.
- 3. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through any vending machine, if those products are placed together with any nontobacco product, other than matches, in the vending machine.
- 4. As used in this section, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

**12.1-31-03.2. (Contingent expiration date - See note) Child-resistant packaging for liquid nicotine containers.**

- 1. Any nicotine liquid container that is sold at retail in this state must satisfy the child-resistant effectiveness standards set forth in title 16, CFR, part 1700, section 15(b)(1), when tested in accordance with the method described in title 16, CFR, part 1700, section 20.
- 2. As used in this section, "nicotine liquid container" means a bottle or other container of a liquid or other substance containing nicotine in which the liquid or substance is sold,

marketed, or intended for use in an electronic smoking device. The term does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in an electronic smoking device, provided that the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

3. Any person that engages in retail sales of liquid nicotine containers in violation of this section is subject to a civil penalty of not more than five hundred dollars for each separate violation of this section, to be recovered by any enforcement authority designated by the city or political subdivision in which the violation occurred.