

## FFY 2010 ANNUAL SYNAR REPORTS

# YOUTH TOBACCO SALES

### IN BRIEF

- The national weighted average rate of tobacco sales to minors (retailer violation rate [RVR]) as reported by States and the District of Columbia in their Federal fiscal year (FFY) 2010 Annual Synar Reports is 9.3 percent. This is the lowest RVR in the history of the Synar program and comes after a year in which the RVR increased from the previous year.
- FFY 2010 is the fifth year in Synar history for which the Secretary of the Department of Health and Human Services 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, 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).

### 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, the Substance Abuse and Mental Health Services Administration (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 a retailer violation rate (RVR) of 20 percent or less by Federal fiscal year (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 by conducting 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.

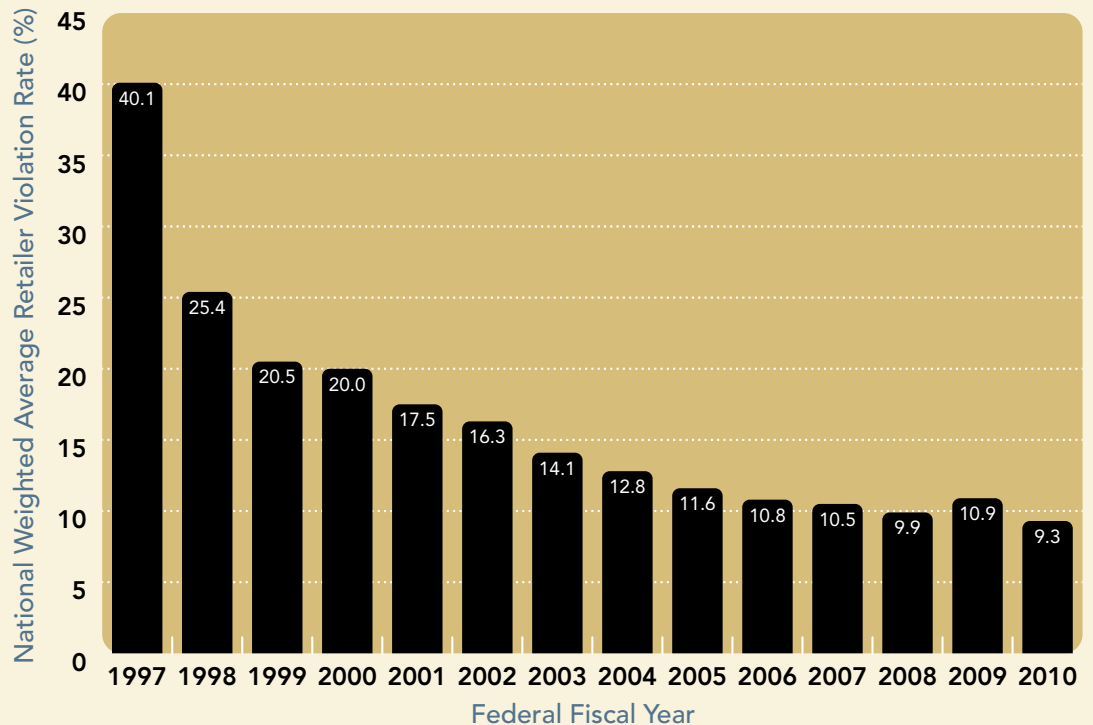
## MAJOR FINDINGS

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 2010 include:

- The national weighted average rate of tobacco sales to minors (RVR) as reported by States and the District of Columbia in their FFY 2010 Annual Synar Reports is 9.3 percent. This is the lowest RVR in the history of the Synar program and comes after a year in which the RVR increased from the previous year.
- FFY 2010 is the fifth year in Synar history for which the Secretary of DHHS found no State out of compliance with the Synar Regulation.
- In FFY 2010, 47 of the 50 States and the District of Columbia achieved an RVR below 15.0 percent (up from 43 States in FFY 2009), and 34 of the 50 achieved an RVR below 10.0 percent (up from 22 States in FFY 2009).

Data reported by the States in the 12-year period from FFY 1997 through FFY 2008 indicate a clear downward

Downward Trend in Retailer Violation Rates Observed in FFY 2010 for the 50 States and the District of Columbia



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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. This trend reversed in FFY 2010, when the average weighted RVR decreased to its lowest point ever.

While States continue to face budget cuts and associated reductions in their youth tobacco access enforcement programs, the enactment of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) likely had a positive impact on the average RVR in FFY 2010. Specifically, on June 22, 2009, President Obama signed the Tobacco Control Act into law. The Tobacco Control Act granted the Food and Drug Administration (FDA) authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. Section 102 of the Tobacco Control Act required FDA to reissue, with certain modifications, its 1996 final regulation restricting the sale and distribution of cigarettes and smokeless tobacco products

(August 28, 1996, 61 Fed. Reg. 44396 at 44615 to 44618). The rule contains provisions designed to limit young people's access to tobacco products, as well as restrictions on marketing to curb the appeal of these products to minors. Because the Tobacco Control Act was signed into law around the time many States were conducting Synar inspections for the FFY 2010 reporting year, publicity about the new Federal youth access provisions may have led to a reduction in the number of tobacco retailers who sold tobacco illegally to youth.

SAMHSA is hopeful that provisions of the Tobacco Control Act will continue

to help reduce youth access to tobacco products. Specifically, Congress recognized the importance of funding rigorous enforcement of youth tobacco access laws by including a mechanism in the Tobacco Control Act that allows FDA to contract with States and U.S. Jurisdictions where feasible to conduct compliance check inspections of retailers to help limit the access of tobacco to youth. FDA entered into contracts with 15 States in 2010 and expects to contract with additional States and U.S. Jurisdictions in 2011 and 2012. SAMHSA and FDA are collaborating to ensure that their separate programs work together to help reach the shared goal of reducing youth access to, and use of, tobacco products. Furthermore, coordination of State and Jurisdictional Synar efforts with the compliance and enforcement contracts funded by the FDA is one of the action steps tied to SAMHSA's objective to eliminate tobacco use among youth and reduce tobacco use among persons with mental and substance use disorders. This objective is part of SAMHSA's first strategic initiative—the prevention of substance abuse and mental illness.

## Comparison of Reported Retailer Violation Rates for FFYs 1997–2010

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%
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%
2010	16.8%	2.2%	9.3%



# ALL 50 STATES AND THE DISTRICT OF COLUMBIA ACHIEVED THE OVERALL SYNAR GOAL

Between FFY 1997 and FFY 2002, all States and U.S. Jurisdictions were legislatively required to negotiate with SAMHSA individual RVR targets 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 ( $\pm 3$  percent margin of error allowed for States that conduct a sample). FFY 2006 was the first year that all States and the District of Columbia were found in compliance with all Synar regulatory requirements, and this trend has continued in FFY 2010.

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, 2008, to September 30, 2009. These rates represent the percentage of inspected retail outlets that sold tobacco

## Synar Retailer Violation Rates for FFY 2010

State Name	Target	Reported
Alabama	20.0%	10.9%
Alaska	20.0%	9.0%
Arizona	20.0%	4.8%
Arkansas	20.0%	4.5%
California	20.0%	8.6%
Colorado	20.0%	7.9%
Connecticut	20.0%	9.7%
Delaware	20.0%	2.2%
District of Columbia	20.0%	12.5%
Florida	20.0%	10.2%
Georgia	20.0%	9.5%
Hawaii	20.0%	6.2%
Idaho	20.0%	15.3%
Illinois	20.0%	6.0%
Indiana	20.0%	9.5%
Iowa	20.0%	8.2%
Kansas	20.0%	8.3%
Kentucky	20.0%	3.3%
Louisiana	20.0%	4.3%
Maine	20.0%	4.6%
Maryland	20.0%	16.8%
Massachusetts	20.0%	13.7%
Michigan	20.0%	14.1%
Minnesota	20.0%	9.0%
Mississippi	20.0%	3.8%
Missouri	20.0%	7.5%

State Name	Target	Reported
Montana	20.0%	3.6%
Nebraska	20.0%	13.5%
Nevada	20.0%	6.3%
New Hampshire	20.0%	15.0%
New Jersey	20.0%	4.6%
New Mexico	20.0%	7.4%
New York	20.0%	6.1%
North Carolina	20.0%	14.8%
North Dakota	20.0%	5.9%
Ohio	20.0%	13.5%
Oklahoma	20.0%	9.4%
Oregon	20.0%	16.7%
Pennsylvania	20.0%	5.5%
Rhode Island	20.0%	9.3%
South Carolina	20.0%	10.8%
South Dakota	20.0%	7.1%
Tennessee	20.0%	14.9%
Texas	20.0%	11.3%
Utah	20.0%	7.0%
Vermont	20.0%	9.5%
Virginia	20.0%	13.5%
Washington	20.0%	8.9%
West Virginia	20.0%	11.4%
Wisconsin	20.0%	5.7%
Wyoming	20.0%	9.6%

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.

## THE U.S. JURISDICTIONS

Section 212 of the Consolidated Appropriations Act of 2010 H.R. 3288 (P.L. 111-117) 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: American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Republic of the Marshall Islands, Republic of Palau, and U.S. Virgin Islands. 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 2010.

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. Six Jurisdictions that receive less

than \$1 million in SAPT Block Grant funds have made significant progress and met the FFY 2010 Synar regulatory requirements, despite the challenges posed by their special circumstances. These Jurisdictions are American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Republic of Palau, and U.S. Virgin Islands.

## COMPREHENSIVE STRATEGIES ARE MOST EFFECTIVE

In its oversight of State Synar youth tobacco access control programs over the past 14 years, SAMHSA has observed that compliant States share multiple characteristics. Throughout the history of the Synar program, SAMHSA has found that States which plan youth tobacco access interventions that have multiple components, using several strategies, tend to report the lowest RVRs. Specifically, when efforts to control youth access have been multifaceted and have involved various sectors of the community, larger reductions in sales to minors have been achieved than when a single intervention was tried.

SAMHSA/CSAP strongly recommends that States employ multiple strategies in their efforts to reduce youth access to tobacco products, including:

- Actively enforcing youth access laws in a consistent manner statewide
- Providing merchant education to all retailers in a variety of formats

### Synar Retailer Violation Rates for the U.S. Jurisdictions for FFY 2010

Jurisdiction Name	Target	Reported
American Samoa	20.0%	2.3%
Commonwealth of the Northern Mariana Islands	20.0%	8.3%
Federated States of Micronesia	20.0%	8.6%
Guam	20.0%	9.0%
Puerto Rico	20.0%	6.1%
Republic of the Marshall Islands	20.0%	28.7%
Republic of Palau	20.0%	17.1%
U.S. Virgin Islands	20.0%	10.0%



- Using coalition members to conduct nonenforcement compliance checks of tobacco retailers in which compliant retailers are rewarded and non-compliant retailers are warned about the law.

## 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 14 years, all States and the District of Columbia have reached the overall Synar goal, achieving an RVR of no more than 20 percent. Most of the U.S. Jurisdictions have also reached this goal, and all Jurisdictions are continuing to develop and improve their Synar programs.

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

## REFERENCES

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