

FFY 2013 ANNUAL SYNAR REPORTS TOBACCO SALES TO YOUTH

IN BRIEF

- The national weighted average rate of tobacco sales to minors as reported by states and the District of Columbia in their FFY 2013 Annual Synar Reports is 9.6 percent. This represents an increase in the retailer violation rate (RVR) from FFY 2012, when the national rate was 9.1 percent.
- Between FFYs 2012 and 2013, the number of states reporting RVRs below 5 percent increased from nine to ten. However, the number of states reporting RVRs below 10 percent decreased from 34 to 30.
- FFY 2013 is the eighth year in Synar history in which the Secretary found no state out of compliance with the Synar requirements.

OVERVIEW OF THE PROBLEM AND THE SOLUTIONS

Tobacco use is the leading preventable cause of death and disease in the United States, with 480,000 deaths annually attributed to smoking or exposure to secondhand smoke (USDHHS, 2014). Nearly all tobacco use begins during youth and young adulthood. In fact, according to data from the Substance Abuse and Mental Health Services Administration's (SAMHSA) National Survey on Drug Use and Health, 88 percent of adults who have ever smoked daily report that they first smoked by the age of 18 (USDHHS, 2012).

For this reason, it is critically important to prevent youth from initiating tobacco use. According to the 2012 Surgeon General's report on preventing tobacco use among youth and young adults, the good news is that there are many things that can be done to prevent tobacco use by youth and young adults, including:

- Creating a world where seeing people smoke or use other tobacco products is the exception, not the norm;
- Taking steps that make it harder for youth to use tobacco, such as raising cigarette prices and enforcing laws that prohibit the sale of tobacco to children;
- Further limiting tobacco marketing that is likely to be seen by young people;
- Limiting youth exposure to smoking in movies and other media; and
- Educating young people and helping them make healthy choices (CDC 2012).

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 (HHS). 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 Block Grant (SABG) funding.

THE SYNAR REGULATION

Because it plays a lead 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 a RVR of 20 percent or less by federal fiscal year (FFY) 2003 (+/- 3 percent margin of error allowed for states that conduct a sample).
- 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.

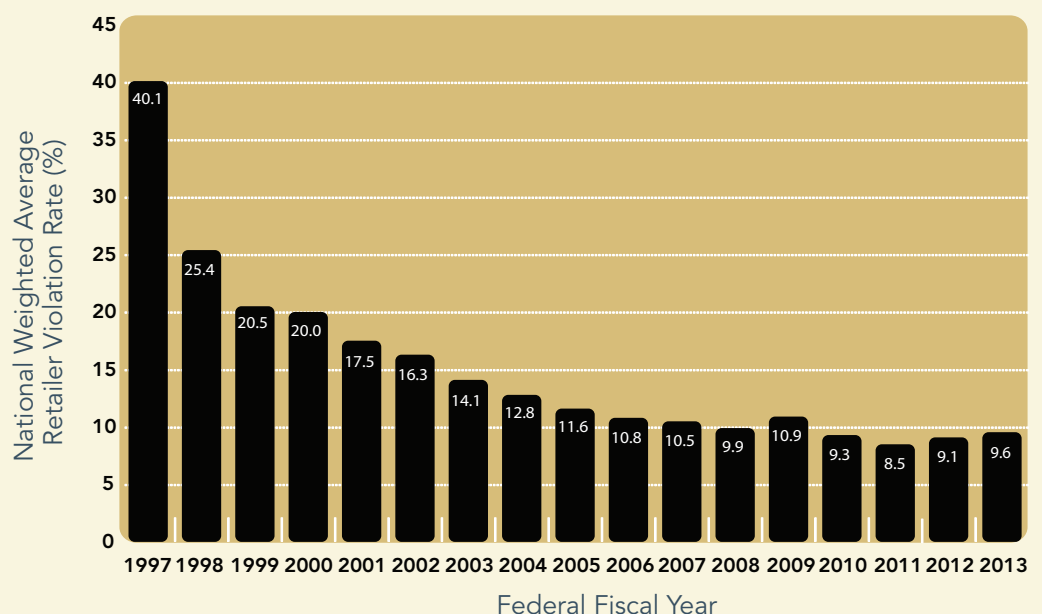
States measure their progress in reducing youth access to tobacco via annual, random, unannounced inspections (also known as the Synar survey). SAMHSA, through its Center for Substance Abuse Prevention (CSAP), Division of State Programs, annually reviews each state's Synar survey results, and provides 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 2013 include:

- The national weighted average rate of tobacco sales to minors as reported by states and the District of Columbia in their FFY 2013 Annual Synar Reports is 9.6 percent (Figure 1). This represents an increase in the RVR from FFY 2012, when the national rate was 9.1 percent.
- FFY 2013 is the eighth year in Synar history in which the Secretary found no state out of compliance with the Synar regulation.
- In FFY 2013, 47 of the 50 states and DC achieved an RVR below 15.0 percent (unchanged from 47 states in FFY 2012), and 30 of the 51 achieved an RVR below 10.0 percent (down from 34 states in FFY 2012). Additionally, 10 of the 51 achieved an RVR below 5.0 percent (up from 9 states in FFY 2012).

Figure 1. The National Weighted Average Retailer Violation Rate Since 1997



UPWARD TREND IN RETAILER VIOLATION RATES OBSERVED IN FFY 2013

Data reported by the states in the 12-year period from FFY 1997 through FFY 2008 (Table 1) indicated 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. This trend reversed in FFY 2010 and the RVR continued to decline in FFY 2011, when the average weighted RVR decreased to its lowest point ever. However, in FFY 2012, the average weighted RVR again increased from the previous year. This upward trend continued in FFY 2013.

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 receive monetary penalties, tend to have much lower RVRs than states without such rigorous enforcement programs. As states have faced budget shortfalls, some have scaled back on their enforcement programs and this may be contributing to the increase in the rate of tobacco sales to youth. Additionally, under the Synar program, SAMHSA encourages states to include in their inspections the types of tobacco products most often used by youth in their states. As states have expanded the types of tobacco products included in their Synar inspections, some states have found that retailers are sometimes more likely to sell non-cigarette tobacco products, including smokeless tobacco, to youth. This may have contributed to the increase in the tobacco sales violation rate in some states that added these other tobacco products to their

Table 1. Comparison of Reported Retailer Violation Rates for FFYs 1997–2013

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%
2010	16.8%	2.2%	9.3%
2011	19.3%	1.1%	8.5%
2012	17.9%	1.8%	9.1%
2013	22.5 %	1.0%	9.6%



Synar inspections. Finally, in 2013, the Department of Labor ruled that employing 15-year-old youth to do inspections is a violation of the Fair Labor Standards Act. Since older youth are more likely to be sold to, this may have also contributed to the increase in the average RVR.

Research suggests that for youth tobacco access efforts to demonstrate a reduction in youth tobacco use, the retailer violation rate must be below 10 percent (Jason, 1991; Forster, 1998; DiFranza, 1999). While the national weighted retailer violation rate is below this target, the number of states reporting RVRs below 10 percent has decreased, which is a concern.

ASSOCIATED REDUCTIONS IN YOUTH SMOKERS REPORTING RETAIL PURCHASES AND YOUTH SMOKING

The Synar program has also contributed to a decline in the percentage of youth smokers who report retail sources as their usual source of tobacco products, although the decline has leveled off in recent years. According to the Youth Risk Behavior Survey (YRBS), in 1995, 38.7 percent of students

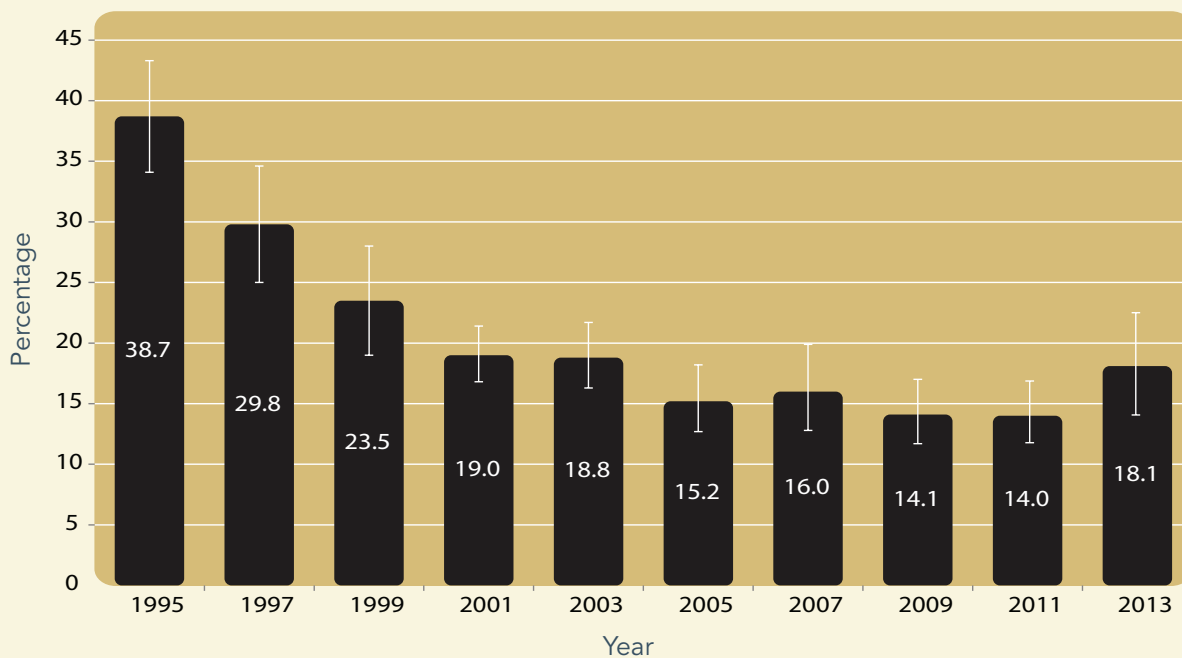
under the age of 18 who were current smokers reported that they usually got their own cigarettes by buying them in a store or gas station (Figure 2). In 2013, the rate had fallen to 18.1 percent. This represents an increase from 2011, when the rate was 14.0 percent.

Over the same time period, cigarette use among youth declined (see Figure 3 on page 6). According to YRBS, the percentage of students reporting current cigarette use dropped from 34.8 percent in 1995 to 15.7 percent in 2013. The prevalence of current cigarette use significantly decreased from 1997–2013. The 2013 rate is the lowest ever recorded since the YRBS began in 1991 (CDC, 2014).

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 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 (+/- 3 percent margin of error allowed for states that conduct a sample).

Figure 2. Current Youth Smokers Who Purchased Tobacco Products in a Store or Gas Station



FFY 2013 YOUTH TOBACCO SALES

Table 2. Synar Retailer Violation Rates (FFY 2013)

State Name	Target	Reported
Alabama	20.0%	8.2%
Alaska	20.0%	7.3%
Arizona	20.0%	5.8%
Arkansas	20.0%	3.3%
California	20.0%	8.7%
Colorado	20.0%	9.1%
Connecticut	20.0%	12.1%
Delaware	20.0%	9.5%
District of Columbia	20.0%	8.6%
Florida	20.0%	13.8%
Georgia	20.0%	10.0%
Hawaii	20.0%	4.2%
Idaho	20.0%	7.5%
Illinois	20.0%	11.4%
Indiana	20.0%	7.0%
Iowa	20.0%	7.5%
Kansas	20.0%	3.1%
Kentucky	20.0%	5.6%
Louisiana	20.0%	8.8%
Maine	20.0%	2.7%
Maryland	20.0%	16.8%
Massachusetts	20.0%	12.3%
Michigan	20.0%	10.7%
Minnesota	20.0%	1.0%
Mississippi	20.0%	3.6%
Missouri	20.0%	10.4%

State Name	Target	Reported
Montana	20.0%	3.2%
Nebraska	20.0%	14.0%
Nevada	20.0%	1.0%
New Hampshire	20.0%	11.9%
New Jersey	20.0%	7.7%
New Mexico	20.0%	7.9%
New York	20.0%	4.8%
North Carolina	20.0%	13.5%
North Dakota	20.0%	9.3%
Ohio	20.0%	16.6%
Oklahoma	20.0%	8.4%
Oregon	20.0%	22.5%
Pennsylvania	20.0%	9.5%
Rhode Island	20.0%	11.3%
South Carolina	20.0%	11.7%
South Dakota	20.0%	3.6%
Tennessee	20.0%	13.7%
Texas	20.0%	7.6%
Utah	20.0%	5.3%
Vermont	20.0%	10.2%
Virginia	20.0%	13.5%
Washington	20.0%	15.6%
West Virginia	20.0%	13.5%
Wisconsin	20.0%	5.4%
Wyoming	20.0%	14.4%

FFY 2006 was the first year that all states and DC were found in compliance with all Synar regulatory requirements, and this accomplishment has been achieved each year since, through FFY 2013 (Table 2).

The state RVRs in Table 2 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, 2011, to September 30, 2012. These rates represent the percentage of inspected retail outlets that sold tobacco products to an inspector under 18 years old. The

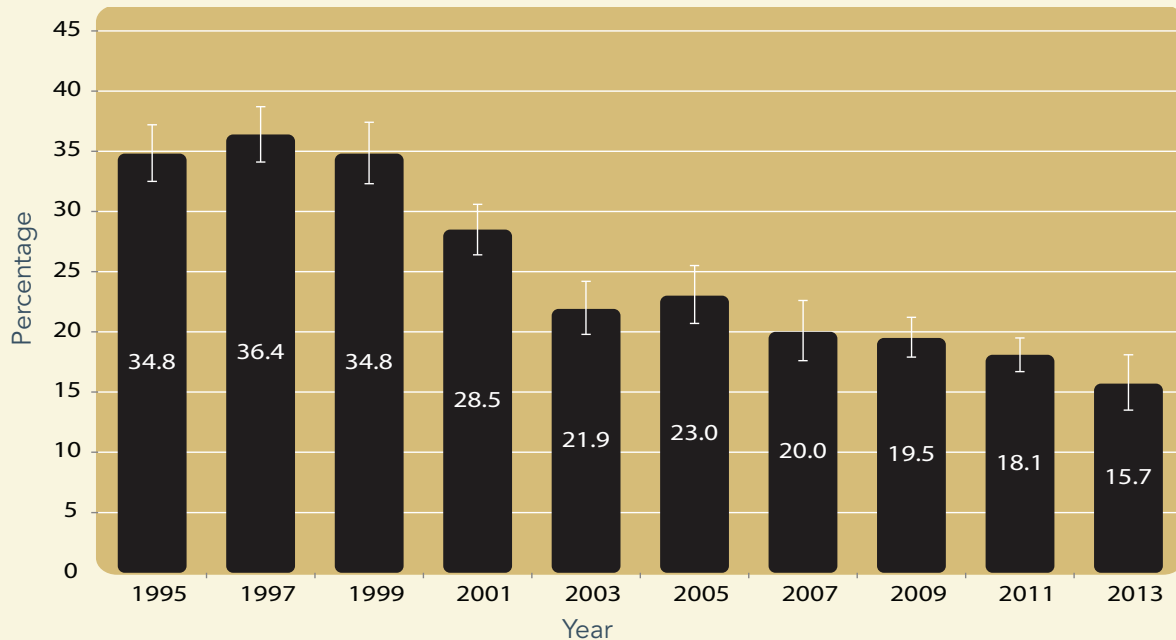
national weighted average was computed by weighting each state's reported RVR by that state's population.

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 HHS from withholding substance abuse prevention funds, pursuant to section 1926, from a U.S. jurisdiction that receives less than \$1 million in SABG funds, and that fails to meet the required 20-percent noncompliance



Figure 3. Students Reporting Current Cigarette Use



rate. This provision applies to the following U.S. jurisdictions: the U.S. 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 SABG funds in FFY 2013.

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. Despite the challenges posed by their special circumstances, five jurisdictions that receive less than \$1 million in SABG funds met the FFY 2013 Synar regulatory requirements; including both meeting an RVR of 20 percent or less and enforcing youth tobacco access laws. These jurisdictions are American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Republic of the Marshall Islands, and the U.S. Virgin Islands (see Table 3 on page 7).

COMPREHENSIVE STRATEGIES ARE MOST EFFECTIVE

In its oversight of state Synar youth tobacco access control programs over the past 17 years, SAMHSA has observed that states reporting low retailer violation rates share multiple characteristics. Throughout the history of the Synar program, SAMHSA has found that states that plan youth tobacco access interventions that have multiple components, using several strategies, tend to report the lowest retailer violation rates. 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 used.

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

- policy and regulatory approaches, including enacting and enforcing tobacco license laws;
- actively enforcing youth access laws in a consistent manner statewide;

FFY 2013 YOUTH TOBACCO SALES

Table 3. Synar Retailer Violation Rates for the U.S. Jurisdictions (FFY 2013)

Jurisdiction Name	Target	Reported
American Samoa	20.0%	0.55%
Commonwealth of the Northern Mariana Islands	20.0%	6.9%
Federated States of Micronesia	20.0%	14.8%
Guam	20.0%	6.9%
Palau	20.0%	20.2%
Puerto Rico	20.0%	9.2%
Republic of the Marshall Islands	20.0%	18.7%
U.S. Virgin Islands	20.0%	13.3%

- providing merchant education to all retailers in a variety of languages and in a variety of formats, including in-person, print, and online;
- engaging coalition members and prevention providers to conduct non-enforcement compliance checks of tobacco retailers in which compliant retailers are rewarded and non-compliant retailers are warned about the law;
- partnering with the state public health agency to ensure that youth tobacco access strategies are part of the state’s comprehensive tobacco control plan; and
- coordinating with the state agency receiving the Food and Drug Administration’s (FDA) state enforcement contract to ensure efficient resource utilization for the enforcement of youth tobacco access laws. More information about coordination between the Synar program and the FDA’s state enforcement contracts can be found in the document “A Strategic Partnership: FDA’s State Enforcement Contracts and the Synar Program,” at <http://www.fda.gov/downloads/TobaccoProducts/NewsEvents/UCM284343.pdf>.

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. While the national weighted average RVR has dramatically fallen since the inception of the Synar program, the rate has increased over the past two years.

SAMHSA/CSAP is working with states to address this issue and plans to continue to provide extensive technical assistance to the states to assist them in implementing comprehensive strategies to reduce youth access to tobacco products, with the ultimate goal of reducing youth tobacco use.



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