

Local Government Practices in Licensing Tobacco Retailers



**Office of
Government Relations**

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Youth and Tobacco: What we know

In briefings last year, the Board heard that:

- Most smokers begin before age 18.
- Young brains are particularly susceptible to nicotine's effects and addictive qualities.
- Multnomah County has one of the highest illegal sales rate of cigarettes to minors in the nation.



Some youth tobacco reduction strategies

- Media communication
- Peer communication
- Clean air (smoke-free) requirements
- Retail (“point of sale”) regulation and enforcement



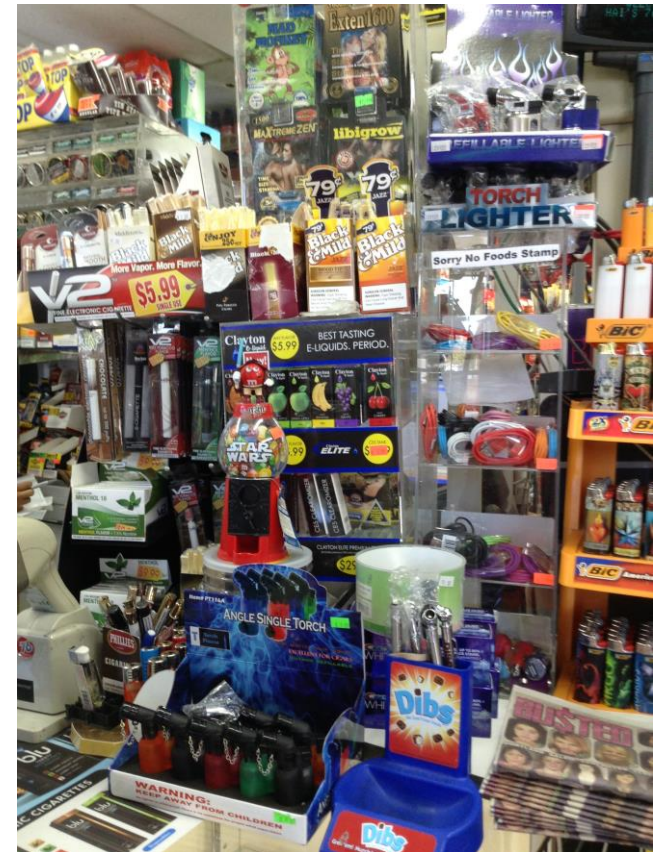
This
Briefing



The landscape of retail regulation

- Comprehensive Tobacco Retail Licensing
 - License fees and penalties
 - Enforcement practices
- Point-of-sale advertising
- Minimum package size
- Restricting flavored tobacco
- Density and proximity to schools
- Sales at pharmacies
- Minimum sales age

This Briefing



Minor decoys test retailer compliance

- Two federal programs plus local efforts
- Data often varies, not always comparable



The Synar Amendment

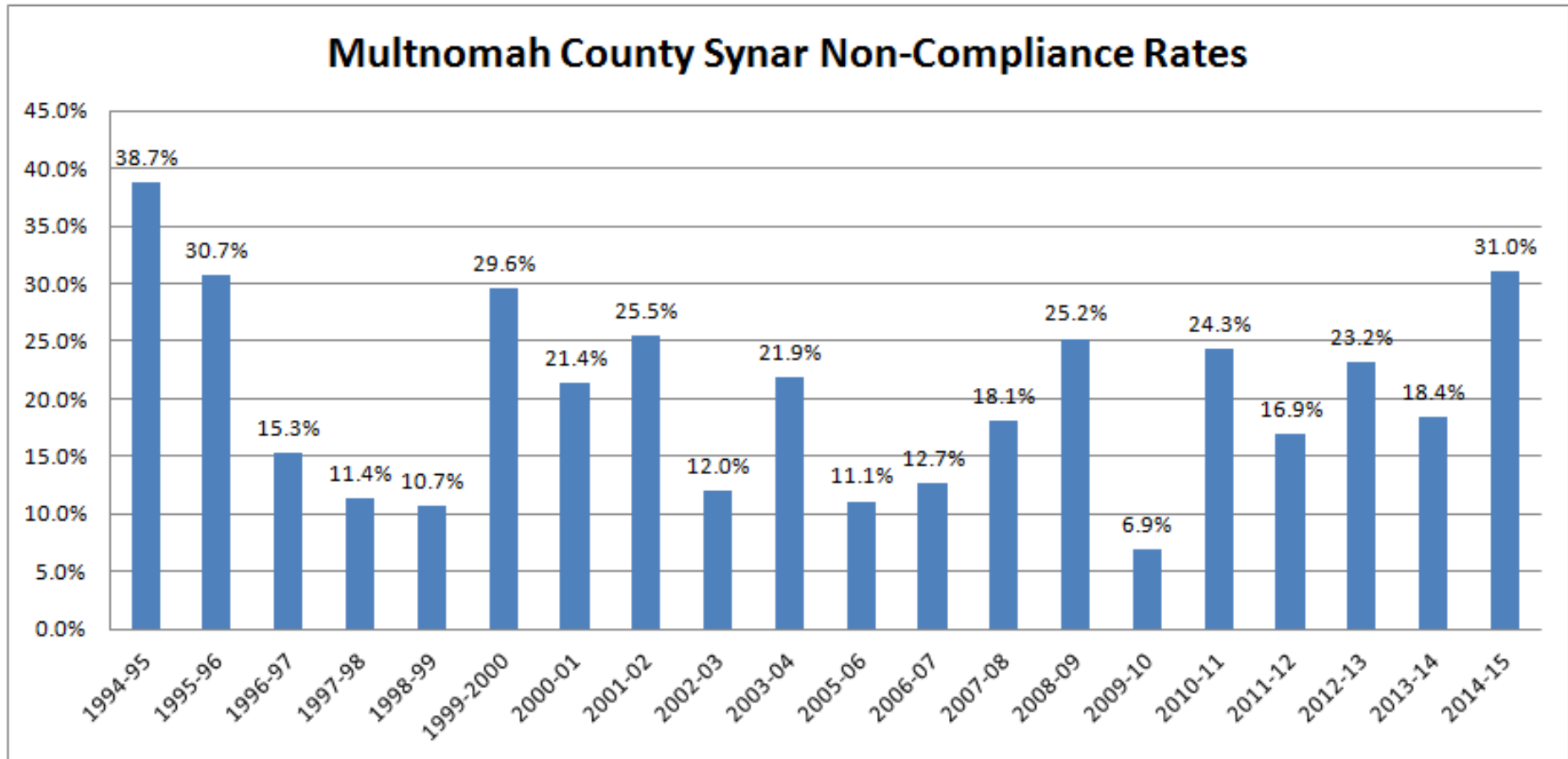
- Requires inspections to test retailer compliance in every state.
- Passed in 1992.
- Administered by the Substance Abuse and Mental Health Services Administration (SAMSHA).
- Poor performance triggers federal funding (SAMSHA) cuts.
- Multnomah County scored 31.9% in 2014.
- Retailers are not informed of the violation.



Former Congressman
Mike Synar



Synar in Multnomah County



Multnomah County's most recent score based on 163 inspections.



FDA inspections in Multnomah County

- The Family Smoking Prevention and Tobacco Control Act (2009) requires the Food and Drug Administration to conduct minor decoy operations.
- In 2015, the number of retailers selling cigarettes to minors was:

247 (out of 1,082 checked) in Portland [22.8%]

16 (out of 95) in Gresham [16.8%]

4 (out of 18) in Troutdale [22.8%]

3 (out of 13) in Wood Village and Fairview [23.1%]

http://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm



Ingham County, MI

License Fee **\$335**

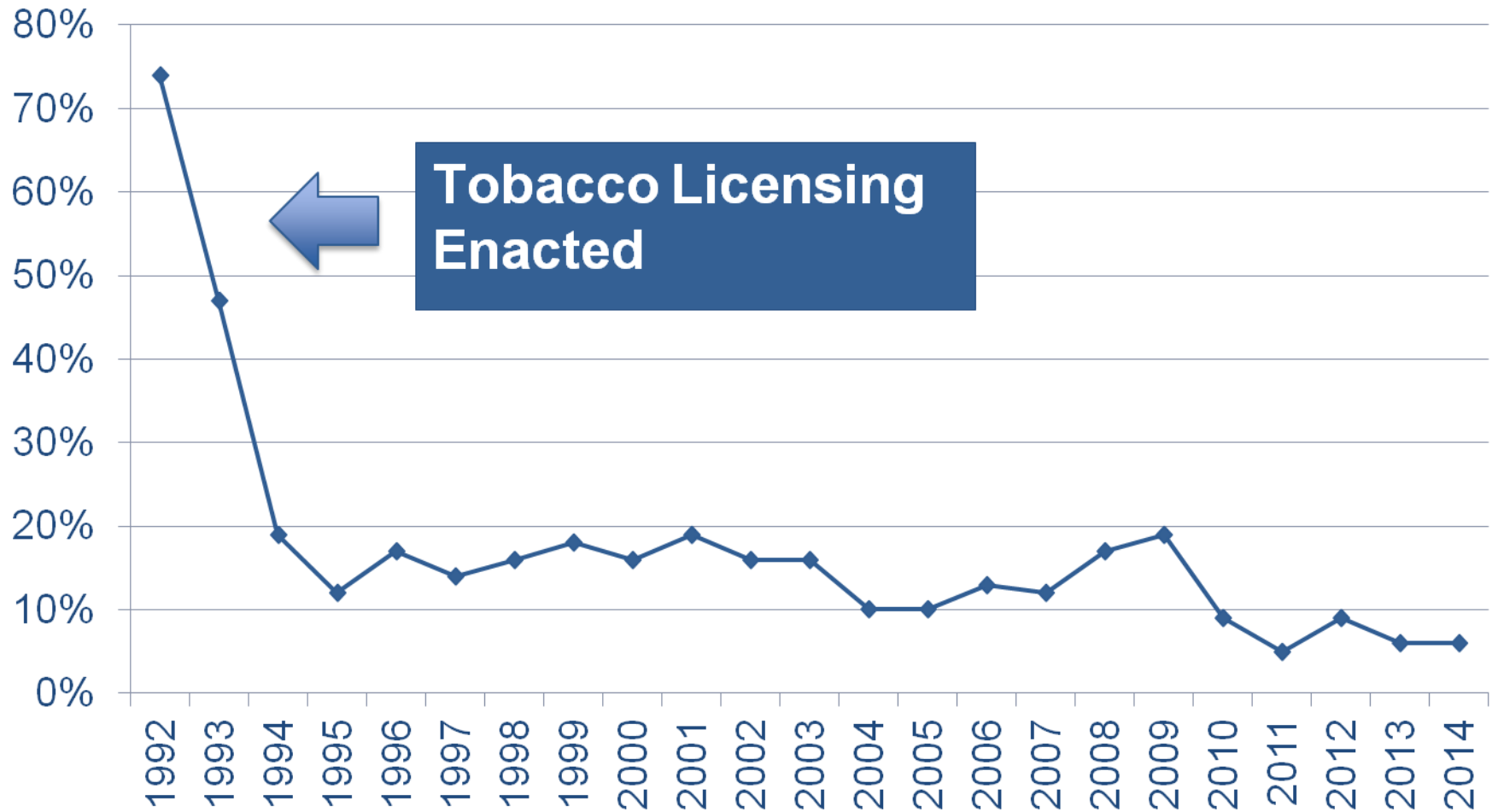


1 st Offense	\$100 fine
2 nd Offense	\$270 fine, 30 day suspension
3 rd Offense	\$540 fine, 90 day suspension
4 th Offense	\$1,080 fine, 1 year suspension

Enforcement: Ingham County Heath Officer has broad discretion and may be assisted by Sheriff or police. County provides a form for citizens to report retailer violations.



Ingham County Tobacco Sales to Minors



Ingham County Data



Olmstead County, MN

License Fee	\$268 Plus \$134 per register
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Plus \$300 Minnesota License Fee



1st Offense \$75 fine

2nd Offense \$200 fine

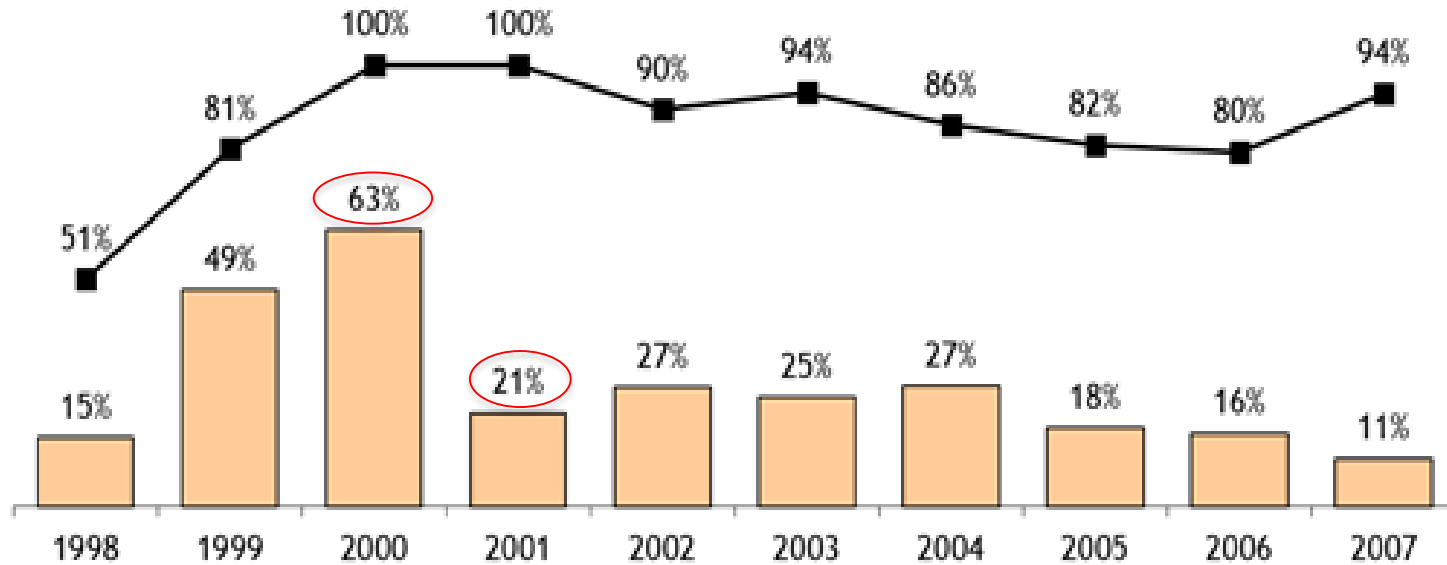
3rd Offense \$250 fine, 7 day suspension

4th Offense One year suspension

Ordinance: Requires use of minor decoys.
Violation appeals hearings are public meetings.
Inhalant delivery systems included as of 2015.

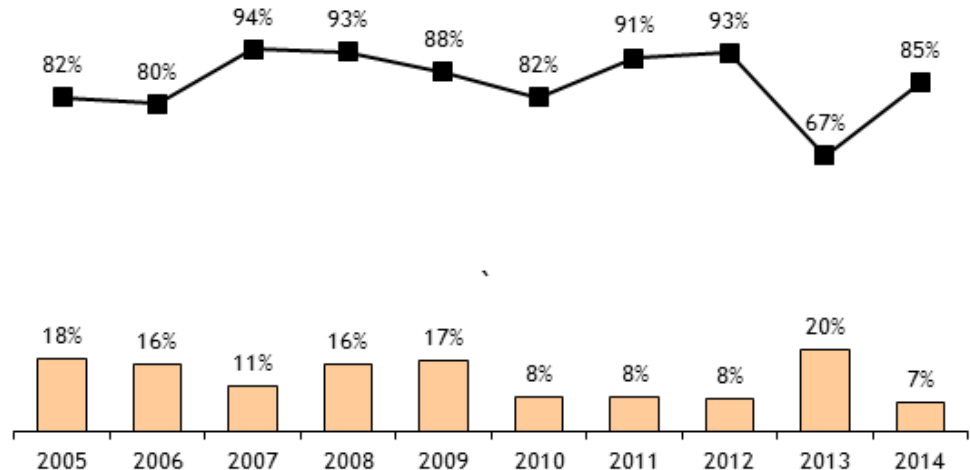


Olmsted County Compliance Checks 1998 - 2014



Tobacco Sales and Youth Access Ordinance passed in 2000

Sales to minors dropped from 63% to 21% in one year.



■ Percent of checked retailers that sold

■ Percent checked

Source: Olmsted County



Hennepin County, MN

License Fee **\$250**

Plus \$300 Minnesota License Fee

1st Offense \$200 fine

2nd Offense \$400 fine

3rd Offense \$1000 fine, 7 day suspension

4th Offense 1 year suspension



Ordinance provisions: All licenses approved by Board of County Commissioners. Prohibits mobile vending. Inspections with youth decoy at least twice per year. Appeals of penalties go to Circuit Court.

Note: Minnesota has the lowest rate of sales to minors in the U.S.



New York City

License Fee	\$355
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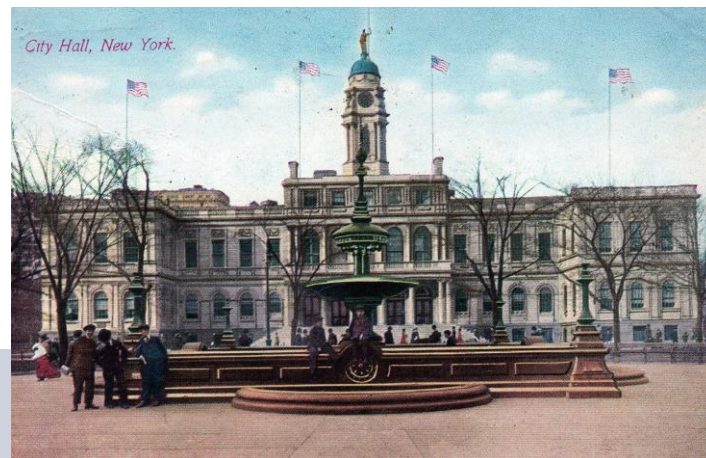
Combined State and Local

1 st Offense	\$300 to \$1,000 fine
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2 nd Offense	\$500 to \$1,500 fine, six month suspension
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3 rd Offense	\$500 to \$1,500 fine, six month suspension
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4 th Offense	1 year suspension
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Ordinance provisions: Flavored tobacco is banned. Minimum pack size is required. Purchasers must be 21. License suspension includes lottery license

Notes: Cigarette tax in New York is \$4.50 per pack and smuggling is common. Four city agencies have overlapping jurisdiction. Stores that sell untaxed cigarettes can be “sealed”.



California licensing

- California Cigarette and Tobacco Products Licensing Act of 2003 authorizes local retail tobacco licensing.
- Now in more than 120 jurisdictions, mostly cities.
- California law limits fees to actual program costs.



San Francisco's Tobacco Ordinance

- San Francisco limits cigarette outlets to 45 in each Supervisor District.
- New permits won't be issued within 500 feet of a school; or another tobacco retailer; or for previously unpermitted location.
- New permits won't be issued for bars, restaurants or tobacco stores.



San Luis Obispo County

License Fee \$342



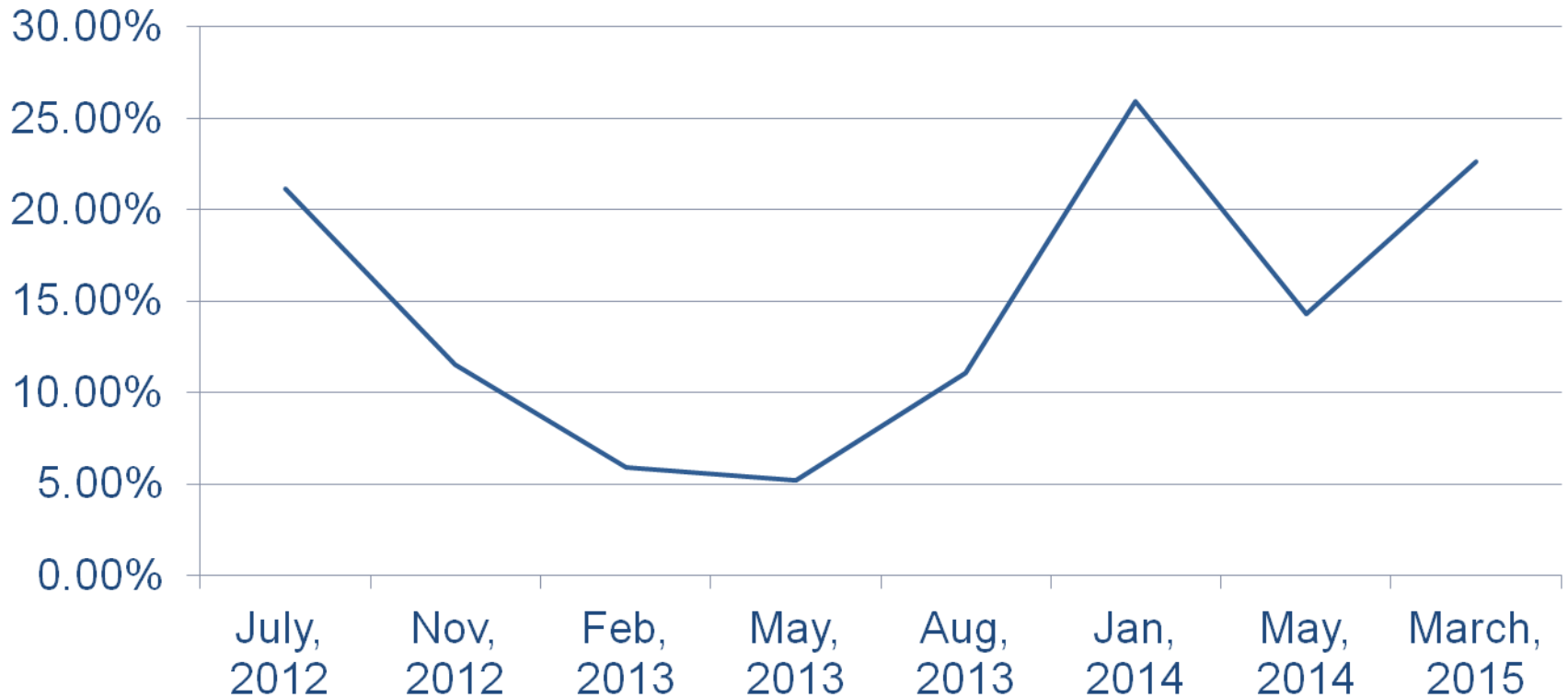
1 st Offense	30 day license suspension
2 nd Offense	90 day license suspension
3 rd Offense	1 year license suspension
4 th Offense	5 year license suspension

Enforcement: Ordinance requires sheriff to conduct four minor decoy stings per year “excepting that, the sheriff’s department may check the compliance of tobacco retailers previously found to be in compliance a fewer number of times so that it may check the compliance of tobacco retailers previously found in violation of the licensing law a greater number of times.”



San Luis Obispo Compliance Checks

Sales to Minors



Source: news releases from San Luis Obispo Sheriff's Office



Santa Clara County

License Fee **\$425**



1 st Offense	30 day license suspension
2 nd Offense	90 day license suspension
3 rd Offense	1 year license suspension
4 th Offense	Revocation

Enforcement: Dept. of Environmental Health and County Sheriff cooperate on one inspection and two minor decoy operations per year.



Santa Clara County's Retail Tobacco Ordinance

Additional provisions include:

- No sales in pharmacies.
- No new permits within 1,000 feet of a school or 500 feet of a tobacco retailer.
- No more than 15 percent of windows can be covered by advertising.
- Flavored tobacco (except menthol) prohibited.



City of Oakland

License Fee **\$1,550**



1 st Offense	10 day license suspension
2 nd Offense	30 day license suspension
3 rd Offense	90 day license suspension

Enforcement: Police department conducts inspection and sting operations through its Alcoholic Beverage Action Team (ABAT). Appeals can go to City Council.



Alternate penalty in Oakland ordinance

First Offense	Either a 10-day suspension or a one-day suspension and \$1,000 fine.
Second Offense	Either a 30-day suspension or a 10-day suspension and \$5,000 fine.



Jurisdictions with low license fees

- Originally a registration for tax payment enforcement.
- Low license fees don't fund education, don't fund enforcement.

Omaha, NE	\$25
Beatrice, NE	\$15
Nelson, NE	\$10
Birmingham, AL	\$15
Tuscumbia, AL	\$5
Geneva, AL	\$3



Questions?

