

Conducting Tobacco Purchase Surveys in North Carolina

© 2021- Nancy M. McGee, JD



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

Division of Mental Health,
Developmental Disabilities
and Substance Abuse Services

Your Facilitators

- Nancy M. McGee, JD, Retired
Special Agent MOATC
- NC TTA Center Staff





Session Objectives

- You will learn:
 - What constitutes a “young adult tobacco purchase survey”.
 - The benefits of a conducting “young adult tobacco purchase surveys”.
 - “Best Practice” steps for conducting “young adult tobacco purchase surveys”.
 - The required Department of Mental Health (DMH) policies to ensure consistency in performance.

Poll Question?

- How long have you been working in the prevention field?
 - Less than a year
 - 1-5 years
 - 5-10 years
 - More than 10 years





What are “Tobacco Purchase Surveys”

- Tobacco purchase surveys are an educational and data collection program utilized by community members and agencies to determine the actual availability of age restricted tobacco products within their community.
- They involve the use of youthful looking, but of age youth to test if retailers are complying with basic protocols regarding the purchase of age restricted tobacco products.

Purpose of Tobacco Purchase Surveys

Keep in mind that the purpose of a purchase survey is not to trick the retailer into selling, but rather to obtain accurate estimates of the extent to which tobacco is sold to young people under normal circumstances.

You should never engage in any activity that is intentionally unfair or biased to convince the establishment to sell to your buyer.



Purpose of Tobacco Purchase Surveys

- North Carolina Youth Access Tobacco Law states:
A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age.
- Since the young adult buyer is of age, you are checking to see that proof of age for these products is requested.



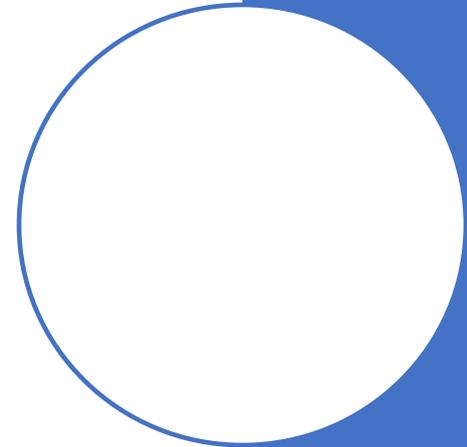
Tobacco Purchase Surveys

Can be used to establish a baseline of compliance rates



Tobacco Purchase Surveys

- Data is collected to determine starting compliance rate and potential policy changes and/or procedures that can be implemented to assist retailers in increasing their compliance rate.
- This data does not determine the state's retailer violation rate (RVR) nor is it reported to SAMHSA in the annual Synar report (ASR).



Why do Purchase Surveys?

Test	Test retail compliance with youth tobacco access laws.
Encourage/ Educate	Encourage/Educate retailers regarding the importance of following federal & state youth tobacco access laws.
Gain	Gain local law enforcement support.
Offer	Offer training to retailers.
Raise	Raise community awareness and build support for reducing sales to minors.
Help	Help monitor the impact of prevention strategies.

Why are Tobacco Purchase Surveys Important?

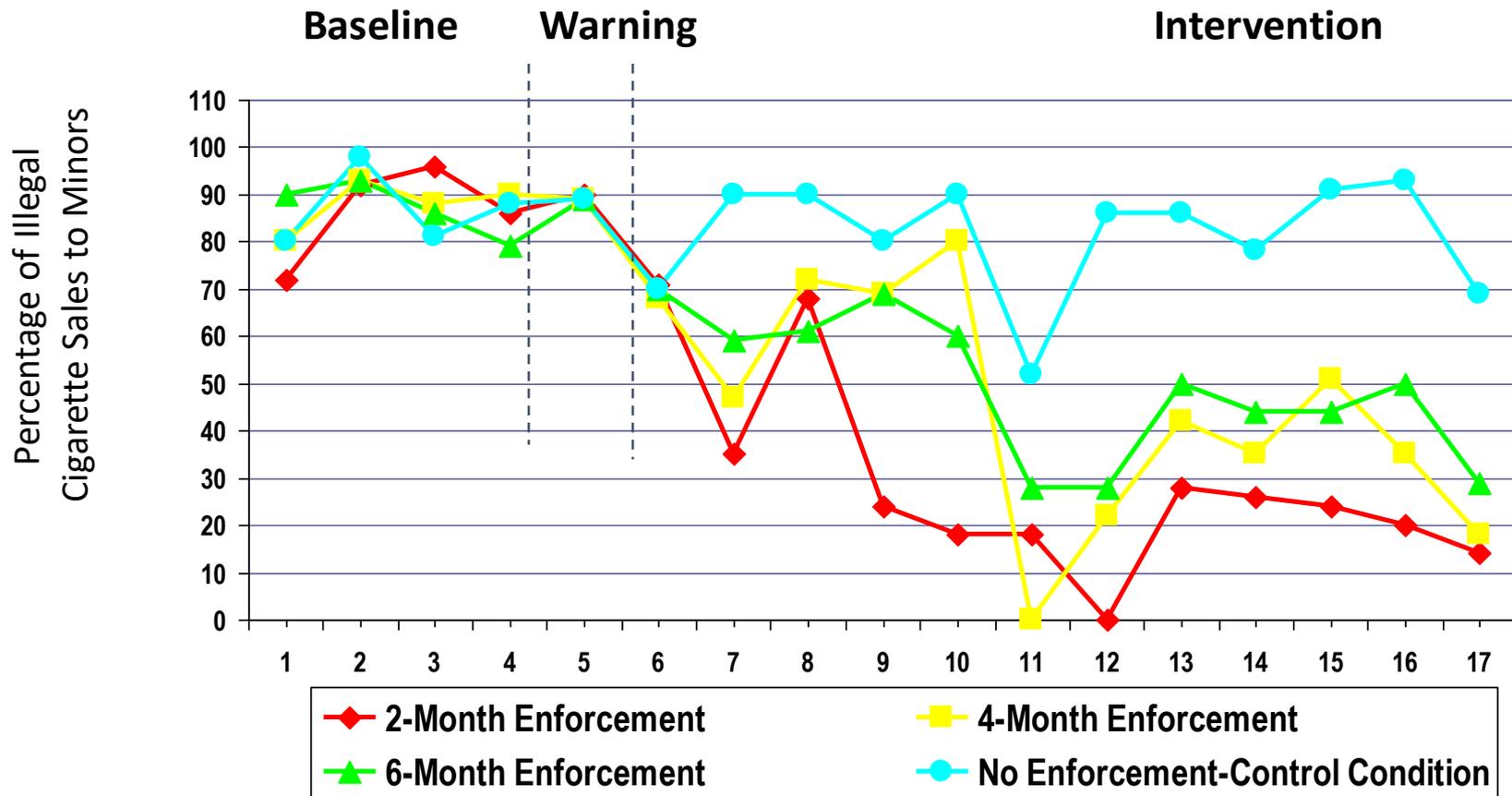
Many underage individuals self-report that they purchase at locations which do not ask for identification.

If the retailer violation rate (RVR) exceeds 20% the Federal Government can withhold Substance Abuse Prevention and Treatment Block Grant funding. The amount subject to withholding is approximately \$4 Million.

How easy
is it to
purchase?

How NOT to
enforce. The CBC
News

Effectiveness of Enforcement



Source: Jason et al., 1996

Need for Active
Enforcement

Public Health Implications of
Raising the Minimum Age
of Legal Access to
Tobacco Products



- Some early research suggests that tobacco retailers will not comply with minimum legal age laws in the absence of active enforcement.(1)
- Active enforcement of youth access restrictions using compliance checks paired with penalties for violations are effective at increasing retailer compliance with youth access laws. (2)

Breakout Exercise

Amongst your group discuss and identify what steps you think are important in preparing to conduct proper Tobacco Purchase Surveys?
Select a spokesperson to report out.

Preparing for Tobacco Purchase Surveys

Work with law enforcement and regulatory agencies.

Work with industry/retailers.

Selection of young adult buyers.

- Training of young adult buyers.
- Documentation of young adult buyers.

Selection of locations.

Procedures/Protocols for conducting surveys.

Data collection.

Work with the media.

It is an Ongoing Cycle

Data from Purchase Surveys

Community Support

Official Support

Policy Change

Allocation of Resources



Standardization- DMH Protocols

- All participating agencies must use the same survey protocols.
 - Will increase the reliability of the data.
 - Using the same protocols allows for comparison on a statewide basis.
 - Allows for DMH to identify potential problems at the retailer level or identify good practices at the retailer level.
- Standard Protocols are available on the NCTTA Help Desk





Key Step in Preparing for Tobacco Purchase Surveys

- Work with Local Enforcement Agencies.
- Ensure consistency of efforts and establish shared expectations

Key Steps in Preparing for Tobacco Purchase Surveys

- Working with Industry/Retailers.
 - Most retailers do NOT want to sell tobacco to youth.
 - Involve them as part of your overall strategy development.
 - Search for awareness strategies that involve retailers. Often, they are willing partners.



Working With Industry/Retailers

Educate retailers about their responsibility and potential consequences of sales to minors.

- NC Online Merchant Education Program.
- Conduct in person Merchant Education Programs in your community.

Provide printed materials such as calendars and information on recognizing false IDs.

- The FDA-CTP has free materials available for retailers on their website
- Avoid use of industry materials.
 - While they may be free, they send mixed messages to youth and the community at large.

Key Step in Preparing for Tobacco Purchase Surveys

- Selection of Young Adult Buyers.
 - The success of your actual operation depends on the performance of your young adult buyers. The way you select, screen, and train these individuals is crucial.



Sources for Recruiting Young Adult Buyers

- Where can you find your young adult buyers?



Sources for Recruiting Young Adult Buyers

- Best Options:
 - Community coalitions and faith groups.
 - Youth groups such as MADD and SADD.
 - Family members and friends of officers.
 - Referral from young adults already involved in the program.
 - College interns

Selection of Young Adult Buyers

Age of Your Young Adult Buyers –Must be at least 21 Years of Age

Your buyer should not have any criminal history.

- DMH recommends that you request that the youth supply a copy of a criminal history check and driving record. These can be obtained for a nominal fee from the local police department. This presents an opportunity to partner with law enforcement.



Selecting Buyers

01

Select both male and female buyers.

02

Select buyers who match the community.

- Race and ethnicity should match the neighborhoods where they will be attempting to purchase.

Issue Regarding Buyers

- Use buyers in areas where they are not known.
 - Avoids issue of retailer claiming they did not card the buyer because they knew them.
- Also protects buyers from being harassed by peers or retailers as a result of their participation in the program.



Age Verification/Age Assessment

Select buyers based upon youthful appearance.

Use age testing to make sure that the buyers look underage.

Retailers may suggest that the buyer looked older than the legal purchase age and that is why their employee didn't ask for identification.

Age Verification/Age Assessment Method

Take your potential buyer to a heavily traveled area such as a mall and ask 10 random people how old they think your volunteer is and calculate a perceived age based upon their responses. If the average of these 10 random people think your buyer looks older than 20, you should not use them.

Prevention providers should assist to ensure the young adult is dressed for inspections in the same way they are dressed when they go through the age estimation procedure to assure that no one can say they looked younger or older than their stated age.

Document this!



Guess My Age



Age Verification/Age Assessment Methods

Another method is to have an independent panel made up of responsible citizens assess the appearance of the buyer before they are used in tobacco purchase surveys.

Your AAG can be made up of community leaders, educators, and licensees.

The group will observe potential buyers and provide an opinion that they, as objectively reasonable people, believe the buyer appears under the age of legal purchase and someone whose age should be checked before buying an age restricted product.

Breakout Session

- Identify potential issues or obstacles with each method of age verification?
- How would you address those issues or obstacles?
- Which method would you choose and why?
- Be prepared to report out?



Training of Young Adult Buyers

- Ensuring Youthful appearance.
- Instruct buyers not to dress in ways that make them appear older.
 - Clothing matters – young adults should blend in and not stand out.
 - No facial hair for males.
 - No make up for females.
 - Ball Caps & sunglasses should be avoided.

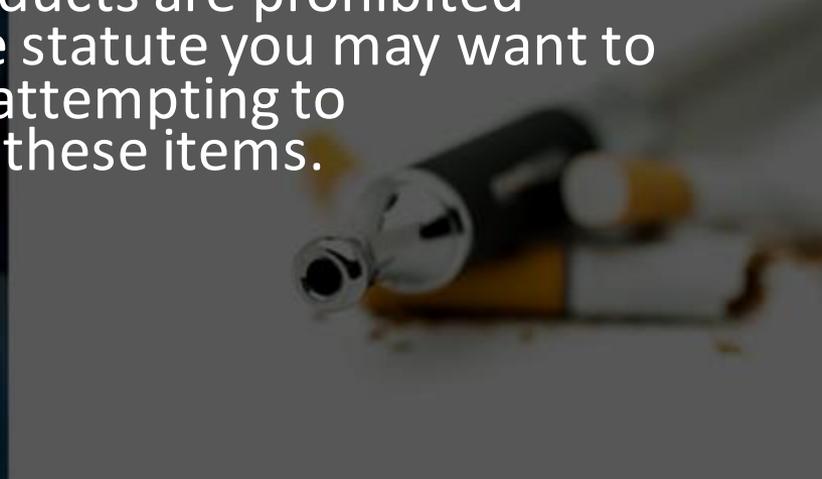
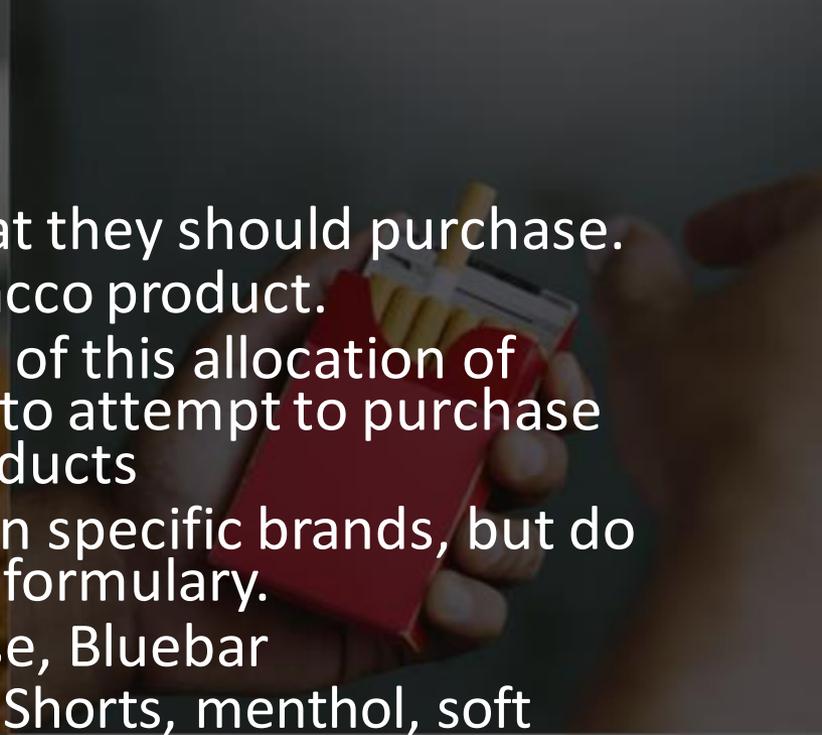
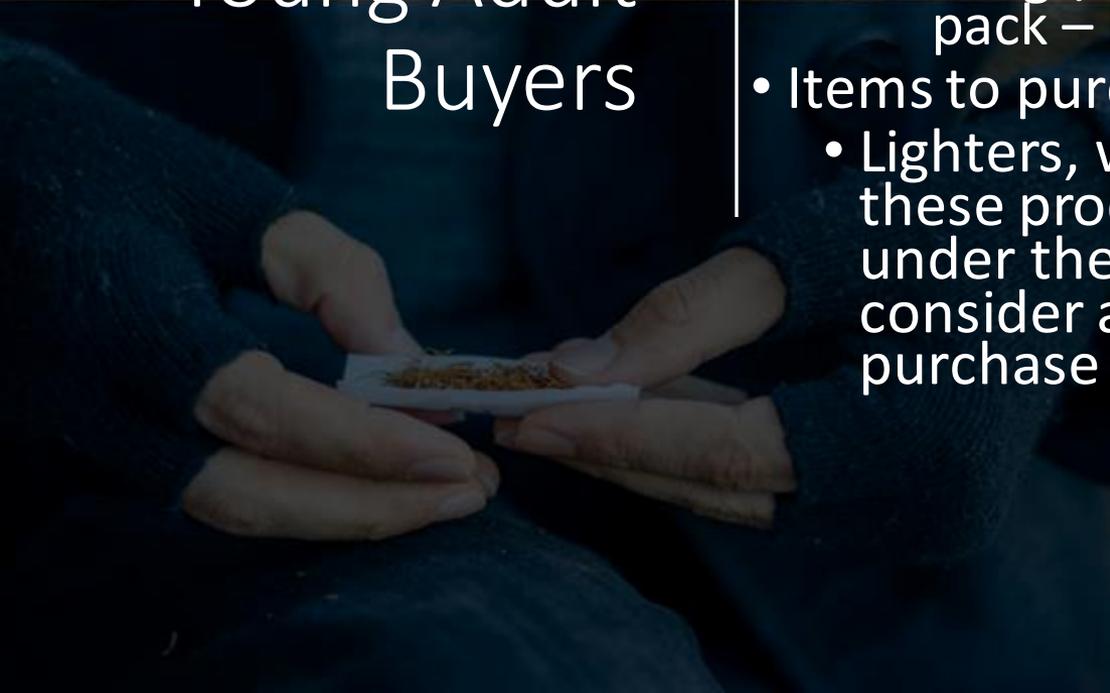
Train Young Adult Buyers

- The best buyers are ones that know what is expected and follow your direction.
- The training should be standardized and where feasible conducted by the same individual – This can help to reduce inconsistencies across the program and result in more reliable data.
- Use a checklist to ensure that you have covered all possible issues in the training.



Training Young Adult Buyers

- Provide specific instructions on how the buyer is to act, what they are to say etc.
 - No Identification.
 - Tell the truth.
 - “Best Practices” recommends that you Instruct the buyers to answer questions truthfully.
 - Should not be allowed to do anything to encourage the sale.
 - Remember the purpose of purchase surveys is not to trick the retailer into selling, but rather to obtain accurate estimates of the extent to which tobacco is sold to young people under normal circumstances.



Training Young Adult Buyers

- Instruct on what they should purchase.
 - Type of tobacco product.
 - The focus of this allocation of money is to attempt to purchase ENDS products
 - Instruct on specific brands, but do not be too formulary.
 - JUUL, Vuse, Bluebar
 - Longs/ Shorts, menthol, soft pack – hard pack.
- Items to purchase with the tobacco.
 - Lighters, wrapping papers ??? If these products are prohibited under the statute you may want to consider attempting to purchase these items.

Training Young Adult Buyers

Ability to identify the clerk.

- Physical Description.
- Name Tags.

Train on observation of other issues.

- Placement of signage.
- One clerk or two clerks in store.
- Number of patrons.

Review exit signals / safety procedures.

- Instruct them to avoid situations that seem dangerous and not to buy if people in the outlet know them.

Training Buyers- Interactive Preparation

- For some young adults this may be their first time doing something as bold as trying to buy cigarettes.
- Extreme nervousness can impair their ability to remember or follow your directions. To help them get over their fears or concerns it is a good idea to give your buyers some interactive experience by “practice buying” in a safe environment.



Breakout Session

- When we come back together you will be asked questions based upon various fact patterns and you will be asked to role play how you would respond to the fact pattern
- Select a person to be the adult chaperone
- Select a person to be the young adult buyer
- Strategize how you will deal with the various situations that may be presented to you
- Be prepared to present in character how you would train/prepare yourself, your team, and your youth buyer to address the fact patterns as they are presented.

Documenting Young Adult Buyers

- Personal history form.
- Photograph of buyer.
- Driving and criminal checks.
- Injury waivers.
- Parental information form.
- Young adult buyer consent form.
- Agreement of Understanding.
- Copy of Driver's License.
- Completed Age Verification Form.
- Record of tobacco youth purchase surveys conducted.
- Emergency Contact Information!



Young Adult Buyer Issues

Documentation

- NC State-issued photo identification card or Driver's License.
- Emergency contact information.

Compensation.

- Do not pay on a quota basis, pay by.
 - By the hour. (This is the preferred method – recommended rate is \$15.00 an hour)
 - Do what is acceptable practice with your provider agency.

Insurance.

- In the event they are injured while working as your agent.
- Follow your provider agency rules and/or regulations as it relates to transporting/working with young adults off site.

Selection of Locations

- Initial locations should be selected based upon prior violation history from the FDA website
 - Use FDA violations for the past 3-6 months in catchment area
 - https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm
 - Once those locations have been checked then you can use your merchant retail list in ECCO

Basic Procedures/Protocols



Basic Procedures/Protocols for Conducting Surveys

- Pre-Operation Briefing – Coordinate with your agency and others that will be involved in the detail.
 - Notify others in the agency on a need-to-know basis.
 - Review locations to be surveyed and check for possible conflicts.
 - Review the buyer checklist with young adult buyers.
 - If possible, familiarize yourself with the stores layout so you can direct buyers where to go once inside the establishment to obtain the product.



Procedures/ Protocols for Conducting Surveys

Your buyer will not carry their valid driver's license.

Prevention providers and/or the adult chaperone/monitor will ensure the young adult DOES NOT have his or her ID.

Ask youth to empty pockets, wallets etc.

Procedures/ Protocols for Conducting Surveys

Prevention providers and team (adult chaperone/monitor and young adult) will assist and/or proceed to the first store location. Provider will ensure at least teams of two are conducting the purchase surveys. (one acts as chaperone/monitor and the other is the young adult buyer)

Upon arriving at each location, if possible, the driver will attempt to park in a location that is not visible to the clerk so as not to alert the clerk to the occurrence of a tobacco purchase survey inspection.

Prevention providers and/or the adult chaperone/monitor should discuss a plan including who will enter and in what order, what type of product to purchase, what location to purchase from and any potential security issues.

Approaching a Location





The adult chaperone should enter the store before the buyer to make sure it is safe

Procedures/Protocols for Conducting Surveys

- The prevention provider and/or adult chaperone should enter the store first and assess the establishments environment.
 - Identify location of the sales counter.
 - Is the store overly crowded?
 - Does the establishment appear to be safe.

Procedures/ Protocols for Conducting Surveys

Prevention providers and/or the adult chaperone/monitor will determine the safety of the location in consultation with the young adult.

Impart any significant information to the youth buyer.

Determine ahead of time a signal for aborting the location due to safety concerns.

Review safety and exit signals and ensure everyone is clear about the procedure.

Procedures/Protocols for Conducting Surveys

Prevention providers and/or the chaperone/monitor will determine if his or her presence in the store will compromise the survey. If the adult chaperone/monitors presence in the store will not compromise the survey, the chaperone/monitor and the young adult will enter the store in the most natural way possible.

If the chaperone/monitors presence in the store will compromise the survey and the location is deemed adequately safe, the young adult will enter the store alone and attempt to purchase a tobacco product (e.g., ENDS, smokeless tobacco or cigarettes) while the chaperone/monitors the door.

Procedures/ Protocols for Conducting Surveys

- In the event the prevention provider and/or chaperone/monitor is not able to go into the store with the young adult. The prevention provider and/or chaperone/monitor shall always maintain a clear and unobstructed view of the young adult while they are in the store.
- The prevention provider and/or chaperone/monitor will enter the store if the young adult does not emerge within a reasonable time to have attempted to purchase a regulated tobacco product (5 minutes).

Procedures/Protocols for Conducting Surveys

- The prevention provider and/or chaperone/monitor will instruct the young adult to first attempt to purchase from a self-service display. If this is unavailable, the young adult should request an ENDS, single pack of cigarettes or other tobacco product (at the prevention agency's discretion).
- The prevention provider and/or chaperone/monitor will ensure the young adult will not present any false identification when attempting to purchase tobacco. If challenged about their age(s), the young adult will state their correct age.



Procedures/Protocols for Conducting Surveys

- The prevention provider and/or chaperone/monitor will instruct the young adult to terminate the transaction and immediately leave the establishment if it appears that a sale is about to be made without the clerk asking for ID or checking identification.

Procedures/ Protocols for Conducting Surveys

The prevention provider and/or chaperone/monitor will ask and ensure that the young adult inspector completes a North Carolina Tobacco Survey form immediately in its entirety following each attempted survey. If a tobacco product was “almost sold” to the young adult, the survey form noting retailers that almost sold (versus those that did not sell tobacco products) should be reported on the North Carolina Tobacco Survey form .

The prevention provider will enter the information from the North Carolina Tobacco Survey form into the merchant tracker in ECCO under Part 2 Tobacco Survey. This should be done within a week of completing the tobacco purchase survey visit.



Procedures/Protocols for Conducting Surveys



Timing and scheduling of surveys.



Number of buyers and staff.



Frequency of survey work:

Re-checks on businesses that failed.

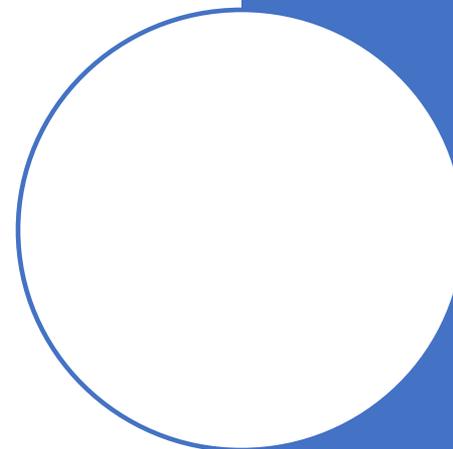
- Allow time for business to take corrective action.

When do you check a new business?



Survey Follow-Up

- Once all the surveys have been completed a designated agency member contacts the owner/manager of establishments that have been surveyed and informs them of the results of the survey.
- Notification to occur via mail





Survey Follow-Up

- Inform the establishment that they will be continuing to monitor the establishment with future surveys and will share their results with law enforcement authorities.
 - Under no circumstances does the agency member state or otherwise imply that they are working for or on behalf of any police department, sheriff's department, the FDA, or the NC ALE.

Breakout Exercise

Pass

Fail

What Constitutes a Pass or Failure for Reporting Purposes

Clerk does not ask for identification and rings up the purchase and requests money = **FAILURE**.

Clerk asks for identification from buyer, buyer indicates they forgot their identification, clerk asks how old they are or ask for their birthdate and youth indicates they are 21, clerk rings up purchase and requests money = **FAILURE**.

Clerk does not ask for identification, instead asks their age or date of birth. Youth responds truthfully the clerk rings up purchase and requests money = **FAILURE**.

Clerk asks for identification from buyer before/while ringing up the purchase and refuses the sale when youth states they forgot their identification = **PASS**.



Key Steps in Preparing for Purchase Surveys

- Work with the media.
 - The power of this work lies not only in holding retailers accountable, but in using the opportunity to bring attention to the problem and begin to change community perception about the issue.

Key Points for Working with the Media

- Provide key information to the media after the purchase surveys are concluded.
- Force the issue when you can
 - Simply issuing a press release hoping it will be picked-up is rarely effective
 - Create your own media event to highlight your efforts and results



Information for the Media on Survey Results

- What percentage of retailers failed the survey?
- What percentage of retailers asked for Identification?
- What percentage of retailers had warning signs posted or signs that stated they asked for ID, but failed to ask for identification?
- Does time of day impact the perceived sales rate?



Information for the Media on Survey Results

Are some types of businesses more likely to fail to check identification than others (e.g., convenience stores, gas stations, grocery stores)?

Are young clerks more likely to fail to ask for identification or verify age than older clerks?

Are two-clerk stores less likely to make errors in the identification process?

Do male clerks or female clerks make more errors in the identification process?

Agency Website

- Utilize your agency website, Facebook, and twitter accounts to release the results of your tobacco purchase survey results.
 - This could also be a good place to have a link to the local police department and the NC ALE to anonymously allow citizens to file a complaint about establishments that may be illegally selling to youth.



References

- 1. See - Committee on the Public Health Implications of Raising the Minimum Age for Purchasing Tobacco Products; Board on Population Health and Public Health Practice; Institute of Medicine; Bonnie RL, Stratton K. Kwan LY Editors . Washington (DC): National Academies Press (US); 2015 Jul 23 citing CDC, 1993; Cismonski and Sheridan, 1993: and Erickson et al., 1993).
- 2. See- Committee on the Public Health Implications of Raising the Minimum Age for Purchasing Tobacco Products; Board on Population Health and Public Health Practice; Institute of Medicine; Bonnie RL, Stratton K. Kwan LY Editors . Washington (DC): National Academies Press (US); 2015 Jul 23).

Additional Resources

- North Carolina Department of Health & Human Services
 - <https://www.ncdhhs.gov/divisions/mhddsas>
- Centers for Disease Control
 - <https://www.cdc.gov/tobacco/index.htm>
- FDA – Center for Tobacco Products Office of Compliance and Enforcement
 - <https://www.fda.gov/TobaccoProducts/AboutCTP/>
- Campaign for Tobacco-Free kids
 - https://www.tobaccofreekids.org/problem/toll-us/north_dakota
- Truth Initiative
 - www.truthinitiative.org

Fair Use Disclaimer

- All effort has been made to credit photo sources and research sources accurately.
- Copyright Disclaimer under section 107 of the Copyright Act 1976, allowance is made for “fair use” for purposes such as criticism, comment, news reporting, teaching, scholarship, education and research.
- Fair use is a use permitted by copyright statute that might otherwise be infringing.
- Non-profit, educational or personal use tips the balance in favor of fair use.

Photo Credits

- Slides 20, 39, 43, 46, & 47, Images Courtesy Nancy McGee.
- All other images under license via CANVA.com.

Legal Disclaimer

- This program contained references to statutes, case law and related materials.
- This program does not create a legal relationship between the participant, the NC TTA, NC DMH, or any of today's presenters.
- This program does not constitute legal advice and does not establish an attorney-client relationship.
- Consult with your legal advisor to answer your questions and to obtain legal advice.

NCTTA Training Center Contact

Nancy M. McGee, JD

Retired Special Agent MOATC

314-608-5494

mcgeenancym@gmail.com



Evaluation Link

- <https://www.surveymonkey.com/r/TJNNR2T>

