

DRAFT

With program implementation, the current escalating fine structure, based on a rolling 24 months, should be retained with the addition of a 5th violation level, resulting in license revocation for 30 days.

Currently Columbia has an escalating fine based on the number of violations in the preceding 24 months. The fines are similar at the low end to the Food and Drug Administration (FDA) penalties but less than what is considered best practice by the Tobacco Control Legal Consortium (TCLC), which is a partnership of public and private organizations that develops tobacco control policies. The FDA imposes significant fines on retailers who are found to have repeated violations. For example, the consequences of a fifth violation in a 3 year period is \$5,000 and 30 day No-Tobacco-Sale Order (NTSO).

**FOOD AND DRUG ADMINISTRATION PENALTIES
FOR SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER THE AGE OF 18**

FDA Violation	
One	Warning Letter
Two Within 12 Months	\$250
Three Within 24 Months	\$500
Four Within 24 Months	\$2,000
Five Within 3 Years	\$5,000 plus NTSO
6 or More Within 4 years	\$10,000 plus NTSO

FDA No-Tobacco-Sale Order (NTSO)	
5 Violations Within 3 Years	NTSO Penalty
1st Violation	30 Day
2nd Violation	6 Month
3rd Violation	Indefinite

The members of the Board of Health believe that the suspension of a retailer's ability to sell tobacco products is an important deterrent and an essential component of an effective retailer licensing ordinance. This can be done with a No-Tobacco-Sale Order, a license suspension or a license revocation with the ability to reapply after a set period of time.

Regarding penalties for noncompliance, the Board heard testimony from a representative of a company with multiple convenience stores. He stated that his company was not against licensing but felt that there should be no change in the fine structure. He observed that since the City has not been doing compliance checks, there was no evidence that the current fine structure would not be an effective deterrent. Six out of 8 board members agreed and recommended that the current fine structure be retained. Two board members felt that the fines should be raised to the level recommended by the TCLC, a minimum of: \$300 for the first violation, \$600 for the

second violation and \$1,000 for each subsequent violation. All board members agreed that if a retailer location has a 5th violation within a rolling 24 month period, their license to sell tobacco products should be suspended for 30 days.

**COLUMBIA RECOMMENDED, CURRENT & ST LOUIS COUNTY PENALTIES
FOR SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER THE AGE OF 21**

Violations within 24 months			
Violation	Recommended	Columbia - Current	Saint Louis County
1st	\$100	\$100	\$250
2nd	\$250	\$250	\$500 + 7 Day Suspension
3rd	\$500	\$500	\$750 + 30 Day Suspension
4th	\$1,000	\$1,000	\$1000 + 120 Day Suspension
5th	\$1000 + 30 Day Suspension	\$1,000	\$1000 + Revocation

The Board also discussed who should be responsible for paying the fine. Some ordinances allow for both the owner and the employee who sold the tobacco to be fined. After much discussion, Board members agreed that it would be difficult to levy a fine against the employee and ultimately, the employee's action is the employer's responsibility.