



COMMONWEALTH of VIRGINIA

Department of Taxation

November 1, 2025

The Honorable L. Louise Lucas
Chair, Senate Finance and Appropriations Committee

The Honorable Barbara A. Favola
Chair, Senate Rehabilitation & Social Services Committee

The Honorable Luke E. Torian
Chair, House Appropriations Committee and Joint Subcommittee on Tax Policy

The Honorable David L. Bulova,
Chair, House General Laws Committee

Dear Chairs Lucas, Favola, Torian, and Bulova,

During the 2025 Session, the General Assembly enacted House Bill 1946 (*2025 Acts of Assembly, Chapter 595*) and Senate Bill 1060 (*2025 Acts of Assembly, Chapter 596*), which required the Department of Taxation ("the Department") to convene a workgroup to develop an enforcement program to address the sale of retail tobacco products or hemp products intended for smoking to individuals younger than 21 years of age. The report reflecting the deliberations of that workgroup is enclosed.

If you have any questions or comments regarding the study or the enclosed report, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Alex".

James J. Alex
State Tax Commissioner
Commonwealth of Virginia

C: The Honorable Stephen E. Cummings, Secretary of Finance
Kristin Collins, Deputy Commissioner

Study of Retail Tobacco Licensing and Enforcement
Pursuant to House Bill 1946 / Senate Bill 1060
Report

Department of Taxation
November 1, 2025

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Executive Summary

During the 2025 Session of the Virginia General Assembly, House Bill [1946](#) (*2025 Acts of Assembly*, Chapter 595) and Senate Bill [1060](#) (*2025 Acts of Assembly*, Chapter 596) were introduced by Delegate Hope and Senator Ebbin respectively. The legislation proposed, among other things, to clarify the agency responsible for enforcing the restrictions on sales of tobacco products to individuals under 21 years of age. The legislation was amended to establish a retail tobacco licensing and enforcement framework intended to prevent sales of tobacco products to individuals under 21 years of age; however, neither the introduced nor substitute legislation was enacted. Rather, the legislation was further amended to direct the Department of Taxation ("Virginia Tax") to convene a work group and develop an enforcement program to address the sale of retail tobacco products or hemp products intended for smoking to individuals younger than 21 years of age. A copy of the enacted legislation directing this study is attached as **Appendix A**.

This report reflects the deliberations of that work group. In order to develop an enforcement program to address the sale of retail tobacco products or hemp products intended for smoking to individuals younger than 21 years of age, consensus emerged among group members on the following points:

- A comprehensive retail enforcement program aimed at preventing sales to individuals under 21 cannot be accomplished without a corresponding licensing structure for retail tobacco products.
- The licensing and enforcement functions would be best performed within the same agency.
- Given its experience with alcohol regulation and enforcement, the Virginia Alcoholic Beverage Control Authority ("Virginia ABC") would be best situated to administer such a licensing and enforcement program.
- Designated funding is required for ongoing expenses related to licensing and enforcement.
- Greater involvement from local law enforcement could aid in reducing overall state costs.

The work group considered the costs associated with such a licensing program and discussed options for funding sources and agreed that startup funding could include a combination of direct appropriations, a treasury loan and interagency transfers, while ongoing expenses should be funded via the permit fee for which there would be no payment exemptions, as well as through compliance penalties.

Background and Legislative History of Tobacco Regulation in Virginia

The question of whether to license tobacco retailers has a long history in the Commonwealth.

Between 2017 and 2019¹, there were repeated attempts to establish a narrow cigar-only retail license. These bills proposed that Virginia ABC create a retail permit with an annual fee of between \$20 and \$100². Discussions surrounding this legislation were focused on the alcohol control aspect, and this appears to have been the ultimate reason why these bills were not enacted.

During the 2020 Session, House Bill 1283 proposed a broad retail license administered by Virginia Tax and enforced by Virginia ABC. The license fee would have been determined on an annual basis, in an amount reasonably estimated to pay but not exceed the administrative expenses incurred by Virginia Tax in processing applications, conducting background checks and issuing permits. Virginia ABC estimated that the legislation would require an additional 20,000 compliance checks and would cost approximately \$2.4 million for the first year, and approximately \$1.5 million every year thereafter. In addition, Virginia Tax estimated that its costs would be \$225,000 for the first year, \$757,000 for the second year, and \$293,000 every year thereafter. This legislation was continued to the 2021 Session.

In 2021, legislation was introduced to propose a broad retail tobacco license that would be administered and enforced by Virginia ABC³. Virginia ABC estimated that the legislation would require 4,000 new retail locations to obtain licenses and which would require Virginia ABC to incur administrative expenses of \$1.55 million for the first year and \$1.161 million every year thereafter. This legislation was considered in the House Appropriations subcommittee on Transportation and Public Safety, which recommended it be laid on the table in the House Committee on Appropriations with a letter to Virginia Tax to study the issues raised in the bill in order to assess the feasibility and costs associated with the creation of a licensing structure for tobacco retailers to prevent the selling of tobacco products to underage individuals. Thereafter, Virginia Tax assembled a work group that included Virginia ABC, the Department of Behavioral Health and Developmental Services (“DBHDS”), Virginia Petroleum and Convenience Marketers Association, the Cigar Association of Virginia, Virginia Smoke Free

¹ 2017 House Bill 2220, 2018 House Bill 1541 and 2019 House Bill 2301 were nearly identical bills that were introduced and would have created a narrow cigar-only retail license.

² 2017 House Bill 2220 and 2019 House Bill 2301 proposed an application fee of \$100 whereas 2018 House Bill 1541 proposed an application fee of \$20.

³ See 2021 House Bill 2164.

Association, Tobacco 21, and the American Cancer Society. The study undertook an examination of the issues, but those efforts did not result in any consensus on an approach regarding licensing of tobacco retailers to prevent sales to underage individuals. The report from Virginia Tax's study is attached as **Appendix B**.

During the 2022 General Assembly session, identical legislation proposed a broad retail tobacco license that would be administered and enforced by Virginia ABC⁴. However, this legislation was left in the House Committee on General Laws due to questions of funding and issues surrounding implementation.

In 2023, House Bill 2296 and Senate Bill 1350 proposed to establish a licensing scheme for liquid nicotine product retailers. This legislation was amended to a Section 1 bill and directed Virginia ABC to convene a work group to study a licensing scheme for liquid nicotine product retailers. Thereafter, Virginia ABC assembled a work group that included DBHDS, Virginia Petroleum and Convenience Marketers Association, Virginia Smoke Free Association, Tobacco 21, and the American Cancer Society. The group was unable to reach a consensus regarding a licensing scheme, but they were able to identify two major areas of concern that appear to have held back any progress on licensing:

1. The unknown volume of entities that may be subject to licensing; and,
2. A process to accurately determine the costs of a licensing program.

The report from Virginia ABC's 2023 study is attached as **Appendix C**.

During the 2024 General Assembly Session, legislation was enacted that created a retail license limited to liquid nicotine and nicotine vapor products, subject to several broad exceptions, and created the Retail Tobacco Enforcement Fund⁵. Virginia Tax was to be responsible for the administration of the licenses and the enforcement of the restriction on underage sales in collaboration with Virginia ABC and local law enforcement. In the Fiscal Impact Statement, Virginia Tax estimated that the administrative costs related to licensing would be \$658,000 for the first year and \$771,000 in the second year, but that Virginia Tax was unable to determine the costs of performing the required unannounced investigations to enforce restrictions on underage sales as it does not have law enforcement authority and therefore assumes that Virginia ABC or local law enforcement would work to conduct such investigations.

⁴ See 2022 House Bill 685.

⁵ See House Bill 790 (2024 Acts of Assembly, Chapter 821) and Senate Bill 582 (2024 Acts of Assembly, Chapter 796)

In 2025, House Bill [1946](#) (2025 Acts of Assembly, Chapter 595) and Senate Bill [1060](#) (2025 Acts of Assembly, Chapter 596) were proposed to clarify the roles of the various agencies in undertaking the enforcement of the restriction on the sales of retail tobacco products to individuals under the age of 21. During the 2025 Session, Virginia ABC and Virginia Tax worked closely with the Patrons to draft a substitute bill that created a comprehensive Tobacco Retail Permit issued and enforced by Virginia ABC in lieu of the narrower Liquid Nicotine License created by 2024 House Bill 790 and Senate Bill 582. This version of the legislation was proposed by the Senate Committee on Finance and Appropriations as Senate Bill 1060 Senate Substitute 2. Although a bill creating a comprehensive Tobacco Retail Permit issued and enforced by Virginia ABC was not enacted, the General Assembly required this study to provide a foundation for further legislative action in its 2026 Session. The enacted version of this legislation directed Virginia Tax to undertake a study to develop an enforcement program to address the sale of retail tobacco products or hemp products intended for smoking to individuals younger than 21 years of age.

Specifically, 2025 House Bill 1946 and Senate Bill 1060 require Virginia Tax to convene a work group to consider and report on the following factors:

- The frequency of licensee inspections in Virginia and other states,
- Licensee compliance rates with underage enforcement in Virginia and other states,
- One-time and ongoing costs of any enforcement program recommendations, and
- Potential sources of revenue to support an enforcement program.

Virginia Tax solicited participation from the various groups noted in the study legislation, which included representatives from Virginia ABC, the Office of the Attorney General, the Virginia State Police and DBHDS and invited the feedback of public health advocacy organizations and industry stakeholders representing tobacco retailers. A list of participating representatives is attached as **Appendix D**.

Meetings of the Work Group

July 8th Meeting

The initial meeting of the work group was held on July 8, 2025. This meeting introduced the study mandate and outlined the scope of considerations. Participants included representatives from Virginia Tax, Virginia ABC, Office of the Attorney General, DBHDS, the Virginia State Police, and the Patron's

legislative staff. The agenda included a presentation from Virginia Tax on its role in tobacco licensing and tax enforcement, the legislative history of bills regulating retail tobacco in Virginia, and the legislative negotiations surrounding House Bill 1946 and Senate Bill 1060 during the 2025 Session. The presentation from the July 8th meeting is attached as **Appendix E**.

The group reviewed the prior studies conducted by Virginia Tax and Virginia ABC in 2021 and 2023, respectively. The group discussed how to address the two major areas of concern identified in the Virginia ABC study, mainly the unknown volume of entities that may be subject to licensing. Using data available on the number of holders of licenses and exemption certificates related to cigarettes and tobacco products⁶, Virginia Tax estimates that there are between 8,700 and 10,000 retailer locations in Virginia that would be required to obtain a Retail Tobacco Permit. Using an estimated 10,000 retail locations, Virginia ABC was able to provide updated estimated costs to implement a permit structure similar thereto, which they estimated at \$5.3 million in first-year costs and \$3.96 million annually thereafter. A copy of Virginia ABC's estimated costs are attached as **Appendix F**.

Synar and Tobacco 21

The Synar program was established in 1992 under the Synar Amendment and requires all US states to enact and enforce laws prohibiting the sale of tobacco products to individuals under 18 in order to receive full federal funding through the Substance Use Prevention Treatment and Recovery Services ("SUPTR") Block Grant. States must conduct annual, unannounced inspections of tobacco retailers and report their results in an Annual Synar Report. The Retail Violation Rate (RVR) must remain below 20 percent in order for the state to maintain funding. On December 20, 2019, federal law raised the minimum legal sales age for tobacco products from 18 to 21 years through the enactment of Public Law 116-94, which is commonly referred to as Tobacco21. The Synar program was updated accordingly, requiring that states enforce underage sales laws up to age 21.

In Virginia, the Synar program is administered through DBHDS, which contracts with Virginia ABC to perform Synar compliance checks; additional supplemental compliance checks are also contracted through Virginia ABC. Updated data provided by DBHDS shows that 3,272 youth-involved compliance checks were

⁶ The tobacco licenses and exemption certificates referenced above include data on the number of holders of Other Tobacco Products (OTP) Distributor's Licenses, Retail Sales and Use Tax Exemption Certificates for Stamped Cigarettes Purchased for Resale, and Cigarette Stamping Agent Licenses as issued by Virginia Tax.

conducted in Virginia for the 2024 Fiscal Year. Virginia ABC conducted a total of 1,030 inspections, with the remaining inspections conducted by the FDA, under a different contract with DBHDS. The Synar specific inspections conducted by Virginia ABC produced a RVR of 12.4 percent.

A review of enforcement practices in other states showed considerable variation in inspection frequency and RVRs. States with well-developed licensing frameworks and consistent inspection schedules generally report lower levels of noncompliance. For example, Utah requires two compliance checks per retailer each year and reported one of the lowest RVRs in Fiscal Year 2025 at 5.4 percent. Maine also conducts annual inspections, resulting in a RVR of 6 percent. Illinois, Pennsylvania, and New York each target annual inspections of all licensed outlets, with Fiscal Year 2025 outcomes ranging from 11.4 percent in Illinois to 17.3 percent in New York, reflecting the additional enforcement challenges posed by larger retail markets. In contrast, states that conduct inspections less frequently, such as Nevada and Oklahoma, which aim to inspect retailers only once every three years, reported higher violation rates of 12.8 percent and 13.8 percent, respectively.

This data also suggests that inspection frequency alone does not guarantee improved compliance outcomes. Oregon, for instance, requires two inspections per retailer annually, yet reported a 2025 RVR of 14 percent. Similarly, Texas, which has more than 30,000 retailers, conducted approximately 1,500 Synar visits in 2025 and recorded a 16.6 percent violation rate, despite supplementing these inspections with thousands of additional state enforcement visits outside of the Synar framework.

Taken together, these findings indicate that the most effective enforcement programs are those that integrate consistent inspection schedules with comprehensive licensing systems, clearly defined enforcement authority, meaningful penalties and retailer education initiatives.

In the context of Virginia, the work group debated if and how current funding mechanisms and judicial settlement funds such as those from the JUUL Labs Settlement, discussed below, could be leveraged to support the types of successful programs implemented in other states.

JUUL Labs Settlement

The Commonwealth of Virginia, through Attorney General Jason Miyares, entered into a consent order with JUUL Labs, Inc., in the Richmond Circuit Court as part of a broader multistate resolution that centered on the allegation that JUUL intentionally targeted youth through deceptive advertising, the use of

appealing flavors, and proportional strategies designed to attract underage consumers. These tactics were identified in the order as contributing significantly to the surge in youth vaping across Virginia and the nation.

The resulting settlement required JUUL to pay Virginia at least \$16.8 million, with an initial installment of \$1.58 million, with later installments to be paid out annually on a schedule selected by JUUL. The consent order further specifies that the funds are intended to be used to support five key initiatives: (1) cessation assistance programs for Virginians who began using Electronic Nicotine Delivery Systems (“ENDS”) before age 21; (2) education and prevention efforts aimed at reducing ENDS use among those under 21; (3) independent third-party research to support initiatives that prevent youth ENDS usage; (4) programs or equipment to mitigate the impact of ENDS on students, schools, and districts and prevent future harm; and (5) enforcement and mitigation efforts targeting disposable ENDS, synthetic-nicotine products, and companies that have not adopted access-limiting measures similar to those required in the Judgment to restrict youth access to nicotine products. A copy of the JUUL Labs consent order is attached as **Appendix G**.

August 19th Meeting

The second meeting of the work group took place on August 19, 2025. This meeting focused on areas of consensus identified in July and reviewed two primary potential legislative solutions.

Funding was a central topic of discussion, particularly in reference to Virginia ABC’s estimated first year costs of \$5.3 million and \$3.96 million annually thereafter. Potential funding sources included license fees, civil penalties, and limited settlement funds. Participants debated whether retailers selling only cigars or pipe tobacco should be exempted from licensing and whether existing exemptions for other licensees should be maintained. The presentation from the August 19th meeting is attached as **Appendix H**.

Legislative Options

Option 1: Virginia Tax retains Licensing; Virginia ABC to enforce

The first option involved Virginia Tax retaining licensing while Virginia ABC conducted unannounced age verification checks and communicated violations back to Virginia Tax. The group discussed whether this achieved the ultimate purpose of the legislation and agreed that it appeared to stop short of the intended goal. However, it was also agreed that this would be the simplest fix, requiring the least amount of funding. This option would maintain the Liquid

Nicotine License administered by Virginia Tax under *Virginia Code* § 58.1-1021.04:1(C), and revision would be needed to *Virginia Code* § 59.1-293.12 and *Virginia Code* § 59.1-293.14 in order to identify Virginia ABC as the authority conducting the investigations.

The group also considered eliminating the fee exemptions for certain tobacco retailers, as they currently appear in *Virginia Code* § 58.1-1021.04:1(C) and instead allow an exemption for any retailer who possesses an ABC license. That consideration is discussed below in *Funding Options: Application Fees and Exemptions*.

This option could also incorporate a provision that empowers local law enforcement to conduct compliance checks, with civil penalties to be retained by the localities when generated through their enforcement efforts. This would require changes to *Virginia Code* § 18.2-371.1 (C) that would direct payment of any civil penalty recovered as a result of local law enforcement action being deposited into the local treasury. Concerns were raised by the group regarding the unknown nature of this impact on general fund revenues. However, there was consensus among group members that greater involvement from local law enforcement could aid in reducing overall state costs.

Option 2: Retail Tobacco Permit issued and enforced through Virginia ABC

The second option proposed replacing the existing liquid nicotine license with a comprehensive Retail Tobacco Permit administered and enforced by Virginia ABC, which would closely follow the language of Senate Bill 1060 Senate Substitute 2. This option would create a permitting structure for all retail tobacco products akin to the established Virginia ABC permits. The permit would be renewable annually and should require a permit fee sufficient to support the ongoing costs of the program.

Funding Options

Regardless of which legislative option is ultimately pursued, the issue of funding remains a critical consideration. The work group recognized that without a stable and sufficient funding mechanism, even the most well-designed enforcement framework cannot be effectively implemented. Several potential approaches were identified and discussed, including appropriations from the general fund, the use of proceeds from the JUUL Labs Settlement, a treasury loan, and interagency transfers to leverage existing resources. The amount of the application fee and corresponding exemptions, as well as applicable civil penalties were also considered. Each of these options carries distinct

implications for sustainability, timing and administrative feasibility, and are discussed in more detail below.

Appropriations from the General Fund

An appropriation from the general fund would provide a straightforward and reliable source of funding to initiate a regulatory program. The primary advantage of this approach is its stability to fund upfront costs regardless of program revenues in the early years.

Virginia ABC noted that the use of an appropriation from the General Fund may present practical and structural challenges given its status as an independent authority. Under Virginia law, Virginia ABC is governed by a Board of Directors and operates as an authority of the Commonwealth, responsible for regulating and managing the sale and distribution of alcoholic beverages. Since its transition from a state agency to an authority in 2018⁷, ABC has maintained self-sufficiency, remitting its annual profits to Virginia's General Fund. Because of this structure, an appropriation from the General Fund would effectively function as a drawdown of ABC's own transferred profits rather than a new funding source. Virginia ABC also cautioned the work group on an overreliance on general fund appropriations for ongoing operational funding, as such an appropriation would be subject to annual budget negotiations and may compete with other state priorities which may undermine its stability as a funding source long term.

Treasury Loan

A treasury loan was discussed as another potential funding source. This approach would allow either legislative option to be established immediately and could be repaid over time, ideally through revenue generated from licensing fees and penalties. The advantage of a treasury loan is that it avoids upfront competition with other budgetary priorities; however, the repayment obligation could create financial pressure if program revenues are delayed or lower than expected. Virginia ABC raised concerns about the use and repayment of a treasury loan.

The group did not arrive at a consensus on whether the loan should be used to address start-up costs of the program, or as a mechanism of securing additional operating capital to address unforeseen expenses or fluctuations in revenue.

Interagency Transfers

⁷ See House Bill 1776 (2015 Acts of Assembly, Chapter 730) and 2015 Senate Bill 1032 (2015 Acts of Assembly, Chapter 38).

Interagency transfers were also explored to be used to leverage existing resources in agencies already engaged in regulatory or enforcement activities. Virginia Tax received an appropriation of \$658,000 in Fiscal Year 2024 and \$771,000 in Fiscal Year 2025 to support the implementation of 2024 House Bill 790/Senate Bill 582. While some of these funds have been expended on the administrative costs relating to licensing Liquid Nicotine and Liquid Nicotine Vapor Products, approximately \$1.4 million⁸ is still available and could be transferred to Virginia ABC to support their initial costs of a comprehensive regulatory program.

JUUL Labs Settlement Funds

The work group again considered the use of settlement funds pursuant to the JUUL Labs consent order and discussed whether the licensing structure being contemplated appeared to fall within the appropriate use of those funds. While not an ongoing source of funding, settlement funds could be used for initial costs to implement a program, or to fund ongoing enforcement efforts. Representatives from the Office of the Attorney General have raised concerns in prior studies regarding the use of these funds to support the costs of a licensing and regulatory program, in that they may not align with the restrictions on the uses of those funds, which at their core should be focused on protecting Virginia's vulnerable youth from the lure of ENDS products. The group was unable to arrive at a consensus on this question, but funding for the separate enforcement efforts, rather than supporting the licensing and regulatory structure, appears to fall within the appropriate uses of these funds.

Concerns were also raised by the Office of the Attorney General regarding the commitment of those funds to their activities in enforcing the Liquid Nicotine and Nicotine Vapor Products Directory. These concerns are discussed in detail, below in *Other Considerations*.

The Commonwealth has received \$4,762,543 of the anticipated \$16.8 million in settlement funds, with the next settlement payment expected to be made in December 2025 in the amount of \$2,385,406.97. All funds previously received have been dedicated to initiatives.

Application Fees and Exemptions

The amount of the application fee, and who would be required to pay it, was the subject of discussion among work group members during both meetings. It was

⁸ This figure represents the amount available for an interagency transfer by Virginia Tax as of September 2025. This amount may be reduced to the extent those funds are needed to continue to support liquid nicotine licensing prior to the creation of the options discussed herein.

agreed that the application fee is the largest source of stable ongoing funding available to support the costs of this program, and the group discussed several different potential approaches.

Overall, Virginia ABC stressed the importance of setting a fee at an amount sufficient to cover the ongoing costs of the program such that they are not required to draw down their annual profits. Representatives from DBHDS suggested a higher initial fee to obtain a license, in order to help defer some of the upfront cost. Industry stakeholders raised concerns regarding the burden of a high application fee and asserted their support for increased civil penalties instead, which is discussed in more detail in the *Civil Penalties* section, below.

Option A: Full Retail Tobacco Permit with an Application Fee of \$400 with No Exemptions

The group discussed an application fee of \$400 and reviewed application fees related to Virginia ABC permits and Virginia Tax Licenses and determined that the \$400 annual fee appeared reasonable in comparison.

Assuming there are 10,000 tobacco retailers that obtain a license annually, and all exemptions for tobacco retailers as contemplated in 2025 SB 1060 Senate Substitute 2 were eliminated, an annual application fee of \$400 appears to be sufficient to cover the ongoing costs related to the licensing and enforcement program.

This calculation is based upon Virginia ABC's estimate of \$3.96M of ongoing costs, which assumes that there are 10,000 retailers in Virginia and that compliance checks would be conducted on a two-year cycle. If all 10,000 retailers paid the \$400 fee annually, that would produce \$4M in fee revenue annually⁹.

Option B: Limited Liquid Tobacco License with Exemptions for ABC Permit Holders

The work group also considered the application fee if the Liquid Nicotine License was retained. However, the exemptions for retailer dealers holding either a Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued by the Department would be eliminated and replaced with an exemption for any retailer who possesses an ABC Permit. This would require any retailer offering Liquid

⁹ The actual amount of fee revenue may differ due to various factors, including varying compliance levels among retailers.

Nicotine or Nicotine Vapor products for sale at retail, who does not possess an ABC Permit, to obtain a license and pay the \$400 application fee.

Virginia ABC suggested that providing an exemption for retailers holding ABC permits could improve administrative efficiency by reducing overlap between regulatory programs. Retailers authorized to sell alcoholic beverages are already subject to comprehensive state oversight, including licensure, inspections and compliance requirements related to sales, recordkeeping, and age verification. Limiting the licensing requirement to retailers without ABC permits may allow enforcement resources to be focused on entities not already regulated under comparable state frameworks.

This approach would provide a reduced funding source when compared to Option A. According to Virginia ABC, between 5,000 and 6,000 retailers that sell tobacco products are estimated to have an ABC license. Assuming that this reduces the universe of licensees paying the fee to 4,000 retailers, a \$400 fee would generate approximately \$1.6 million in funding. Because this would not be sufficient to cover Virginia ABC's estimated enforcement expenses, it is suggested that an increased fee of at least \$1,000 be imposed.

Civil Penalties

The work group also considered the use of civil penalties as a funding source for either legislative option. Industry stakeholders supported increasing penalties amounts, noting that such an approach would more appropriately place the financial burden of enforcement on retailers who violate underage sales laws rather than on all licensees. Group members also expressed interest in aligning tobacco-related penalties with those imposed for underage alcohol sales, which begin at \$2,500 compared to the current \$1,000 penalty for tobacco violations.

Virginia ABC raised concerns regarding the use of revenue from the collection of civil penalties to fund the ongoing costs of the regulatory program. Their concern rests upon the potential inability to collect penalties from noncompliant retailers. Additionally, higher penalties may significantly improve compliance rate and the resulting decline in violations could reduce overall revenue in future years, thereby limiting the long-term reliability of civil penalties as a primary funding mechanism.

According to DBHDS, the most recent noncompliance rates were 9.3% under the Synar program. Assuming that there are 10,000 retail establishments in Virginia and applying a 10% noncompliance rate for enforcement checks by Virginia ABC under Option 2 above, an estimated 500 entities would pay the civil penalty annually. Assuming these are all first year violations and the civil penalty for a

first offense is increased to \$2,500, this would provide an additional \$1.25 million in annual funding to Virginia ABC. The actual amount collected would depend on the ability of retail establishments to pay. However, over time, it is likely that certain establishments would be subject to the higher penalty amounts for second and third violations, which could help offset reductions in penalty revenues over time due to overall increased compliance.

Scope and Frequency of Age Verification Checks

The frequency of age verification checks required for retailers selling tobacco products was also considered by the work group.

Virginia Code § 59.1-293.12 requires an unannounced investigation at least once every 24 months to ensure that retail dealers are not selling tobacco products to persons under 21. In contrast, Virginia ABC reports that they are conducting approximately 3,000 retail inspections annually across roughly 21,000 permitted establishments as part of their Underage Buyer Program, which consistently results in a 90% compliance rate. Aligning tobacco and nicotine product age verification checks more closely to the frequency expected for alcohol could reduce the overall program costs, making the licensing and enforcement framework more financially feasible.

An alternative approach could be to focus the age verification check enforcement program on sellers of liquid nicotine that aren't also subject to alcohol age verification checks. This would primarily target vape shops, as the majority of convenience stores hold a license to sell alcoholic beverages, and would reduce the resources needed by Virginia ABC. Assuming that 4,000 retailers fall into this category, Virginia ABC would only need to conduct 2,000 inspections annually. This option would also be consistent with a license structure that exempts alcohol license holders from the license fee.

Other Considerations

Liquid Nicotine and Nicotine Vapor Products Directory

House Bill [1069](#) (2024 Acts of Assembly, Chapter 828) and Senate Bill [550](#) (2024 Acts of Assembly, Chapter 793) requires the Attorney General to create and publish a liquid nicotine and nicotine vapor product directory. The sale of liquid nicotine or vapor products not listed in the directory is prohibited. The legislation further directs that any retailer or wholesaler that sells or distributes any liquid nicotine or nicotine vapor product in the Commonwealth is subject to scheduled or unscheduled compliance checks carried out by the Attorney General for enforcement purposes. The Office of the Attorney General did not receive a

dedicated appropriation for the purpose of enforcing this legislation, which is discussed below in *Economy of Scale*.

While not directly related to underage enforcement, it is expected that maintaining and enforcing a comprehensive Liquid Nicotine and Nicotine Vapor Products Directory will likely deter bad actors in the retail liquid nicotine space, which are the ones most likely to be engaged in underage sales.

Economy of Scale

The Office of the Attorney General also expressed a desire to address the enforcement as it relates to the Liquid Nicotine and Nicotine Vapor Products Directory within this regulatory scheme. Pursuant to 2024 House Bill 1069 (2024 *Acts of Assembly*, Chapter 828) and Senate Bill [550](#) (2024 *Acts of Assembly*, Chapter 793), *discussed above*, the Office of the Attorney General is required to compile and maintain a list of qualifying liquid nicotine and nicotine vapor products. Beginning December 31, 2025, all liquid nicotine or nicotine vapor products must be registered with their office or significant penalties are incurred. This was discussed by group members, and it appeared that combining programs for underage sales enforcement, namely the subject of the study as handled under Option 2 and the Liquid Nicotine and Nicotine Vapor Products Directory handled by the Office of the Attorney General starting in 2026, would produce significant administrative costs

The group also discussed ways that age verification checks could be conducted concurrently within already established underage enforcement programs, such as Synar or enforcement of age restrictions on the sales of alcohol. DBHDS provided information that it may be possible to perform Synar underage compliance checks in conjunction with ABC's alcohol compliance checks but cautioned that careful planning would be required to manage potential legal and funding implications as enforcement activity could not be funded using the SUPTR Block Grant, nor could it factor into the RVR for Synar purposes. However, Virginia ABC indicated that due to funding restrictions, investigations occurring for the Synar program and those related to age verification checks on sales of alcohol conducted by Virginia ABC cannot be done concurrently.

Cigarette Delivery Sales

House Bill 2370 (2025 *Acts of Assembly*, Chapter 36) and Senate Bill 1067 (2025 *Acts of Assembly*, Chapter 43) removed the delivery of cigarettes from the exceptions enumerated in the definition of delivery sales. Enforcement of these delivery sales falls within the purview of the Tobacco Enforcement Section of the Office of the Attorney General, which believes that cigarette delivery companies

operate the same as other tobacco retailers and should therefore be subject to the same permit requirements. An annotated copy of Senate Bill 1060 Substitute 2 was provided by the Tobacco Enforcement Section of the Office of the Attorney General, which outlines and explains the necessary revisions and is attached hereto as **Appendix I**.

Potential Local Law Enforcement Involvement

Under current law, there are no criminal penalties for selling tobacco products to minors set forth under *Virginia Code* §§ 18.2-371.2 (C) and 59.1-293.12 (B)(12). All enforcement is through civil fines and regulatory or licensing sanctions.

Pursuant to the suggestion by Virginia ABC's CEO and in agreement with the remaining group members, Virginia Tax met with representatives from the Virginia Association of Chiefs of Police and Virginia Sheriffs' Association to discuss greater involvement by local law enforcement offices following the July 8th meeting. After the discussion, Virginia Tax provided both stakeholder groups with an informational sheet outlining the request to be provided to local law enforcement offices, which is attached as **Appendix J**. It appears that local law enforcement may be less interested in enforcing underage tobacco restrictions due to the civil, rather than criminal, penalties. Civil penalties appear to fall outside local law enforcement's primary role: they lack arrest power, provide weaker deterrence and compete with higher-priority criminal matters. Criminal penalties, by contrast, fit squarely into their mandate and offer immediate enforcement tools.

Written Comments

Written comments submitted following both meetings expressed support for establishing a more comprehensive enforcement framework. Commenters stressed the importance of sustainable funding, with most favoring a system of retailer permit fees. There was strong support for designating Virginia ABC as the enforcement authority given its experience with alcohol compliance programs. Local law enforcement and sheriffs' associations expressed concern about the lack of criminal penalties and potential funding constraints. Participants also called for clarity regarding exemptions, especially for cigar-only retailers and those entities already licensed under Virginia ABC. Several comments also raised questions about coordination with the Office of the Attorney General's current enforcement responsibilities related to tobacco manufacturers under the Master Settlement Agreement and the JUUL settlements. All written comments received from group members are attached as **Appendix K**.

Appendices

Due to their large file size, the appendices could not be included with this document. The full appendices for this report will be available at <https://www.tax.virginia.gov/retail-tobacco-work-group> .

Conclusion and Findings

The work group concluded that Virginia should adopt Option 2: a dedicated retail tobacco licensing and enforcement program to address underage sales, administered by a single agency. Any such framework must establish clear enforcement authority and penalties for noncompliance. A sustainable funding mechanism, most likely through retailer permit fees and compliance penalties, is essential to the program's success. Virginia ABC is well-positioned to enforce retail tobacco restrictions given its existing infrastructure for alcohol compliance, though Virginia Tax could retain certain licensing functions. Additional consideration is needed regarding retailer exemptions and the role of local law enforcement in enforcement activities.