

Abusable Volatile Chemical Penalty Matrix

The actual penalty amount to be assessed in a particular compliance case remains within the discretion of the Department of State Health Services (department). In determining the amount of the penalty, the department will take into account any aggravating or mitigating factors, and may reduce or increase the penalty amount, as justice may require.

Number	Violation	TAC § Number	Regulation	<u>Significant Level I Penalties:</u> \$500-1st Offense \$1,000-2nd Offense \$5,000-3rd Offense	<u>Serious Level II Penalties:</u> \$750-1st Offense \$1,500-2nd Offense \$5,000-3rd Offense	<u>Critical Level III Penalties:</u> \$1,000-1st Offense \$2,000-2nd Offense \$5,000-3rd Offense License Revocation
1	Failure to obtain AVC sales Permit	25 TAC §205.54(a)	25 TAC §205.54(a) states, "A person may not sell an abusable volatile chemical at retail unless the person or the person's employer has, at the time of the sale, a valid volatile chemical sales permit for the location of the sale. A separate permit is required for each location at which an abusable volatile chemical is sold."			X
2	Failure to have AVC sales Permit available	25 TAC §205.54(d)(2)	25 TAC §205.54(d)(2) states, "permit holder must have the permit or a copy of the permit available for inspection at the location for which the permit is issued following the requirements of §205.59 of this title (relating to Permit Available for Inspection)"		X	
3	Failure to post AVC Warning Signs	25 TAC §205.54(d)(3)	25 TAC §205.54(d)(3) states, "permit holder shall post a volatile chemical warning sign at the location for which the permit is issued following the requirements of §205.60 of this title (relating to Requirement to Post Warning Sign)"		X	
4	Failure to restrict access to aerosol paint	25 TAC §205.61(a)	25 TAC §205.61(a)(1)(2) and (3) states, "A business establishment that holds a volatile chemical sales permit under §205.54 of this title (relating to Permit Requirements and Conditions) and that displays aerosol paint shall display the paint: (1) in a place that is in the line of sight of a cashier or in the line of sight from a workstation normally continuously occupied during business hours; (2) in a manner that makes the paint accessible to a patron of the business establishment only with the assistance of an employee of the establishment; or (3) in an area electronically protected, or viewed by surveillance equipment that is monitored, during business hours."		X	
5	Sale or delivery of AVC products to a minor	25 TAC §205.54(d)(1)	25 TAC §205.54(d)(1) states, "permit holder shall not sell or deliver abusable volatile chemicals to a person under 18 years of age."			X

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6	Failure to comply with an inspection or investigation by delaying or denying access	25 TAC §205.63(c) and (d)	25 TAC §205.63(c) states, "A department representative, upon presenting the department identification card, shall have the right to enter all retail facilities during normal operating hours to inspect and investigate for compliance with these sections, including to review records, to question any person, or to locate or identify abusable volatile chemicals held for retail sale." 25 TAC §205.63(d) states, "A department representative is not required to notify in advance or seek permission to conduct inspections or investigations. It is a violation of this chapter for a person to interfere with, deny, or delay an inspection or investigation conducted by a department representative."			X
7	Failure to post AVC warning signs in conspicuous location	25 TAC §205.60(a), (b)	25 TAC §205.60(a) states, " A business establishment that sells abusable volatile chemicals at retail shall display a volatile chemical warning sign, in English and Spanish, that states the following: "It is unlawful for a person to sell or deliver abusable volatile chemicals to a person under 18 years of age. Except in limited situations, such an offense is a state jail felony. It is also unlawful for a person to abuse a volatile chemical by inhaling, ingesting, applying, using, or possessing with intent to inhale, ingest, apply, or use a volatile chemical in a manner designed to affect the central nervous system. Such an offense is a Class B misdemeanor." 25 TAC §205.60(b) states, "A current version of the volatile chemical warning sign shall be clearly posted in a conspicuous and prominent place at the location where the permit holder sells abusable volatile chemicals. At a minimum, at least one warning sign must be posted at the location for which the permit is issued. Permit holders may post additional warning signs at multiple sites within this location to ensure that the sign is easily visible to patrons of the establishment."	X		