

# REGULATIONS OF THE LITTLETON BOARD OF HEALTH SALE OF TOBACCO PRODUCTS TO MINORS

(Revised from 1997 Littleton Board of Health regulations affecting Smoking and the Sale, vending, and distribution of tobacco in the Town of Littleton and voted upon regulations June 12, 2002.)

## **A. Statement of Purpose**

Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and whereas more than eighty percent of all smokers begin smoking before the age of eighteen years<sup>1</sup>; and whereas nationally in 2000, sixty nine percent of middle school age children who smoke at least once a month were not asked to show proof of age when purchasing cigarettes<sup>1</sup>, and whereas an estimated three thousand minors begin smoking every day in the United States<sup>2</sup>; and whereas nicotine is as addictive as cocaine or heroin<sup>3</sup>; and whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; now, therefore it is the intention of the Littleton Board of Health to curtail the access of tobacco products by minors.

## **B. Authority**

This regulation is promulgated pursuant to the authority granted to the Littleton Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations . . ."

## **C. Definitions**

For the purpose of this regulation, the following words shall have the following meanings:

**Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

**Employee:** Any individual who performs services for an employer.

**Employer:** Any individual, partnership, association, corporation, trust or other organized group of individuals, including the Town of Littleton or any agency thereof, which uses the services of one (1) or more employees.

**Minor:** Any individual who is under the age of eighteen (18).

**Permit Holder:** An owner or operator of any establishment engaged in the sale of tobacco products that applies for and receives a tobacco sales permit, or his or her agent.

**Person:** An individual, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale of tobacco products.

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<sup>1</sup> Centers for Disease Control and Prevention, "Youth Surveillance - United States 2000," 50 MMWR 1 (Nov. 2000)

<sup>2</sup> Cancer Facts & Figures - 1993, American Cancer Society

<sup>3</sup> U.S. Department of Health and Human Services

**Self Service-Display:** Any display from which customers may select a tobacco product without assistance from an employee or store personnel, excluding vending machines.

**Tobacco Product:** Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff or tobacco in any of its forms.

**Vending Machine:** Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

## **D. Tobacco Sales to Minors Prohibited**

1. No person shall sell tobacco products or permit tobacco products to be sold to a minor, or not being the minor's parent or legal guardian, give tobacco products to a minor.
2. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Littleton Board of Health. Such notice shall be at least 48 square inches and shall be posted at the cash register which receives the greatest volume of tobacco product sales in such a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. For all other cash registers that sell tobacco products, a notice shall be attached which is no smaller than nine (9) square inches, which is the size of the sign provided by the Massachusetts Department of Public Health. Such notice must be posted in a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of no less than four (4) feet or more than nine (9) feet from the floor.
3. Identification: Each person shall verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is 18 years old or older. Verification is required for any person under the age of 27.
4. All retail sales of tobacco must be face-to-face between the seller and the buyer.

## **E. Tobacco Sales Permit**

1. No person shall sell or otherwise distribute tobacco at retail within the town of Littleton without first obtaining a tobacco sales permit issued annually by the Littleton Board of Health.
2. As part of the application process, the applicant will be provided with the Littleton Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both state laws regarding the sale of tobacco and this regulation.
3. No tobacco sales permit holder shall allow any employee to sell cigarettes or other tobacco products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.
4. Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.

5. The annual fee of fifty dollars (\$50.00) shall be paid on October 31.
6. A separate permit is needed for each retail establishment selling tobacco.
7. Each tobacco sales permit shall be displayed at the retail establishment in a conspicuous place.
8. A tobacco sales permit is non-transferable, except a new permit will be issued to a retailer who changes location.
9. Issuance of a tobacco sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

## **F. Free Distribution**

No person shall distribute, or cause to be distributed, any free samples of tobacco products on the premises.

## **G. Out-of-Package Sales**

No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

## **H. Self-Service Displays**

All self-service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

## **I. Tobacco Vending Machines**

All tobacco vending machines are prohibited.

## **J. Violations**

1. It shall be the responsibility of the permit holder and/or his or her agent to ensure compliance with all sections of this regulation pertaining to his/her place of business or any person in violation of any section of this regulation. If violation occurs, the permit holder and the employee involved in the sale of tobacco products at the time of violation, a request shall be made by the Board to appear before the Board of Health regarding this matter. A first violation requires mandatory education to be given by the agent and/or tobacco control representative to prevent a future violation. Successive violations may require additional education at the discretion of the Littleton Board of Health.

With respect to Section D 1. of these regulations pertaining to the sale of tobacco to minors:

- a. In the case of a first violation, the fine shall be one hundred dollars (\$100.00) to the permit holder, the permit shall be suspended for two (2) consecutive business days and the violator shall appear before the Littleton Board of Health. The permit holder shall display a sign notifying the public on the premises that sales are suspended pursuant to a violation of the Town of Littleton Tobacco Regulations.
- b. In the case of the second violation within eighteen (18) months of the first violation, the fine shall be two hundred dollars (\$200.00) to the permit holder, the permit shall be suspended for ten (10) consecutive business days and the violator shall appear before the Littleton Board of Health. The permit holder shall display a sign on the premises notifying the public that sales are suspended pursuant to a violation of the Town of Littleton Tobacco Regulations.

- c. In the case of the third or more violations where the current violation is within an eighteen (18) month date of the first violation, a fine of three hundred (300.00) to the permit holder, the permit shall be suspended for thirty (30) consecutive business days and the violator shall appear before the Littleton Board of Health. The permit holder shall display a sign on the premises notifying the public that sales are suspended pursuant to a violation of the Town of Littleton Tobacco Regulations.
- d. Any permit holder who fails to comply with any other part of this regulation shall be subject to a fine of one hundred dollars (\$100.00) for each violation within a twelve (12) month period.

2. The Littleton Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefore in writing. The Littleton Board of Health after a hearing, may suspend the tobacco sales permit. All tobacco products shall be removed from public view. Failure to remove all tobacco products from public view shall constitute a separate violation of this regulation.

3. Any permit holder who does not pay the assessed fine within twenty-one (21) days from fine issuance may be subject to criminal proceedings.

### **K. Non-Criminal Disposition**

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in General Laws, Chapter 40, Section 21 D or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

### **L. Enforcement**

Enforcement of this regulation shall be by the Board of Health of the Town of Littleton or its designated agent(s).

Any citizen who desires to register a complaint pursuant to the regulation may do so by contacting the Board of Health of the Town of Littleton or its designated agent(s) and the Board shall investigate.

### **M. Severability**

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

## **N. Effective Date**

**This regulation shall take effect on August 1, 2002.**

### **LITTLETON BOARD OF HEALTH**

Peter M. Cassinari, Chairman

Stephen Foss, Vice-Chairman

Thomas Grady, Clerk

Kelli Harte, Member

Robert Zimmerman, Member