



STURBRIDGE BOARD OF HEALTH

Regulation Restricting Youth Access to Tobacco

SECTION I: Statement of Purpose

WHEREAS, tobacco use is a leading health problem in the Town of Sturbridge and throughout the United States; and

WHEREAS, tobacco use by minors is a continuing problem with grave public health consequences because more than 80% of all smokers begin before the age eighteen and more than 3,000 minors begin smoking every day in the United States, and

WHEREAS, the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin, action is needed to curtail the easy access of tobacco products to minors.

The Sturbridge Board of Health enacts the following Regulations as a strict and enforceable system to prevent access to and the illegal sale of tobacco products to minors.

SECTION II: Authority

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

SECTION III: Definitions

"Employee" means any individual who performs services for an employer.

"Employer" means any individual, partnership, association, corporation, trust or other organized group of individuals, including the Town of Sturbridge or any agency thereof, which regularly uses the services of one (1) or more employees.

"Retail Store" means any establishment selling goods or articles or personal services to the public.

"Self Service Display" means a display from which individual packs or cartons of tobacco products may be selected by a customer without clerk's assistance.

"Tobacco Vending Machine" means any machine or device designated for or used for the dispensing of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins trade checks, swipe cards, slips, or any other form of payment.

SECTION IV: Tobacco Sales to Minors Prohibited

A. Sale to Minors

In conformance with Massachusetts General Laws, Chapter 270, Section 6, whoever sells or gives a cigarette, chewing tobacco, snuff, or any tobacco in any of its forms to any person under the age of eighteen, not being his parent or guardian, shall be punished according to the fine schedule set forth in Paragraph V of this section.

B. Posting State Law

In conformance with Massachusetts General Laws, 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 of the retail store [or other place used to sell cigarettes at retail].

The notice to be posted shall be provided by the Massachusetts Department of Public Health and made available from the Board of Health of the Town of Sturbridge. Such notice shall be at least 48 square inches and shall be posted at each cash register that makes 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 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 cigarettes, a notice shall be attached in the same manner which is no smaller than nine (9) square inches, which is the size of the sign provided by the Massachusetts Department of Public Health.

C. Permit for Location and Sales of Tobacco

1. After the effective date of this Regulation, the Board of Health of the Town of Sturbridge will issue a "Permit for Location and Sales" that will specify the name, address, and approved location per the Board of Health of the Town of Sturbridge or their designated agent(s) for retailers who sell tobacco products.
2. After the effective date of this Regulation, all retailers who sell cigarettes or other tobacco products, will be required to hold and maintain a valid "Permit for Location and Sales" from the Town of Sturbridge for each location at which tobacco products are sold.
3. After receiving the permit, the retailer will receive a sign that states "Sale of cigarettes or any tobacco products to persons under age eighteen (18) is illegal, M.G.L. Chapter 270, Sections 6 & 7". Any retailer not posting said signs will be in non-compliance of this Regulation and subject to penalties per Section V of this Regulation.

4. The term of the permit shall be one year.
5. The fee for the one-year tobacco retailer's "Permit for Location and Sales" is thirty-five dollars (\$35.00) for each tobacco retail location.
6. A "Permit for Location and Sales" is non-transferable, except a new permit will be issued to a tobacco retailer who changes locations.
7. During such time that a "Permit for Location and Sales" of tobacco products has been suspended for violations of this Regulation, all tobacco products must be removed from the premises. Any person or entity selling any selling tobacco products without said permits shall be fined according to Section V until said permit is reinstated by the Board of Health of the Town of Sturbridge or its designated agent(s); each day in violation will be considered a separate offense.

D. Tobacco Vending Machines

After the effective date of this Regulation, it shall be unlawful to sell or distribute any tobacco product through a cigarette vending machine, or any other device used in the sale or distribution of tobacco products within the Town of Sturbridge, unless said cigarette vending machine is located in a facility where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time.

E. Out-of-Package Sales Prohibited

The retailer or an employee of the retailer shall not break or otherwise open any cigarette package or smokeless tobacco product to sell or distribute individual cigarettes or number of cigarettes or any quantity of cigarette tobacco or of a smokeless tobacco product that is smaller than the quantity in the unopened package.

F. Self-Service Display Restrictions

No retailer shall sell or offer for sale tobacco products by means of a self-service display. All humidors including, but not limited to, walk-in humidors must be locked.

G. Free Distribution of Tobacco Products

No retailer or other person shall cause or allow to be distributed any free samples of tobacco products.

H. Sales by Employees

1. In the event of a prospective purchase of cigarettes or other tobacco products at retail by a person age twenty-six (26) years or younger, the employee responsible for completion of the sale shall request and examine photographic identification establishing the purchaser's age as eighteen (18) years or greater as long as such is not in conflict with federal law.

2. No commercial entity selling tobacco products at retail shall allow any employee to sell cigarette or other tobacco products until such employee reads this Sturbridge Tobacco Control 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 employee, that he/she has read the Regulation.

SECTION V: Penalties, Fines, Suspension and/or Suspension Hearings of Permit

It shall be the responsibility of the owner, manager, or permit holder and/or his or her agent to ensure compliance with all sections of this Regulation pertaining to their place of business. The owner, manager, or permit holder and/or his or her agent, or persons involved in violation of any of the provisions of this Regulation shall receive:

1. In the case of a first violation, the owner, manager, or permit holder and/or his or her agent, or persons not in compliance with the provisions of this Regulation shall receive a written warning.
2. In the case of a second violation within one year of the first violation, the owner, manager, or permit holder and/or his or her agent, or persons not in compliance with the provisions of this Regulation shall receive a fine of one hundred dollars (\$100.00).
3. In the case of a third or any subsequent violation within one (1) year of the first violation, the owner, manager, or permit holder and/or his or her agent, or persons not in compliance with the provisions of this Regulation shall receive a fine of two hundred dollars (\$200.00) and the permit shall be suspended for thirty (30) consecutive business days.
4. The Board of Health of the Town of Sturbridge shall provide written notice to the permittee of the intent to suspend a Permit for Location and Sales of Tobacco. The notice shall contain the reasons for the suspension and establish a date and time for a hearing. The date of the hearing shall be no earlier than seven (7) days after the date of said notice. The permittee shall have an opportunity to be heard at such hearing and shall be notified of the Board's decision and reasons in writing.

SECTION VI: Non-Criminal Disposition

Whoever violates any provision of this Regulation, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue

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

Penalty: \$100 for the second offense
 \$200 for the third offense

SECTION VII: Enforcement

Enforcement of this Regulation shall be implemented by the Sturbridge Police Department, the Sturbridge Board of Health or their designated agent(s).

Any citizen who desires to register a complaint of non-compliance under the Regulation may do so by contacting the Sturbridge Police Department, the Sturbridge Board of Health or their designated agent(s).

SECTION VIII: Severability

If any provision, clause, sentence or paragraph of this Regulation or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this Regulation are declared to be severable.

SECTION IX: Effective Date

This Regulation shall take effect on January 1, 2000.

George E. Berry, Chairman

Harold J. White

Stephen P. Mullen