

STATE LEGISLATED ACTIONS ON TOBACCO ISSUES

1996

AMERICAN
LUNG
ASSOCIATION

American Heart
Association



AMERICAN
CANCER
SOCIETY

AMERICAN LUNG ASSOCIATION, 1735 M STREET, N.W., WASHINGTON, D.C. 20036
AMERICAN HEART ASSOCIATION, 520 N. LAKE DRIVE, COVINGTON, LA 70428
AMERICAN CANCER SOCIETY, 1515 N. MICHIGAN AVE., ANN ARBOR, MI 48106

STATE LEGISLATED ACTIONS ON TOBACCO ISSUES

DECEMBER 31, 1996

EDITED BY CASSANDRA E. WELCH

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AMERICAN LUNG ASSOCIATION
1726 M STREET, N.W. SUITE 902
WASHINGTON, DC 20036



FOREWORD

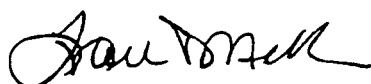
The tobacco control movement in 1996 was a mixture of success at the local level and limited progress at the state level. A lot of time was spent fighting a defensive battle against tobacco industry-sponsored state legislation. With the tobacco industry tied up at the state level, most of the success in tobacco control came from the cities and towns, as local governments proceeded to pass strong youth access and clean indoor air ordinances.

As in previous years, the tobacco industry's nationwide strategy was to preempt all local control over tobacco. The industry introduced 26 bills in 19 states that preempted local communities from enacting tobacco control legislation. Due to a strong grassroots effort by tobacco control advocacy groups, 24 of these bills were defeated with only 2 preemption bills enacted. A notable victory was Governor Evan Bayh of Indiana's veto of a bill that would have preempted local governments from enacting strong youth access ordinances.

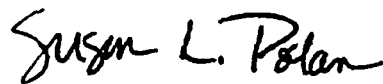
State legislative highlights include a tobacco excise tax increase in Massachusetts by 25 cents per pack and an increase in Oregon by 30 cents per pack. Massachusetts also passed a landmark bill that requires the tobacco industry to disclose all ingredients in their tobacco products.

Additionally, 1996 saw a sharp increase in the number of Attorneys General filing suit against the tobacco industry to seek recovery of state funds spent to care for people with tobacco-related diseases. There are now 21 states¹ across the country that are taking on the tobacco industry and holding them accountable for the illness and death they have caused.

All the developments that occurred in 1996, as well as an up-to-date compilation of all state tobacco control laws, are presented in this edition of State Legislated Actions on Tobacco Issues. This document serves as a resource for all those involved or interested in this most pressing health issue.



Fran Du Melle
Deputy Managing Director
American Lung Association



Susan L. Polan
Director of Government Relations
American Cancer Society



Scott D. Ballin
Vice President for Public Affairs
American Heart Association

¹ As of February 13, 1997.

We would like to acknowledge and thank the following people and organizations for their help in compiling this document:

- ◆ Peter Fisher, The National Center for Tobacco-Free Kids
- ◆ Jessica Bartelt, The Association of State and Territorial Health Officials (ASTHO)
- ◆ State departments of health
- ◆ State departments of revenue, bureaus of tobacco and miscellaneous taxes

For more information please contact:

American Lung Association: 1-800-LUNG-USA or <http://www.lungusa.org>

American Cancer Society: 1-800-ACS-2345 or <http://www.cancer.com>

American Heart Association: 1-800-AHA-USA1 or <http://www.amhrt.org>

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STATE LEGISLATED ACTIONS ON TOBACCO ISSUES OVERVIEW

A. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

Forty-eight states and the District of Columbia have some restriction on smoking in public places. These laws range from simple, limited restrictions, such as designated areas in schools, to laws that limit or ban smoking in virtually all public places, including elevators, public buildings, restaurants, health facilities, public conveyances, museums, shopping malls, retail stores, and educational facilities (Vermont). California and Washington require enclosed separately ventilated smoking areas in private workplaces, or smoking must be banned entirely. Of the states that limit or prohibit smoking in public places, 43 restrict smoking in government workplaces and 23 restrict smoking in private sector workplaces. (See Appendices A through C.)

B. TOBACCO EXCISE TAXES

Cigarettes

All 50 states and the District of Columbia impose an excise tax on cigarettes. These taxes range from a high of 82.5¢ per pack in Washington to a low of 2.5¢ per pack in Virginia. The national average for state cigarette excise taxes as of December 31, 1996 is 33.2¢ per pack. (See Appendices D, E and State Legislated Actions on Tobacco Issues At-A-Glance.)

Smokeless Tobacco

Forty-two states have excise taxes on smokeless tobacco products, including chewing tobacco and snuff. In most states, the excise tax is calculated as a percentage of the wholesale sales price to retailers, the manufacturer's invoice price, or the price at which the tobacco entered the state. Alabama and Arizona base their smokeless tobacco excise taxes on the weight of the tobacco package. (See State Legislated Actions on Tobacco Issues At-A-Glance.)

C. AGE RESTRICTIONS ON SALES OF TOBACCO PRODUCTS

All 50 states and the District of Columbia prohibit the sale of tobacco products to minors. Most states define minors as persons under 18 years of age, however enforcement varies widely. Three states -- Alabama, Alaska, and Utah -- define minors as persons under 19 years of age. Pennsylvania prohibits retailers from selling cigarettes and cigarette papers to persons under 21 years old, but only enforces sales of these and other tobacco products made to persons under 18. (See State Legislated Actions on Tobacco Issues At-A-Glance.)

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Forty-one states and the District of Columbia restrict the distribution of free samples of tobacco products. Minnesota prohibits the distribution of promotional samples to the general public at no or nominal cost, except for single serving samples distributed in tobacco stores. Nebraska bans samples, coupons and rebate offers for smokeless tobacco products, and prohibits licensees from giving or furnishing cigarettes to minors. New York prohibits distribution of tobacco samples to minors, restricts distribution to private social functions and designated areas generally accessible only to persons over eighteen and requires five days written notice to be given to enforcement officers before such an event. Fourteen states restrict where free samples may be distributed. For example, California, the District of Columbia, Utah and Wisconsin prohibit giving away samples in public places. Oklahoma and several other states prohibit the free distribution of tobacco to persons under 18 and within 500 feet of a school, playground or other location used primarily by people under eighteen. Twenty-six states ban the free distribution of tobacco product samples to minors only. (See State Legislated Actions on Tobacco Issues At-A-Glance.)

Nineteen states restrict the sale of cigarettes outside of their original package. Rhode Island and Hawaii prohibit the sale of cigarettes in packs containing less than 20 cigarettes. Seven states -- Connecticut, Montana, Nevada, New York, South Dakota, Tennessee, and Virginia -- require cigarettes to be sold in a sealed package that is provided by the manufacturer and that contains the health warning required by federal law. Seven states -- California, Maine, Michigan, Mississippi, New Mexico, Oklahoma and Oregon -- require cigarettes to be sold in the original, sealed package as placed by the manufacturer. Delaware, Washington and Wisconsin require cigarettes to be sold in the package on which a tax stamp has been affixed.

E. RESTRICTIONS ON SALES OF TOBACCO PRODUCTS IN VENDING MACHINES

Thirty-four states and the District of Columbia restrict the placement of tobacco product vending machines. Hawaii prohibits tobacco vending machines everywhere except for bars, taverns, and other places where minors are not permitted by law. Similarly, California only allows vending machines in locations issued an on-sale license for the sale of alcoholic beverages and requires these vending machines to be at least 15 feet away from the entrance. Eleven states -- Alaska, Delaware, Michigan, Nebraska, New Mexico, New York, Oregon, Utah, Vermont, Washington and Wyoming -- restrict vending machines placement to bars, private clubs with liquor licenses and workplaces not generally open to the public. Twenty-three states -- Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Minnesota, Mississippi, Montana, Nevada, New Hampshire, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Virginia, Wisconsin -- allow vending machines in any location with a locking device or within the direct line of sight of clerks. Twenty-four states require owners, operators, and/or supervisors of tobacco vending machines to

post warning signs on the machines advising of age restrictions for purchase or sales. Illinois requires owners or operators of cigarette vending machines to post signs warning of the dangers of cigarette use during pregnancy. Idaho, Maryland, Massachusetts, Missouri and New Jersey have no restrictions on placement but make owners or operators specifically liable for sales to minors, except Maryland and Missouri absolve owners of any liability if they have the required sign posted. (See Appendices F and G.)

F. LICENSING REQUIREMENTS

Forty-six states and the District of Columbia require the licensing of parties that sell tobacco products. Hawaii, New Mexico, Virginia and West Virginia do not require licensing of such parties. Licensing regulations range from requiring only distributors, or the party responsible for payment of excise taxes, to have licenses (Illinois) to requiring wholesalers, distributors, manufacturers, retailers and vending machine operators to obtain licenses (Alaska). The licensing laws in Alaska, Arkansas, Connecticut, the District of Columbia, Florida, Iowa, Maine, Montana, Nebraska, New Jersey, New York, Rhode Island, Washington and Wisconsin include provisions that penalize a licensee who furnishes tobacco products to minors by a possible suspension or revocation of their license for multiple offenses.

G. SMOKING PROTECTION LAWS

Regrettably, 29 states and the District of Columbia passed some form of smoking protection legislation between 1989 and 1996. (See Appendix I.)

H. ADVERTISING AND PROMOTION

Seven states and the District of Columbia have some restrictions on tobacco advertising and promotion. California restricts tobacco advertising in all state owned buildings. Kentucky and Texas prohibit tobacco billboard advertising within 500 feet of schools. Illinois, Michigan and West Virginia require warnings to be posted on smokeless tobacco billboard advertising. Utah prohibits the display on any billboard, streetcar, sign, bus, placard any advertisement of tobacco products, except that dealers in tobacco products may have a sign at his place of business indicating that he sells tobacco. The District of Columbia bans all tobacco advertising on the Metropolitan Transit System.

I. PRODUCT DISCLOSURE

Massachusetts is the first state to pass a law requiring tobacco manufacturers to disclose any added constituent of tobacco products other than tobacco, water and the nicotine yield.

**TOBACCO-CONTROL UPDATE
1996 ACTIVITY
BY STATE**

CALIFORNIA

Amended current law to increase the penalty to minors purchasing, or possessing any tobacco product by a fine of \$150 or 30 hours of community service or a 90-day suspension of his or her drivers's license, or a 90 day eligibility for a driver's license, or both. Also prior to January 1, 2000 any person, firm or corporation that knowingly sells, gives or in any way furnishes tobacco products or paraphernalia to a minor is guilty of an infraction, subject to a fine of \$250 or shall be subject to either criminal action for a misdemeanor or to civil action punishable by a fine of \$200 for the first offense, \$500 for the second offense and \$1,000 for the third offense. After January 1, 2000, violators shall be subject to either criminal action for a misdemeanor or to civil action punishable by a fine of \$200 for the first offense, \$500 for the second offense and \$1,000 for the third offense. Employers of 30 or more employees are exempt from the penalties. **No city or county shall adopt an ordinance or regulation inconsistent with this specific provision.*** *CA S.B. 1849 enacted 9/30/96 and effective 1/1/97.*

Extends from January 1, 1997 to January 1, 1998, the date by which the standards board or Environmental Protection Agency must adopt standards for employee exposure to environmental tobacco smoke in order to permit continuance of the exemption for bars, taverns and gaming clubs. *CA A.B. 3037 enacted 9/27/96 and effective 1/1/97.*

CONNECTICUT

Increased the penalties for illegal sales and distribution to minors to not more than \$200 for the first offense \$350 for a second offense within 18 months and not more than \$500 for each subsequent offense within 18 months. After July 1, 1998, restricts cigarette vending machines to an area, facility or business which is accessible to adults only or in an area frequented by persons of all ages provided the machine is placed in an area accessible to adults only. Violators are subject to a civil fine of \$250 for a first offense and \$50 for a second offense within 18 months. For a third violation within 18 months, the penalty is \$500 and the machine will be removed from the area and no machine will be placed in the area, facility or business for one year. Any owner of an establishment where a cigarette vending machine is located that has sold, given or delivered cigarettes to a minor shall be fined \$250 for the first violation, \$500 for the second violation within 18 months and a fine of \$500 and removal of machine for one year. *CT H.B. 5457 enacted and effective 6/6/96.*

DELAWARE

Required the Department of Public Safety or it's delegates to conduct annual, random and unannounced inspections at locations where tobacco products are sold or distributed to test compliance. Persons under the age of 18 may be enlisted by the Department or its delegates to test compliance provided that such persons may be used only under the direct supervision of the Department, its employees or delegates and only when written parental consent has been

provided. The Department shall adopt and publish guidelines for the use of persons under 18 in inspections. The Department may enter into an agreement with any local law enforcement agency for delegation of the inspection and enforcement within the local agency's jurisdiction. Established penalties for minors who purchase tobacco products. Violators shall be fined \$50 or ordered to perform 25 hours of community service for the first offense, \$50 fine and 50 hours of community service for the second and all subsequent offenses within 12 months of prior offenses. Prohibits distributing tobacco products samples or coupons to minors. Prohibited the sale of a tobacco product for commercial purposes unless the product is in a sealed package provided by the manufacturer with the required health warning and tax stamp. Violators shall be fined \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and all subsequent offenses within 12 months. Restricts vending machine placement to bars, private clubs with liquor licences and workplaces not generally open to the public. **These provisions shall preempt and supersede any provisions of any municipal or county ordinance or regulation.*** *DE H.B. 440 enacted 4/5/96 and effective 7/3/96.*

FLORIDA

Prohibited minors from smoking tobacco in, or within 1,000 feet of a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This does not apply to private residences or a person in a vehicle. A law officer may issue a citation to any person violating the provisions of this section. Any violator who receives a citation will receive a maximum civil penalty of \$25 or 50 hours of community service or successful completion of a school-approved anti-tobacco "alternative to suspension" program. *FL S.B. 322 enacted and effective 5/25/96.*

GEORGIA

Amended current law to make it unlawful to advise, counsel, or compel any minor to smoke, inhale, chew or use cigarettes or tobacco related objects. Violation is a misdemeanor. *GA H.B. 1365 enacted 4/2/96 and effective 7/1/96.*

HAWAII

Prohibited the sale of single cigarettes or packs of cigarettes containing less than 20 cigarettes and cigarettes that are not in sealed packages originating with the manufacturer and bearing the health warning by law. Violators will be fined no more than \$2,500 for the first offense and \$100-\$5,000 for any subsequent offense. *HI S.B. 2772 enacted and effective 4/24/96.*

Amended current law to prohibit the sale of cigarettes from a lunch wagon within one thousand feet of any public or private secondary school. *HI S.B. 2280 enacted and effective 1/19/96.*

KANSAS

Prohibited any person from distributing tobacco samples within 500 feet of any school when such facility is being used primarily by persons under 18 years of age unless the sampling is: (1) In an area to which persons under 18 years of age are denied access; (2) in or at a retail location where cigarettes and tobacco products are the primary commodity offered for sale at retail; or (3) at or adjacent to an outdoor production, repair or construction site or facility. Violators are guilty of a misdemeanor and upon conviction shall be punished by a fine of not

more than \$1000, up to one year in prison, or both. Also made it illegal for any person to sell cigarettes or tobacco products by means of a vending machine in any establishment which is open to minors, except: (1) installation and use behind the counter; (2) installation and use in a commercial building or industrial plant; or (3) vending machines with lockout devices. Violators are guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1000, up to one year in prison, or both. *KS H.B. 2544 enacted 5/11/96 and effective 7/1/96.*

Amended current law to make it a class B misdemeanor punishable by a minimum fine of \$200 for any person, directly or indirectly, to : (1) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age; or (2) buy any cigarettes or tobacco products for any person under 18 years of age. However, it shall be considered mitigating circumstances for employees who have completed a training program, approved by the secretary of revenue or the secretary's designee, in avoiding sale, furnishing or distributing of cigarettes and tobacco products to persons under 18 years of age. Also it is unlawful for minors to possess or attempt to possess cigarettes or tobacco products. Required retail dealers to post and maintain the following notice: : "By law, cigarettes and tobacco products may be sold only to persons 18 years of age and older." *KS H.B. 2544 enacted 5/11/96 and effective 7/1/96.*

Required vending machine operators to obtain a separate permit for each vending machine. Increased licensing fee to \$25 for each retail establishment, \$50 wholesale dealer's licence, \$50 for vending machine distributor licence, no fee for vending machine operator's license and \$25 permit for each vending machine. *KS H.B. 2544 enacted 5/11/96 and effective 7/1/96.*

KENTUCKY

Increased the penalty for illegal sales of tobacco products to minors to a fine of \$100 to \$500 for the first violation and \$500 to \$1000 for subsequent violations. Also increased the fine for violation of the sign post requirement to \$100 to \$500 for the first violation and \$500 to \$1000 for subsequent violations. The Department of Agriculture is entitled to keep 100% of any fines collected to offset the costs of enforcement. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, display, sale, or distribution of tobacco products.*** *KS S.B. 137 enacted and effective 3/5/96.*

Made it illegal for persons under 18 to purchase a tobacco product, or to offer false proof of age. Violations shall be punishable by a fine of \$50 and 20 hours of community service for a first offense within a one year period, and a fine of \$200 and 40 hours community service for a second or subsequent offense within a one year period. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, display, sale, or distribution of tobacco products.*** *KS S.B. 137 enacted and effective 3/5/96.*

MASSACHUSETTS

Required the Department of Public Health to make available to the public information by brand (1) the identify of any added constituent of tobacco products other than tobacco, water or reconstituted tobacco sheet made wholly from tobacco; and (2) the nicotine yield ratings. Such information is in the annual report required of manufacturers of cigarettes, snuff or chewing

tobacco sold in the state. *MA S. 2191 enacted and effective 8/2/96.*

Increased tobacco tax by 25 cents, with the funds raised dedicated towards the expanded children's coverage and the senior prescription drug assistance program. Also added a tax of 25% (of wholesale price) for smokeless tobacco and a 15% rate for cigars and smoking tobacco. Bans the sale of single unpackaged cigarettes. *MA H. 6107 enacted 7/20/96 and effective 10/1/96.*

OREGON

Raised the cigarette excise tax by 30 cents to 68 cents per pack and the price of other tobacco products by 30%. *Enacted by ballot initiative 11/5/96, effective 2/1/97.*

RHODE ISLAND

Prohibited the distribution of free tobacco products or coupons or vouchers redeemable for free tobacco products within 500 feet of any school. Violators are subject to a \$500.00 fine for each violation. *RI S. 2804 enacted and effective 8/7/96.*

SOUTH CAROLINA

Increased the penalty for selling tobacco products to minors to \$25 for the first offense, \$50 for a second offense and not less than \$100, or imprisonment for two months to one year, or both for a third or subsequent offense. Also increased the penalty for distribution of tobacco product samples to minors to \$25 for the first offense, \$50 for a second offense and not less than \$100, or imprisonment for two months to one year, or both for a third or subsequent offense. **Any laws, ordinances, or rules enacted pertaining to tobacco products may not supersede state law or regulation.*** *SC H. 3201 enacted and effective 6/18/96.*

VIRGINIA

Required persons who sell tobacco to demand proof of age from a purchaser. *VA H.B. 1416 enacted 4/1/96 and effective 7/1/96.*

Vending machines must be placed inside establishments at least ten feet from any public entrance; or the sale of a token is required to operate the machine with the machine within the line of sight of the proprietor or his employees. *VA H.B. 1231 enacted 4/1/96 and effective 7/1/96.*

Amends current law to exempt Department of Corrections from having to provide no-smoking areas. Prohibits smoking in any child day care that is not also used for residential purposes. This does not apply to any portion of a building not used by a child day care center. *VA H.B. 1365 enacted 4/1/96 and effective 7/1/96.*

* The Coalition opposes preemption of local tobacco control authority.

**TOBACCO-CONTROL UPDATE
1996 ACTIVITY
BY ISSUE**

SMOKING RESTRICTIONS IN PUBLIC PLACES

NONE

SMOKING RESTRICTIONS IN GOVERNMENT BUILDINGS

NONE

SMOKING RESTRICTIONS IN PRIVATE WORKPLACES

NONE

SMOKING RESTRICTIONS IN SCHOOLS

NONE

SMOKING RESTRICTIONS IN DAY CARE CENTERS

Virginia

SMOKING RESTRICTIONS IN HEALTH FACILITIES

NONE

SMOKING RESTRICTIONS IN RESTAURANTS

NONE

INCREASED TOBACCO EXCISE TAXES

Massachusetts

Oregon

YOUTH ACCESS PROVISIONS

California Rhode Island

Connecticut South Carolina

Delaware Virginia

Florida

Georgia

Hawaii

Kansas

Kentucky

ALABAMA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: No Restrictions

Public Places

NONE

Government Buildings

NONE

Private Workplaces

NONE

Schools

NONE

Day Care

NONE

Health Facilities

NONE

Restaurants

NONE

B. TOBACCO EXCISE TAXES

Cigarettes

Tax rate per pack of 20: 16.5 cents

Date last changed: July 1, 1984 – 16 cents to 16.5 cents

Year first enacted: 1927

Other Tobacco Products

Chewing tobacco: 3/4 cent per ounce

Snuff: 1/2 cent to 4 cents, depending on the weight, for up to 6 ounces. One cent additional tax for each ounce or fraction thereof over 6 ounces.

ALABAMA**C. YOUTH ACCESS****Age Restrictions on Sales of Tobacco Products****Minimum age for sales of cigarettes and smokeless tobacco: 19****Penalty:** Fine of \$10 to \$50. Possible imprisonment in county jail or sentence of hard labor for not more than 30 days. CODE OF AL § 13A-12-3 (1975).**Sign posting requirement:** NONE**Penalty for sales to minors:** NONE**D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES**

NONE

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

NONE

F. LICENSING REQUIREMENTS**Retailers and wholesalers must obtain a privilege license to sell tobacco products. CODE OF AL §§ 40-12-72 and 40-12-73 (1940).****Licensing fee:** \$2 to \$15 annually for a retail license, depending on the population of the city or town where tobacco products are being sold; \$100 for a wholesale license, plus \$5 to each county where a wholesaler does business. CODE OF AL §§ 40-12-72 and 40-12-73 (1940).**G. SMOKING PROTECTION LAW****

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

ALASKA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is prohibited entirely in elevators. Smoking is restricted to designated areas, in public transportation vehicles and waiting areas, courtrooms or jury rooms, correctional facilities, and grocery and retail food stores. AK STAT. § 18.35.300 et seq. (1990).

Government Buildings

Smoking is banned in rooms controlled by the state or a political subdivision of the state when a public meeting or assembly is in progress. Smoking is restricted to designated areas in buildings and other structures owned, leased, or operated by the state or a political subdivision of the state, including places of employment, offices, libraries, museums, theaters, concert halls, convention halls, gymnasiums, swimming pools, and other places of entertainment or recreation. AK STAT. § 18.35.300 et seq. (1990).

Private Workplaces

Smoking is restricted to designated areas in places of employment. The employer shall post signs in areas prohibiting smoking. AK STAT. § 18.35.300 et seq. (1990).

Schools

Smoking in any form is prohibited in a public or private elementary or secondary school, preschool, or children's day care facility. The prohibition does not apply to a designated smoking areas in public or private elementary schools created by a collective bargaining agreement for employees made prior to August 14, 1990. These designated areas must be properly ventilated or equipped with an exhaust fan and located in a room where minors are not permitted. AK STAT. § 18.35.305 (1990).

Day Care

Smoking is restricted to designated areas in public or private adult day care facilities. Smoking is prohibited entirely in child care facilities, including private residences during the time they are being used for day care services. AK STAT. § 18.35.300 et seq. (1990).

Health Facilities

Smoking is prohibited entirely in public and private hospitals, and offices where health or dental care is practiced. Smoking is restricted to designated areas in nursing homes, rest homes or other residential health care institutions or facilities, and public or private mental health facilities. AK STAT. § 18.35.300 et seq. (1990).

Restaurants

Smoking is restricted to designated areas in food service establishments with a seating capacity of at least 50 persons. AK STAT. § 18.35.300 et seq. (1990).

ALASKA**Enforcement**

The person in charge of the indoor place or vehicle must display smoking and no-smoking signs. Failure to post signs is punishable by a civil fine of \$20 to \$300 for each day the violation continues after the civil complaint has been filed by the commissioner of environmental conservation. A person who smokes in a prohibited area is subject to a civil fine between \$10 and 50 dollars. AK STAT. § 18.35.300 et seq. (1990).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 29 cents

Date last changed: July 1, 1989 -- 16 cents to 29 cents

Year first enacted: 1949

An excise tax of 5.5 mills on cigarettes imported or acquired in the state is to be deposited in the general fund. The taxes collected are to be accounted for separately and may be used by the legislature to fund health care, health research and health promotion and education programs. AK STAT. § 43.50.190 (1985).

Other Tobacco Products

Chewing tobacco and snuff: 25% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 19

Penalty: Persons who sell or give tobacco to persons under 19 may be fined not less than 300 dollars. AK STAT. § 11-76-100 (1992).

Sign posting requirement: NONE

Penalties to minors: It is a violation for minors to knowingly possess tobacco products. AK STAT. § 11.76.105. A minor accused of violating this provision shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult and the minor's parent or guardian shall be present at all proceedings. AK STAT. 47.10.010 (1995).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

NONE

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: A vending machine may be maintained only if it is on premises licensed as beverage dispensaries, clubs, or package stores if it is as far as possible

ALASKA

from the primary entrance and is directly and continually supervised by an employee of the premises when the machine is accessible to the public. Vending machines may also be located in an employee break room or other controlled area of a private workplace that is not generally considered a public place. Failure to supervise a such a machine or selling tobacco to a minor through the machine is punishable by a fine of not less than \$300 upon conviction. AK STAT. § 11-76-100 et seq. (1992).

F. LICENSING REQUIREMENTS

A person may not sell, purchase, possess, or acquire cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license. AK STAT. § 43.50.070 (1980).

Licensing fee: \$25 annually for retailers and vending machine operators.

Penalty for sales to minors: A license may be suspended for 45 days for a first offense, and 90 days for a second offense within the year if a licensee or employee is convicted of selling or giving tobacco to a minor, or failing to supervise a cigarette vending machine. AK STAT. § 43.70.075 (1992).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

ARIZONA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Minimal****Public Places**

Smoking is recognized as a nuisance and a danger to public health and is restricted to designated areas, in elevators, indoor theaters, libraries, art museums, lecture or concert halls, and buses that are used by or open to the public. Violation is a petty offense. AZ REV. STAT. ANN. § 36-601.01 (1978).

Government Buildings

Smoking is restricted in any building owned or directly leased by the state to areas where drifting smoke can be contained either by the physical design of the area or use of electrostatic filtering devices, windows, or venting to the outside air. If all these efforts fail to contain the drifting smoke and management receives a written complaint, smoking shall be prohibited. Clients receiving treatment at the Arizona State Hospital, inmates using areas at correctional facilities, persons residing in state owned or leased residential facilities, and persons using tobacco for religious or ceremonial purposes are exempt from this law. A person who violates this law commits a petty offense. AZ REV. STAT. ANN. § 36-601.02 (1991).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in school buildings. A person who violates this section is guilty of a petty offense. AZ REV. STAT. ANN. § 36-601.01 (1978).

Day Care

NONE

Health Facilities

Smoking is restricted to designated areas in public waiting rooms in health professionals' offices and laboratories. The waiting rooms, restrooms, lobbies and hallways of health care institutions are also covered by this law. AZ REV. STAT. ANN. § 36-601.01 (1978).

Restaurants

NONE

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 58 cents

Date last changed: November 29, 1994 – 18 to 58 cents

Year first enacted: 1933

Other Tobacco Products

Chewing tobacco, smoking tobacco and snuff: 6.5 cents/ounce

The latest tobacco tax increase was the result of a ballot initiative approved on November 8, 1994. The proceeds from the increase (40¢ per pack for cigarettes, 4.5¢ per ounce for smokeless tobacco) are earmarked for health care services for the poor and tobacco-related education and research. The Legislature further allocated this revenue for indigent and needy residents to receive certain organ and tissue transplants. AZ REV. STAT. § 36-2907 and § 36-2921 (1995).

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: A person who sells or furnishes tobacco products to a minor is guilty of a petty offense. AZ REV. STAT. ANN. § 13-3622 (1978).

Sign posting requirement: NONE

Penalties to minors: Minors who buy, possess or accept tobacco products are guilty of a petty offense. AZ REV. STAT. ANN. § 13-3622 (1978).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

NONE

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

NONE

F. LICENSING REQUIREMENTS

Distributors must be licensed to sell tobacco, cigarettes or cigars on which a tax is imposed. Retailers are not required to obtain a license to sell tobacco products. AZ REV. STAT. ANN § 42-1203 (1995).

License fee: \$25

Penalty for sales to minors: NONE

ARIZONA

G. SMOKING PROTECTION LAWS**

No state employer may discriminate against any employee or other person on the basis of the use or nonuse of tobacco products. Violators are guilty of a petty offense. AZ REV. STAT. ANN. § 36-601.02 (1991).

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

ARKANSAS

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Minimal

Public Places

Hotels and motels are expressly excluded from state clean indoor air laws. AR CODE ANN. § 20-27-701 et seq. (1977).

Government Buildings

Chief administrative officers of each state department, agency, board, commission, or office, and other authorities of the state are required to develop a smoking policy for the general office space, which is defined as space occupied by personnel performing their daily work functions. The policy must take into consideration the rights of both smokers and nonsmokers. AR CODE ANN. § 25-1-102 (1987).

Private Workplaces

NONE

Schools

Smoking any product containing tobacco in enclosed areas, buildings, or facilities of a public elementary or secondary school is restricted to designated areas. The school district board of directors for each district may designate an area or areas away from student exposure to any side stream smoke in a public elementary or secondary school as a smoking section. Smoking in such designated areas by nonstudent persons over age 18 shall not be considered a violation of this act. Persons violating this act shall be guilty of a misdemeanor and punishable by a fine not less than \$10 nor more than \$100. AR CODE ANN. §6-21-609 (1987). Smoking is restricted on school buses. AR CODE ANN. § 20-27-703 (1977).

Day Care

Smoking is prohibited entirely in all licensed child care facilities. AR CODE ANN. § 20-78-217 (1985).

Health Facilities

Smoking is restricted to designated areas in doctors' or dentists' waiting rooms, hospital corridors, nurses' stations, and hospital rooms other than private patient rooms. Violation of this provision constitutes a misdemeanor punishable by a \$10 to \$100 fine. AR CODE ANN § 20-27-701 et seq. (1977).

Restaurants

Smoking in restaurants is specifically excluded from state clean indoor air laws. Reference date 1977. AR CODE ANN. § 20-27-701 et seq. (1977).

B. TOBACCO EXCISE TAXES

Cigarettes

Tax rate per pack of 20: 31.5 cents

ARKANSAS

Date last changed: June 30, 1993 -- 34.5 cents to 31.5 cents
Year first enacted: 1925

Other Tobacco Products

Chewing tobacco and snuff: 23% of manufacturer's list price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: It is unlawful for any person, other than a parent or guardian, to give, barter, or sell tobacco products or cigarette papers to a minor. Violators shall be guilty of a misdemeanor and subject to a fine of \$100 for the first violation, \$250 plus revocation of permit or license for 7 days for the second violation, \$500 plus revocation of permit or license for 1 to 6 months for the third violation, and \$1000 plus revocation of permit or license for 9 to 18 months for subsequent violations within two years of the first violation. AR CODE ANN. § 5-27-227 (1991).

Sign posting requirement: Signs must be posted at each retail sales counter stating that it is a violation of the law to sell tobacco products to persons under the age of 18. Penalty is a misdemeanor and a fine of \$100 for the first violation. A fine of \$250, plus revocation and suspension of the license to sell or distribute tobacco products for seven days is assessed for a second violation within two years. A third violation is subject to a fine of \$500, plus revocation and suspension of the permit or license from 1 to 6 months and subsequent violations are a fine of \$1000, plus revocation and suspension of the permit or license for 9 to 18 months. AR CODE ANN. § 5-27-227 (1991).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful for any manufacturer or any person who has been issued a permit or license to distribute free samples or coupons for samples to any person under the age of 18 and in or on any public street or sidewalk within 500 feet of any playground, public school or other facility being used primarily by people under eighteen. Violators shall be guilty of a misdemeanor and subject to a fine of \$100 for the first violation, \$250 plus revocation of permit or license for 7 days for the second violation, \$500 plus revocation of permit or license for 1 to 6 months for the third violation, and \$1000 plus revocation of permit or license for 9 to 18 months for subsequent violations within two years of the first violation. AR CODE ANN. § 5-27-227 (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines may only be placed in restricted areas within a factory, business, office, or other structure to which members of the general public are not given access; in premises which have a permit for the sale of alcoholic

beverages for on-site consumption; or places where the vending machine is under the supervision of the owner or their employee. AR CODE ANN. § 5-27-227 (1991).

Sign posting requirement: Each machine shall display a sign stating that it is against the law to sell tobacco products to persons under 18. AR CODE ANN. § 5-27-227 (1991).

Penalty: The owner of a vending machine from which tobacco products are sold to minors or that are in violation of the above requirements, shall be guilty of a misdemeanor and subject to a fine of \$100 for the first violation, \$250 plus revocation of permit or license for 7 days for the second violation, \$500 plus revocation of permit or license for 1 to 6 months for the third violation, and \$1000 plus revocation of permit or license for 9 to 18 months for subsequent violations within two years of the first violation. AR CODE ANN. § 5-27-227 (1991).

F. Licensing Requirements

Retailers, vending machine operators, salespersons, and wholesalers must obtain a license to sell tobacco products for each place of business from the Department of Finance and Administration. Any retailer doing business in both cigarettes and other tobacco products shall secure a separate license for cigarettes and other tobacco products. Licenses shall be renewed annually. AR CODE ANN. § 26-57-201 (1977).

Licensing fee: \$10 for retail cigarette permits, \$1 for retail permits for other tobacco products, \$50 for wholesale cigarette permits, \$25 for wholesaler permits for other tobacco products, and \$10 per machine for vending machine licenses (plus possible additional fees depending on the type of vending machine license).

Penalty for sales to minors: Violators shall be guilty of a misdemeanor and subject to fines and revocation of their permit or license for 7 days for the second violation, 1 to 6 months for the third violation, and 9 to 18 months for subsequent violations within two years of the first violation. AR CODE ANN. § 5-27-227 (1991).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

CALIFORNIA**CALIFORNIA****A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Comprehensive****Public Places**

Smoking is prohibited in all enclosed places of employment, except for designated breakrooms which are separately ventilated directly to the outside and located in areas where nonsmokers are not required to enter. The exemptions to this law are: sixty-five percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment; a percentage of all lobby areas in hotel, motel, or similar establishments; meeting and banquet rooms, except while food, beverage or exhibit functions are taking place; retail or wholesale tobacco shops; cabs of motortrucks when only smokers are present; warehouse facilities; theatrical production sites, if smoking is an integral part of the story; medical research or treatment sites, if smoking is integral to those functions; private residences when not in use as family day care centers. CA LABOR CODE § 6404.5 (1994).

Government Buildings

Smoking is prohibited in state-owned or state-leased buildings occupied by the state, and in areas within five feet of the exits or entrances of such buildings. Smoking is also banned in state-owned vehicles. CA GOVT. CODE §§ 19994.30 to 19994.35 (1993).

Private Workplaces

Smoking is prohibited in all enclosed places of employment, except for in designated breakrooms which are separately ventilated directly to the outside and located in areas where nonsmokers are not required to enter. Please note exemptions listed under public places. CA LABOR CODE § 6404.5 (1994).

Schools

Smoking is prohibited in all enclosed places of employment, except for in designated breakrooms which are separately ventilated directly to the outside and located in areas where nonsmokers are not required to enter and is not accessible to minors. CA LABOR CODE § 6404.5 (1994). No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school where the pupils are on campus, while they are attending school-sponsored activities or while under the supervision and control of school district employees. The possession of nicotine or use of any product containing tobacco or nicotine is considered grounds for suspension or expulsion. CA EDUC. CODE §§ 48900 and 48901 (1986).

Day Care

Smoking is forbidden on the premises of licensed day care centers, and during hours of operation in private residences licensed as family day care homes in areas of the day care home where children are present. CA HEALTH & SAFETY CODE § 1596.795 (1993).

Health Facilities

Smoking is prohibited in all enclosed places of employment, except for designated

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breakrooms which are separately ventilated directly to the outside and located in areas where nonsmokers are not required to enter. Patient smoking rooms in long-term health care facilities are exempt from this law. CA LABOR CODE § 6404.5 (1994).

Restaurants

Smoking is prohibited in all enclosed places of employment, except for in designated breakrooms which are separately ventilated directly to the outside and located in areas where nonsmokers are not required to enter. Smoking will be allowed in gaming clubs, bars and taverns until the earlier of January 1, 1998 or the date the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency adopts a regulation reducing the level of employee exposure to smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees. If a regulation by either of these two agencies is not adopted by January 1, 1997, then smoking shall be prohibited until such a standard is adopted. CA LABOR CODE § 6404.5 (1996).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 37 cents

Date last changed: January 1, 1994 -- 35 cents to 37 cents

Year first enacted: 1959

The revenue generated from the last cigarette excise tax increase of 2¢ will be deposited into a Breast Cancer Fund to assist with breast cancer prevention and to research the cause of, and cure for, this disease. CA REV. & TAX. CODE. § 30461.6 (1993).

Other Tobacco Products

Chewing tobacco and snuff: 31.2% of the wholesale price

A percentage of additional revenues from the 25¢ increase in tobacco excise taxes, enacted by Proposition 99 in 1988, funds programs established under the Health Education Account and the Research Account. The programs include an anti-smoking media campaign, project grants, public and private school-based programs, and local community-based health education programs targeting high-risk populations.

In 1994, the allocation of the tobacco tax revenues formulated by Proposition 99 were readjusted. Funds were diverted from both the Health Education Account and the Research Account to medical services for the poor. The new recipients include the Department of Health Services' Child Health Disability Prevention Program, AIM Perinatal Insurance and Children's Services Program. CA HEALTH & SAFETY CODE § 424.10 et seq. (1994). A similar bill, S.B. 493, was enacted in 1995. Both of these laws have been challenged in independent lawsuits by local health associations. The state is temporarily prohibited from spending any of the diverted funds until the court cases are resolved.

CALIFORNIA**C. YOUTH ACCESS****Age Restrictions on Sales of Tobacco Products****Minimum age for sales of cigarettes and smokeless tobacco: 18**

Enforcement: The Department of Health Services is required to conduct compliance checks of tobacco retailers to enforce the sales to minors law. Compliance checks are funded through the SAMHSA block grant and moneys collected from civil penalties in enforcement of the act. Guidelines on use of minors for the checks include immediate notification to retailer if sale to minor is made; a photograph of the minor shall be taken prior to inspections for purposes of verifying appearances and minors must be under surveillance of DHS inspectors. CA BUSINESS & PROF. CODE § 22950 et seq. and CA HEALTH & SAFETY CODE § 216 (1994).

Penalty: Prior to January 1, 2000 any per any person, firm or corporation that knowingly sells, gives or in any way furnishes tobacco products or paraphernalia to a minor is guilty of an infraction, subject to a fine of \$250 or shall be subject to either criminal action for a misdemeanor or to civil action punishable by a fine of \$200 for the first offense, \$500 for the second offense and \$1,000 for the third offense. After January 1, 2000, violators shall be subject to either criminal action for a misdemeanor or to civil action punishable by a fine of \$200 for the first offense, \$500 for the second offense and \$1,000 for the third offense. Employers of 30 or more employees are exempt from the penalties. CA PENAL CODE § 308 (1996). Civil penalties enforced against the owner or owners of the retail business, range from \$200-\$300 fine for the first violation to \$5,000-\$6,000 fine for the fifth and subsequent violations within five years. CA BUS. & PROF. CODE § 22950 et seq. (1994).

Sign posting requirement: Signs must be posted at each point of purchase stating that selling tobacco products to anyone under 18 years of age is illegal and subject to penalties. The sign shall include a toll-free telephone number to the state department for persons to report unlawful sales to minors. CA BUSINESS & PROF CODE § 22950 et seq. (1994). Every tobacco retailer shall post conspicuously in their place of business a copy of Penal Code § 308 or shall be punished by a fine of \$10 for the first offense and \$50 for each succeeding violation, or imprisonment for not more than 30 days. **No city or county shall adopt an ordinance or regulation inconsistent with this specific provision.*** CA PENAL CODE § 308 (1996).

Penalties to minors: Every minor who purchases, receives or possess any tobacco product or paraphernalia shall be punished by a fine of \$150 and 30 hours of community service work or a 90 day suspension of his driver's license or a 90 day delay in his or her eligibility for a driver's license or both. **No city or county shall adopt any ordinance or regulation inconsistent with this specific provision.*** CA PENAL CODE § 308 (1996).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful for any person, agent, or employee of a person in the business of selling or distributing smokeless tobacco or cigarettes to distribute, free-of-charge, smokeless tobacco products or cigarettes to any person in any public building, park or playground, or on any public sidewalk, street, or other public grounds. Violators are liable for a civil penalty of not less than \$200 for one act, \$500 for two acts and \$1000 for each succeeding violation. The ordinance does not apply to public places where minors are prohibited by law. CA HEALTH & SAFETY CODE § 25967 (1991).

Cigarettes must be sold in the original sealed and properly labeled package of the manufacturer. Persons who sell one or more cigarettes other than in the original package are guilty of an infraction. CA PENAL CODE § 308.2 (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Cigarette or tobacco product vending machines may only be located in a premise issued an on-sale public premises license to sell alcoholic beverages and must be at least 15 feet away from the entrance. Civil penalties enforced against the owner or service of a vending machine in violation of this provision, range from a \$200-\$300 fine for the first violation to a \$5,000-\$6,000 fine for the fifth and subsequent violations within five years. CA BUS. & PROF. CODE § 22958 and §22960 (1995). If a person who manages or controls a vending machine has grounds for knowledge that their machine will be utilized by minors, they shall be liable for selling or furnishing tobacco products to minors. Employees or clerks are liable for civil penalties of \$200 for the first offense, \$500 for the second offense and \$1,000 for the third offense. CA PENAL CODE § 308 (1989).

F. LICENSING REQUIREMENTS

Distributors and wholesalers must be licensed to sell cigarettes or other tobacco products. Retailers are not required to obtain a license to sell tobacco products. CA REV. & TAX CODE §§ 30140 et seq., 30155 et seq. (1979).

Licensing fee: No license fee.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

CALIFORNIA**H. ADVERTISING AND PROMOTION**

No tobacco product advertising shall be allowed in any state-owned and state-occupied building except advertising contained in a program, leaflet, newspaper, magazine, or other written material lawfully sold, brought or distributed within a state building. Advertising is defined as the display of any poster, sign, or other written or visual material that is intended to communicate commercial information or images to the public. CA GOVT. CODE § 19994.35 (1993).

CALIFORNIA PREEMPTION

California Penal Code § 308 (1989), which provides penalties for sales to minors and purchases by minors, originally contained preemptive language. California's appellate court, in a ruling in favor of Rancho Mirage's vending machine ban, later determined that cities and counties do have the authority to regulate the manner in which tobacco products are sold, except that the fines imposed may not be higher than those provided in § 308.

California Labor Code § 6404.5 (1994) also contains preemptive language. This language serves to establish a minimum statewide standard for smoking in enclosed places of employment. Cities and counties may enact local ordinances regarding areas not defined as an indoor place of employment in this law. Since it is comprehensive and establishes a **minimum** standard, the supported its enactment.

COLORADO

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is prohibited in elevators, museums, galleries and libraries of any establishment doing business with the general public. Smoking is restricted to designated areas in recreational facilities, such as theaters and sports arenas, and public transportation vehicles. The owner or manager of a public place not specifically mentioned in this provision may post signs prohibiting smoking, or restricting smoking to designated areas. CO REV. STAT. ANN. § 25-14-101 et seq. (1977).

Government Buildings

Smoking and the sale of tobacco products is prohibited by executive order in all buildings owned or leased by the state under the control of the executive branch. Signs stating this prohibition must be posted. Executive Order D0036-90 (1990). Smoking is restricted to designated areas in waiting and meeting rooms in all buildings owned or operated by the executive and judicial branches of state government. Smoking areas may be designated in legislative buildings by the Legislative Council or branch. CO REV. STAT. ANN. § 25-14-101 et seq. (1977) and § 2-2-404 (1994).

Private Workplaces

Private businesses are encouraged to designate physically separate nonsmoking work areas. CO REV. STAT. ANN. § 25-14-101 et seq. (1977).

Schools

The Board of Education of each school district must adopt policies and rules which mandate a prohibition of the use of all tobacco products on the grounds of all public nursery schools, day care centers, child care facilities, Head Start programs, kindergarten, and elementary and secondary education facilities through grade 12. This prohibition pertains to all students, teachers, staff and visitors on school property and at school-sponsored events. Smoking is also prohibited in all vehicles used by the school for the purpose of transporting students, workers, visitors, or any other persons. The Board of Education may exempt a school from this requirement if it determines that extraordinary circumstances exist. CO REV. STAT. ANN. § 25-14-101 et seq. (1977) and § 22-32-109 (1994).

Day Care

Smoking is prohibited on the property and in the vehicles of public nursery schools, day care centers, child care facilities and Head Start programs. CO REV. STAT. ANN. § 25-14-103.5 and § 22-32-109 (1994).

Health Facilities

In hospitals, smoking is not permitted in elevators and corridors, or in patient rooms by hospital employees. Patients may choose a non-smoking room, and visitors may not smoke unless all patients in the room consent. CO REV. STAT. ANN. § 25-14-101 et seq. (1977).

Restaurants

The legislature expressly encourages restaurant owners to designate non-smoking areas. CO REV. STAT. ANN. § 25-14-101 et seq. (1977).

Enforcement

Those in charge of public places where smoking is restricted must post notices designating smoking and nonsmoking areas. CO REV. STAT. ANN. § 25-14-101 et seq. (1977).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 20 cents

Date last changed: July 1, 1986 – 15 cents to 20 cents

Year first enacted: 1964

Other Tobacco Products

Chewing tobacco and snuff: 20% of manufacturer's price

Of the revenue generated from the cigarette and smokeless tobacco taxes, 15% is distributed to the general fund and 85% to the old age pension fund. CO REV. STAT. ANN. § 39-28-110 (1964) and § 39-28.5-108 (1986).

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: Any person who knowingly furnishes tobacco products to a minor commits a class 2 petty offense punishable by a fine of 200 dollars. It is an affirmative defense to prosecution that the person furnishing the tobacco product was presented with and relied on a document identifying the purchaser as being eighteen years of age or older. CO REV. STAT. ANN. § 18-13-121 (1991).

Sign posting requirement: A sign shall be displayed in a prominent place in the building. Violation constitutes a class 2 petty offense punishable by a fine of 200 dollars. CO REV. STAT. ANN. § 18-13-121 (1991).

Penalties to minors: A minor who purchases any tobacco products commits a class 2 petty offense punishable by a fine of \$50, or the court shall allow such a person to perform community service and be granted credit against the fine and court costs at a rate of \$5 for each hour of work performed. CO REV. STAT. ANN. § 18-13-121 (1991).

COLORADO**D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES**

NONE

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Sale of cigarettes or tobacco products through vending machines is restricted to: factories, businesses, offices, or other places not open to the general public; places where persons under 18 are not permitted access; or places where the vending machine is in plain vision of the owner or employee of the establishment during regular business hours, including but not limited to, establishments holding a valid liquor license. Violation is class 2 petty offense punishable by a fine of \$200. It is an affirmative defense to prosecution that the person furnishing the tobacco product was presented with and relied on a document identifying the purchaser as being eighteen years of age or older. CO REV. STAT. ANN. § 18-13-121 (1991).

Sign posting requirement: A warning sign shall be displayed in a prominent place on tobacco vending machines at all times and shall read as follows: "Warning. It is illegal for any person under eighteen years of age to purchase cigarettes and tobacco products and, upon conviction, a \$50 fine may be imposed." Violation constitutes a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of \$200. CO REV. STAT. ANN. § 18-13-121 (1991).

F. LICENSING REQUIREMENTS

Wholesalers must be licensed by the department of revenue to sell cigarettes and distributors must be license by the department to sell other tobacco products. Licenses are to be renewed annually. Retailers are not required to obtain a license to sell tobacco products. CO REV. STAT. ANN. § 39-28-102 (1964) and § 39-28.5-104 (1986).

Licensing fee: \$10 annually for each place of business.

Penalty for sales to minors: NONE

G. SMOKER PROTECTION LAWS**

It shall be a discriminatory or unfair employment practice for any employer to terminate the employment of any employee due to that employee's engaging in any lawful activity off the premises of the employer during nonwork hours. CO REV. STAT. ANN § 24-34-402.5 (1990).

H. ADVERTISING AND PROMOTION

NONE

The ALA, AHA and ACS oppose laws that elevate smokers to a protected class.

CONNECTICUT**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public places**

Smoking is restricted to designated areas in any part of a retail food store open to the public, and passenger elevators where no-smoking notices are posted. Specifically exempt from this law are correctional facilities, dormitory rooms in public institutions of higher education, psychiatric facilities, public housing projects and classrooms where smoking demonstrations are taking place. CT GEN. STAT. ANN. § 1-21b (1993). Smoking is prohibited in buses and railroad cars unless a special compartment of such vehicle is designated as a smoking area. Violation of this section is an infraction. CT GEN. STAT. ANN. § 53-198 (1985).

Government Buildings

Smoking is restricted to designated areas in state owned or state leased and operated buildings. CT GEN. STAT. ANN. § 1-21b (1993).

Private Workplaces

Each employer shall establish one or more work areas where smoking is prohibited, sufficient to accommodate nonsmokers who request to utilize such an area. Signs shall be posted to clearly designate the boundaries of each nonsmoking area. CT GEN. STAT. ANN. § 31-40q (1991).

Schools

Smoking is prohibited in public school buildings when school is in session or student activities are being conducted. Smoking is permitted in classrooms where smoking demonstrations are taking place. CT GEN. STAT. ANN. § 1-21b (1993). No passenger or employee shall possess a lighted cigarette while traveling upon or engaged in the operation of a school bus. Violation shall be an infraction. CT GEN. STAT. ANN. § 53-198 (1985).

Day Care

Smoking is prohibited in all child day care centers or group day care homes and outdoor areas, except in designated smoking areas. Smoking areas must be enclosed, properly ventilated, and away from any children present at the day care facility. Signs must be posted at the entrance stating that smoking is prohibited except in designated areas. Regulations: Public Health Code, 19a-79-7,d,9.

Health Facilities

Smoking is restricted to designated areas in health care institutions, which must post signs at entrances stating that smoking is against state law. An institution's only waiting area may not be a designated smoking area. This law does not apply to psychiatric

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facilities. CT GEN. STAT. ANN. § 1-21b (1993).

Restaurants

Smoking is restricted to designated areas in restaurants seating 75 or more persons. Restaurants in violation shall have three demerit-point items deducted from their rating score under commissioner of health services regulations. CT GEN. STAT. ANN. § 1-21b (1993).

Enforcement

Violation of CT GEN. STAT. ANN. § 1-21b (1993) constitutes an infraction. **This law preempts municipal laws and ordinances regarding smoking.***

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 50 cents
Date last changed: July 1, 1994 -- 47 cents to 50 cents
Year first enacted: 1935

Other Tobacco Products

Chewing tobacco and snuff: 20% of wholesale invoice price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: Any person who sells, gives or delivers tobacco to a minor shall be fined not more than \$200 for the first offense \$350 for a second offense within 18 months and not more than \$500 for each subsequent offense within 18 months. Any person employed by a dealer or distributor who sells, gives or delivers tobacco in any form to a minor shall be fined not more than \$100 for first offense and \$150 for subsequent offenses within 18 months. Any dealer or distributor who has sold, given or delivered cigarettes or tobacco products to a minor shall be fined \$250 for the first violation, \$500 for the second violation within 18 months and a fine of \$500 and license suspension for 30 days for the third offense within 18 months. Any owner of an establishment with a cigarette vending machine is located has sold, given or delivered cigarettes to a minor shall be fined \$250 for the first violation, \$500 for the second violation within 18 months and a fine of \$500 and removal of machine for one year. CT GEN. STAT. ANN. § 12-314, 344 (1996). The commissioner of revenue services may suspend or revoke the license of any dealer or

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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distributor for the sale or delivery of tobacco in any form to a minor under eighteen years of age, following a hearing. CT GEN. STAT. ANN. § 12-295 (1994).

Sign posting requirement: Signs must be posted and maintained at each point of sale, including the front of each vending machine and each restricted vending machine, a notice which states that it is illegal to sell or give tobacco products to minors and it is illegal for minors to purchase tobacco products or misrepresent their age to do so. Retailers in violation shall be punishable by a fine of not more than 100 dollars. CT GEN. STAT. ANN § 12-286a, 289 (1996).

Penalties to minors: Any minor who purchases tobacco products or misrepresents their age to purchase tobacco products shall be fined not more than \$50 for the first offense and \$50-\$100 for subsequent offenses. CT GEN. STAT. ANN. § 53-344 (1996).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

The sale of single cigarettes or cigarettes other than in an unopened package originating with the manufacturer which bears the health warning is prohibited. The Commissioner of Revenue Services may authorize a dealer or distributor to give or deliver any cigarette or tobacco product in connection with the promotion or advertisement of such product without receiving monetary compensation from the person receiving the tobacco product provided the distribution is on the premises of a licensed dealer or at any event or establishment with an area limited to adult access only, the sample of cigarettes contains no less than 2 cigarettes and the taxes on such cigarettes have been paid. The licensed dealer or distributor shall be liable for any gift or delivery of tobacco to minors on his premises by any person conducting a promotion or advertisement. CT GEN. STAT. ANN § 12-314 (1996).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: No cigarette vending machine or restricted cigarette vending machine may be placed in an area, facility, or business frequented primarily by minors. No cigarettes may be dispensed from any machine other than a cigarette vending machine or a restricted cigarette vending machine. Until May 1, 1997, a cigarette vending machine may be placed in an area, facility or business if in plain view and under the direct supervision of an adult employee. If an area exists that is restricted to adults only the vending machine must be placed in this area. After May 1, 1997, a cigarette vending machine may be placed only in an area, facility or business which is accessible to adults only or one may be placed in an area frequented by persons of all ages provided the machine is placed in an area accessible to adults only. A cigarette vending machine may be placed in an area, facility or business which does not have a separate area accessible to adults only provided the machine is not placed in a vestibule, lobby,

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entryway, exit or restroom and the machine is under the direct supervision, and in the direct line of sight of, an adult employee. After July 1, 1998, a cigarette vending machine may be placed only in an area, facility or business which is accessible to adults only or one may be placed in an area frequented by persons of all ages provided the machine is placed in an area accessible to adults only. Violators are subject to a civil fine of \$250 for a first offense and \$50 for a second offense within 18 months. For a third violation within 18 months, the penalty is \$500 and the machine will be removed from the area and no machine will be placed in the area, facility or business for one year. CT GEN. STAT. ANN. § 12-289a (1996).

Sign posting requirement: Notice must be posted and maintained on the front of each machine stating that it is illegal to sell or give tobacco products to minors and it is illegal for minors to purchase tobacco products or misrepresent their age to do so. Violation is punishable by a fine of not more than 100 dollars. CT GEN. STAT. ANN. § 12-286a (1992).

F. LICENSING REQUIREMENTS

Dealers and distributors, including vending machine operators, who sell cigarettes must be licensed with the commissioner of revenue services. CT GEN. STAT. ANN. § 12-287 and § 12-288 (1993).

Licensing fee: \$25 annually for a dealer's license (includes persons operating fewer than 25 cigarette vending machines); \$1000 each year for a distributor's license (includes persons operating 25 or more cigarette vending machines). There are no fees for the sale of other tobacco products.

Penalty for sales to minors: The commissioner of revenue services may suspend or revoke the license of any dealer or distributor for the sale or delivery of tobacco in any form to a minor under eighteen years of age, following a hearing. CT GEN. STAT. ANN. § 12-295 (1994).

G. SMOKING PROTECTION LAWS**

No employer or agent of any employer shall require, as a condition of employment, that any employees prospective employee refrain from the using tobacco products outside the course of his employment, or otherwise discriminate with respect to compensation, terms, conditions or privileges of employment. Any nonprofit organization or corporation whose primary purpose is to discourage use of tobacco products by the general public shall be exempt from the provisions of this section. CT GEN. STAT. ANN. § 31-40s (1991).

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

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H. ADVERTISING AND PROMOTION

NONE

DELAWARE

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Minimal

Public Places

Smoking is prohibited in public meetings, elevators, government owned or operated means of mass transportation, public indoor areas of grocery stores, gymnasiums, jury waiting and deliberation rooms, and courtrooms. Smoking is restricted to designated areas in public buildings, auditoria, theaters, museums, and libraries. **This law preempts and supersedes any related provisions of local ordinances enacted after the effective date of this law.*** DE CODE ANN. § 16-29-2901 et seq. (1994). Smoking on public trolleys and buses is punishable by a \$5 to \$25 fine. DE CODE ANN. Title 11, § 1327 (1988).

Government Buildings

Smoking is restricted to designated areas in all public buildings owned or operated by the state, including the legislative, executive, and judicial branches of state government; or any other separate corporate instrumentality or unit of state or local government. **This law preempts and supersedes any related provisions of local ordinances enacted after the effective date of this law.*** DE CODE ANN. § 16-29-2901 et seq. (1994). Smoking tobacco products is restricted to designated areas in state-owned or operated facilities, in any portion of any facility leased and occupied by the state under the jurisdiction of the executive branch, and in state-owned vehicles. Designated smoking areas may be established by the appropriate cabinet secretary or agency head; such areas may not include classrooms, lecture halls, auditoriums, meeting rooms or conference rooms, entire cafeterias, common areas such as restrooms or foyers, and work areas and work stations during normal work hours – including individual enclosed office spaces normally occupied by a single person. State owned or operated 24-hour facilities for patients or inmates are exempt from the Executive Order. Executive Order No. 71 (1989).

Private Workplaces

Each employer shall adopt and implement a written smoking policy that contains at least the following: each employer shall provide a work area where no smoking occurs for each employee who requests one; employers may set aside a work area for smoking; employers shall provide for nonsmoking areas in employee cafeterias, lunch rooms and lounges sufficient to meet employee demand. Employer is defined as any person, partnership, association, corporation or non-profit entity that employs one or more persons. **This law preempts and supersedes any related provisions of local ordinances enacted after the effective date of this law.*** DE CODE ANN. § 16-29-2901 et seq. (1994).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

DELAWARE**Schools**

Smoking is prohibited in public areas of all public schools, including elementary and secondary education facilities, and other educational and vocational institutions. Smoking areas may be designated in faculty lounges and private offices or by provisions in negotiated contracts. **This law preempts and supersedes any related provisions of local ordinances enacted after the effective date of this law.*** DE CODE ANN. § 16-29-2901 et seq. (1994).

Day Care

Smoking is prohibited in child day care facilities other than those located in a single family dwelling. **This law preempts and supersedes any related provisions of local ordinances enacted after the effective date of this law.*** DE CODE ANN. §§ 16-29-2901 et seq. (1994).

Health Facilities

Smoking is prohibited in health care facilities including hospitals, health care clinics, doctor's offices, or other health-care-related facilities, other than a nursing home, boarding care facility, or a licensed residential facility. **This law preempts and supersedes any related provisions of local ordinances enacted after the effective date of this law.*** DE CODE ANN. § 16-29-2901 et seq. (1994).

Restaurants

The owner, operator or manager of a food service establishment shall designate a nonsmoking area sufficient to meet demand and shall not determine that no such demand exists. Notice shall be prominently post at each entrance advising that a nonsmoking area is available, and each patron shall be given an opportunity to state their preference. **This law preempts and supersedes any related provisions of local ordinances enacted after the effective date of this law.*** DE CODE ANN. § 16-29-2901 et seq. (1994).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 24 cents
Date last changed: January 1, 1991 -- 19 cents to 24 cents
Year first enacted: 1949

Other Tobacco Products

Chewing tobacco and snuff: 15% of wholesale price

C. YOUTH ACCESS

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

Age Restrictions on Sales of Tobacco Products**Minimum age for sales of cigarettes and smokeless tobacco: 18**

Penalty: A person is guilty of unlawfully dealing with a child when he knowingly sells, causes to be sold, gives, purchases or procures tobacco in any form to or for a child less than 18 years old, except that this subdivision does not apply to the parent or guardian of the child. Unlawfully dealing with a child is a class B misdemeanor. DE CODE ANN. Title 11 § 1106 and Title 10 § 922(14) (1992).

Enforcement: The Department of Public Safety or its delegates shall be responsible for conducting annual, random, unannounced inspections at locations where tobacco products are sold or distributed to test compliance. Persons under the age of 18 may be enlisted by the Department or its delegates to test compliance provided that such persons may be used only under the direct supervision of the Department, its employees or delegates and only when written parental consent has been provided. The Department shall adopt and publish guidelines for the use of persons under 18 in inspections. The Department may enter into an agreement with any local law enforcement agency for delegation of the inspection and enforcement within the local agency's jurisdiction. DE CODE ANN. Title 11 § 1124 (1996). **These provisions shall preempt and supersede any provisions of any municipal or county ordinance or regulation.*** DE CODE ANN. Title 11 § 1127 (1996).

Sign posting requirement: A person engaged in the sale or distribution of tobacco products shall post conspicuously at each point of purchase a notice stating that selling tobacco products to anyone under 18 is illegal, that the purchase of tobacco products by anyone under 18 is illegal, and that a violator is subject to fines. The notice shall also state that all persons selling tobacco products have the right to check proof of age of purchaser. The notice shall include a toll-free number to the Department of Public Safety to report unlawful sales to minors. Owners who fail to post a notice shall be subject to a fine of \$100. DE CODE ANN. Title 11 § 1117 (1996). **These provisions shall preempt and supersede any provisions of any municipal or county ordinance or regulation.*** DE CODE ANN. Title 11 § 1127 (1996).

Penalties to minors: It shall be unlawful for any person who is not 18 or older to purchase tobacco products, to accept receipt of a sample, to exchange a coupon for a tobacco product, or to present or offer another person a purported proof of age which is false, fraudulent, or not actually his or her own proof of age, for the purpose of purchasing or receiving any tobacco product. Violators shall be fined \$50 or ordered to perform 25 hours of community service for the first offense, \$50 fine and 50 hours of community service for the second and all subsequent offenses within 12 months of prior offenses. DE CODE ANN. Title 11 § 1124 (1996). **These provisions shall preempt and supersede any provisions of any municipal or county ordinance or**

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

regulation.* DE CODE ANN. Title 11 § 1127 (1996).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It shall be unlawful for any person to distribute tobacco product samples or coupons for subsequent receipt of free or discounted tobacco products to another person under age 18. DE CODE ANN. Title 11 § 1118 (1996). No person shall distribute a tobacco product for commercial purposes unless the product is in a sealed package provided by the manufacturer with the required health warning and tax stamp. DE CODE ANN. Title 11 § 1120 (1996). Violators shall be fined \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and all subsequent offenses within 12 months. The court may also order the Department of Finance to suspend the defendant's license for sale of tobacco products for a period not to exceed six months. The owner or proprietor of the establishment where the violation occurred shall be guilty of the violation and subject to the fines. However, each business location is considered a separate establishment. DE CODE ANN. Title 11 § 1121 & 1123 (1996). **These provisions shall preempt and supersede any provisions of any municipal or county ordinance or regulation.*** DE CODE ANN. Title 11 § 1127 (1996).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement Restriction: It shall be unlawful for any person to distribute or permit the distribution of tobacco products through the operation of a vending machine in a public place, except in a taproom, tobacco shop, or in premises in which a person who has not attained the age of 18 years is prohibited by law from entering. A tobacco vending machine must be operated a minimum of 25 feet from any entrance to the premises and must be directly visible to the owner or supervisor of the premises. DE CODE ANN. Title 11 § 1119 (1996).

Penalty: Violators shall be fined \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and all subsequent offenses within 12 months. The court may also order the Department of Finance to suspend the defendant's license for sale of tobacco products for a period not to exceed six months. The owner or proprietor of the establishment where the violation occurred shall be guilty of the violation and subject to the fines. However, each business location is considered a separate establishment. DE CODE ANN. Title 11 § 1121 & 1123 (1996). **These provisions shall preempt and supersede any provisions of any municipal or county ordinance or regulation.*** DE CODE ANN. Title 11 § 1127 (1996).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

DELAWARE**F. LICENSING REQUIREMENTS**

Retailers, wholesalers and vending machine operators must be licensed to sell tobacco products with the department of finance. Licenses are to be renewed annually. DE CODE ANN. Title 30 § 5301 et seq. (1977).

License fee: \$200 annually for each place of business for wholesalers, \$5 annually for each place of business for retailers, \$3 annually for each machine for vending machine operators.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

* The ALA, AHA, and ACS oppose preemption of local tobacco control authority

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

DISTRICT OF COLUMBIA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is prohibited in elevators, and public transportation vehicles. D.C. CODE § 6-911 et seq. (1987). Smoking is prohibited on public passenger vehicles that seat 12 or more. Carriers may refuse to transport violators. Violation is also punishable by a fine of \$10 to \$50 for the first offense, and by a fine of \$50 to \$100 and/or by up to 10 days imprisonment for subsequent violations. D.C. CODE §§ 44-223(b)(1), 44-225 and 44-226 (1975).

Government Buildings

Smoking is prohibited in public assembly and hearing rooms owned by the government. Smoking is restricted in all government owned or leased buildings. Smoking areas are only permitted in areas that can be separated by a physical barrier or are a separate room. Mayor's Memorandum 92-2.

Private Workplaces

Public and private employers must implement and maintain written smoking policies, which must be posted in the view of employees. Under these policies, designated smoking areas may be permitted if they are separated by a physical barrier or are a separate room. Smoking and nonsmoking areas shall be clearly indicated by signs. D.C. CODE § 6-911 et seq. (1991).

Schools

Smoking is restricted to designated areas in private educational facilities and institutions of higher education. D.C. CODE § 6-912 (1987). Smoking is prohibited throughout D.C. public schools and D.C. Public School administrative facilities by students and faculty. DC Municipal Regulation § 3502.5. and DCPS Directive No. 205.4 (1992).

Day Care

Smoking is restricted to designated areas in day care centers owned or leased by any branch of the District government. D.C. CODE § 6-911 et seq. (1987).

Health Facilities

Smoking is prohibited in areas of health facilities frequented by the general public, including hallways, waiting rooms, and lobbies. Hospitals must make every effort to determine patients' preferences to smoke, or not smoke, and place them in rooms accordingly. D.C. CODE § 6-911 et seq. (1987).

Restaurants

Restaurants seating over 50 persons shall designate at least 25% of total seating

capacity as a non-smoking area. D.C. CODE § 6-912(5) (1987).

Enforcement

For are as regulated under D.C. Code § 6-911 et seq., failure to post the appropriate sign or smoking in a designated no smoking section shall be punishable by a fine of \$10-\$50 for a first offense and \$50-\$100 for subsequent offenses.

B. TOBACCO EXCISE TAXES

Cigarettes

Tax rate per pack of 20: 65 cents

Date last changed: July, 1993 – 50 cents to 65 cents

Year first enacted: 1949

Other Tobacco Products

Chewing tobacco and snuff: NONE

C. YOUTH ACCESS

Age Restrictions on Sales of Tobacco Products

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: No person shall sell, give or furnish any tobacco products to any person under 18 years of age. Any person who sells any cigarette or other tobacco product who has reasonable cause to believe that a person who attempts to purchase the product is under 18 shall require the purchaser to present identification that indicates their age. Violation of either of these provisions is a misdemeanor punishable by a fine between \$100 and \$500, and/or imprisonment for not more than 30 days, for the first offense. A person who commits subsequent violations shall be fined \$500 to \$1,000, imprisoned for not more than 90 days, or both. Any license to sell cigarettes may be suspended for the first or second violation, and shall be revoked for a third violation. D.C. CODE § 22-1120 (1990).

Sign posting requirement: The owner or person in charge of a place of business that sells tobacco products shall post a warning sign that states that it is illegal for minors to purchase tobacco products and that includes a surgeon general warning. D.C. CODE § 22-1120 (1990).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Distribution of any free tobacco product is forbidden on public streets or sidewalks,

DISTRICT OF COLUMBIA

public parks, playgrounds, in public buildings, and on any other public or private property open to the public. Distribution of free products is permitted at tobacco stores, conventions, or conferences catering to adults. Violators will be fined not less than \$250 per violation. D.C. CODE § 6-920.1 (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Tobacco vending machines are restricted to licensed taverns or nightclubs, establishments that restrict admittance to persons under eighteen years of age, or a licensed restaurant. These vending machines shall be located in an area that is in the immediate vicinity, plain view and control of a responsible employee, so that any tobacco purchase is readily observable by an employee. D.C. CODE § 47-2401 et seq. (1991). Any person who sells tobacco products to a minor is guilty of a misdemeanor punishable by a fine between \$100 and \$500, and/or imprisonment for not more than 30 days, for the first offense. A person who commits subsequent violations shall be fined \$500 to \$1,000, imprisoned for not more than 90 days, or both. The Mayor may suspend a vending machine operator's license after a first or second violation of this act. After a third violation, the license will be revoked. D.C. CODE § 22-1120 and 47-2401 et seq. (1991).

F. LICENSING REQUIREMENTS

Cigarette wholesalers, retailers, and vending machine operators must obtain a license from the Mayor. D.C. CODE § 47-2404 (1991).

Licensing fee: The annual fee for wholesalers is \$50 for each place of business. The annual fee for retailers is \$15 for each retail establishment, and a license for vending machine operators is \$15 for each machine. D.C. CODE § 47-2404 (1991).

Penalty for sales to minors: The Mayor may suspend any license issued under this law to any person convicted of a 1st or 2nd violation of § 22-1120, and shall revoke the license for a 3rd or subsequent offense. D.C. CODE § 47-2404 (1991).

G. SMOKING PROTECTION LAWS**

No person shall refuse to hire or employ any applicant for employment, or discharge or otherwise discriminate against any employee with respect to compensation or any other term, condition, or privilege of employment, on the basis of the use of tobacco products by the applicant or employee. D.C. CODE § 6-913.3 (1993).

** The ALA, AHA and ACS oppose laws that elevate smokers to a protected class.

DISTRICT OF COLUMBIA

H. **ADVERTISING AND PROMOTION**

Washington Metro Transit Authority banned tobacco and alcohol advertising on all system rail cars and buses by May 1, 1999.

FLORIDA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is restricted to designated areas in the following enclosed, indoor areas used by the general public: libraries, courtrooms, museums, theaters, auditoriums, arenas, recreational facilities, retail stores whose primary business is not the sale of tobacco products, grocery stores, common areas of retirement homes and condominiums, and public meetings. Smoking is banned entirely in public means of mass transportation, elevators, jury deliberation rooms, and hallways, corridor, lobbies, aisles, water fountain areas, restrooms, stairwells, entryways, and conference rooms in any public place. Announcements are required in some mass transit terminals at least every 30 minutes in the appropriate languages stating that smoking is allowed only in designated areas. This prohibition does not apply to rooms or halls used for a private social function when seating arrangements are controlled by the sponsor of the function. FL STAT. ANN. § 386-201 et seq. (1992).

Government Buildings

Smoking is restricted to designated areas in buildings, or portions of buildings, owned or leased by the state or any political subdivision thereof used for governmental purposes. While designated areas are permitted, the law states that it is the intent of the legislature to discourage the designation of any area within a government building as a smoking area. Public agencies responsible for the management and maintenance of government buildings shall report observed violations to the department or division. The department or division shall proceed with the actions listed under the enforcement section. FL STAT. ANN. § 386-201 et seq. (1992).

Private Workplaces

All employers are required to develop, implement and post a workplace smoking policy designating smoking and no-smoking areas. Such a policy shall take into consideration the proportion of smokers and nonsmokers. An entire area may be designated as a smoking area if all the involved workers agree. FL STAT. ANN. § 386.201 et seq. (1992).

Schools

Smoking is prohibited entirely in schools and other educational facilities, and on school buses. FL STAT. ANN. § 386.201 et seq. (1992).

Day Care

Smoking is banned in day care centers. FL STAT. ANN. § 386.201 et seq. (1992).

FLORIDA**Health Facilities**

Smoking is banned in doctors' or dentists' waiting rooms, county public health units, and hospitals. However, a patient's room in a hospital, nursing home, or other health care facility may be designated as a smoking area if such designation is ordered by the attending physician and agreed to by all patients assigned to that room. No more than one-half of the rooms in any health care facility may be designated as smoking areas. FL STAT. ANN. § 386.201 et seq. (1992).

Restaurants

Smoking is restricted to designated areas in restaurants seating 50 persons or more. No more than 65 percent of the seats existing in its dining room at any time may be located in an area designated as a smoking area. FL STAT. ANN. § 386.201 et seq. (1992).

Enforcement

A person who smokes in a nonsmoking area commits a non-criminal violation, punishable by a fine of no more than \$100 for the first violation and \$500 for subsequent violations. Signs designating smoking areas must be posted in appropriate areas. The State Fire Marshal shall report to the Department of Health and Rehabilitative Services or Division of Hotels and Restaurants of the Department of Business and Professional Regulation any violation found during its periodic inspections. The department or division shall issue to the person in charge of such public place a notice to comply. If such person fails to comply within 30 days of such notice, the department or division shall assess a civil penalty against them not to exceed \$100 for the first violation and \$500 for each subsequent violation. **This legislation expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject.*** FL STAT. ANN. § 386.201 et seq. (1993).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 33.9 cents

Date last changed: July 1, 1990 – 24 cents to 33.9 cents

Year first enacted: 1943

Other Tobacco Products

Chewing tobacco and snuff: 25% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

*The ALA, AHA and ACS oppose preemption of local tobacco control authority.

FLORIDA**Minimum age for sales of cigarettes and smokeless tobacco: 18**

Penalty: It is unlawful to sell, deliver, barter, or furnish, directly or indirectly, any tobacco product to any person under 18 years of age. Violation is a misdemeanor of the second degree. A person charged with a violation has a complete defense if a prudent person would believe the buyer or recipient to be 18 years of age or older or the buyer falsely evidenced that they were 18 years of age or older. FL STAT. ANN § 859.06 (1992). The division may mitigate penalties imposed against a dealer because of an employee's illegal sale of a tobacco product to a minor if they qualify as a responsible retail dealer under section 569.008. FL STAT. ANN § 569.008 (1992).

Sign posting requirement: Any retailer or owner of a business that sells tobacco products at retail shall post a clear and conspicuous sign in each place of business stating that the sale of tobacco products to persons under 18 is against Florida law and proof of age is required for purchase. Penalty for a person who fails to comply with this requirement is a misdemeanor of the second degree. FL STAT. ANN § 859.061 (1992).

Other provisions: Retail dealers must provide a training program for their employees which addresses the use and sale of tobacco products including the laws concerning sales to minors and methods and procedures to prevent such sales. FL STAT. ANN. § 569.008.

Penalties to minors: It is unlawful for any person under 18 to smoke tobacco in, on, or within 1,000 feet of a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This does not apply to private residences or a person in a vehicle. A law officer may issue a citation to any person violating the provisions of this section. Any violator who receives a citation will receive a maximum civil penalty of \$25 or 50 hours of community service or successful completion of a school-approved anti-tobacco "alternative to suspension" program. FL STAT. ANN. § 386.212 (1996).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is illegal to deliver, furnish, or give away any tobacco product to any person under 18 years of age. Violation is considered a misdemeanor of the second degree. FL STAT. ANN. § 859.06 (1992).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: To prevent persons under 18 years of age from purchasing or receiving tobacco products through tobacco vending machines, such machines shall be located within the unobstructed line of sight of a dealer or a dealer's employee who is responsible for preventing minors from purchasing tobacco products through that machine. FL STAT. ANN. § 569.007 (1992).

F. LICENSING REQUIREMENTS

Distributors must obtain a license to sell tobacco products. FL STAT. ANN. §210.35. Retail tobacco dealers and vending machine owners must obtain permits from the Department of Business and Professional Regulation's Division of Alcoholic Beverages and Tobacco for each place of business where they sell tobacco products. FL STAT. ANN. § 569.003 (1992).

Licensing fee: Up to \$50 annually for each retail or vending machine license. FL STAT. ANN. § 569.003 (1992). Ten percent of the revenues collected from retail permits goes to the Department of Education to provide teacher training and research and evaluation to reduce and prevent the use of tobacco products by children. FL STAT. ANN. § 561.025(3) (1993)

Penalty for sales to minors: The Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may suspend or revoke a retailer's permit if the retailer or their employee violates state laws concerning sale of tobacco to minors, sampling, or placement of tobacco vending machines. FL STAT. ANN. § 569.006 (1992).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

J. TOBACCO COMPANY LIABILITY

State agencies are allowed to sue liable third parties on behalf of Medicaid recipients for repayment of benefits. The state can, therefore, sue tobacco companies to recover money paid for treatment of Medicaid patients with tobacco-related diseases. FL STAT. ANN. § 16.59, § 409.907, § 409.910, § 409.913 and § 409.920 (1994). The state filed suit against the tobacco companies on February 21, 1995.

**The ALA, AHA and ACS oppose laws that elevate smokers to a protected class.

GEORGIA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Minimal****Public Places**

Smoking is prohibited in public elevators, on public transportation, and in any other areas used by the public and designated by a no-smoking sign. Violators shall be guilty of a misdemeanor and punished by a fine of \$10 to \$100. OFF. CODE OF GA ANN. § 16-12-2 (1982).

Government Buildings

NONE

Private Workplaces

NONE

Schools

NONE

Day Care

Prohibits smoking in day care centers, group day care homes, or family day care homes during hours of operation. These facilities shall post signs stating this policy. OFF. CODE OF GA ANN. § 16-12-2 and § 49-5-12 (1994).

Health Facilities

NONE

Restaurants

NONE

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 12 cents

Date last changed: April 1, 1971 -- 8 cents to 12 cents

Year first enacted: 1923

Other Tobacco Products

Cigars: 13% of wholesale cost price

Little cigars: \$.002 each

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The Department of Public Safety, acting through the sheriffs of several counties and chiefs of police of the several cities, shall annually conduct random, unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance with § 16-12-170 through § 16-12-175. Persons under 18 may be enlisted to test compliance only if the testing is conducted under the direct supervision of said sheriffs or chiefs of police, or employees thereof, and written parental consent has been provided. OFF. CODE OF GA ANN. § 16-12-175 (1993).

Penalty: It is unlawful for any person to knowingly sell or barter, directly or indirectly, any cigarettes or tobacco related objects to a minor. It is also unlawful to purchase any cigarettes or tobacco products or objects for any minor unless the minor is the child of the purchaser. It is also unlawful to advise, counsel or compel any minor to smoke, inhale, chew, or use cigarettes or tobacco related objects. Violation is a misdemeanor. OFF. CODE OF GA ANN. § 16-12-171 (1996).

Sign posting requirement: Any person owning or operating a place of business where tobacco products are sold shall post a sign stating the sale of tobacco products to persons under 18 is prohibited. Any person who fails to comply with this requirement shall be guilty of a misdemeanor. OFF. CODE OF GA ANN. § 16-12-172 (1993).

Penalties to minors: It shall be unlawful for any minor to purchase tobacco products or related objects, or misrepresent their age or identity to purchase such products. A minor who commits an offense may be punished by requiring 20 hours of community service, requiring attendance at a lecture or discussion on the health hazards of smoking, or a combination of both. OFF. CODE OF GA ANN. § 16-12-171 (1993).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful for a person to distribute tobacco product samples at no cost to any person under 18 years of age, or for any person under this age to receive such samples. A person distributing tobacco product samples shall require proof of age if an ordinary person would conclude that an individual is younger than eighteen. Samples may not be distributed on public streets, sidewalks, or parks within 500 feet of schools or playgrounds when they are being used primarily by persons under 18 years of age. Any violation of this section is a misdemeanor. OFF. CODE OF GA ANN. § 16-12-174 (1993).

GEORGIA

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: The sale of cigarettes or tobacco related objects from vending machines is restricted to locations not readily accessible to minors, including, but not limited to, factories, businesses, offices, places where alcoholic beverages are offered for sale, areas where minors are not permitted, and rest areas adjacent to roads and highways of the state. Vending machines are also permitted in areas under continuous supervision of an employee of the establishment who will observe the purchase of tobacco products from the machine. It shall be a violation of § 16-12-171 for any person to knowingly allow a minor to operate a vending machine that dispenses tobacco products. OFF. CODE OF GA ANN. § 16-12-173 (1993).

Sign posting requirement: The person who maintains in a place of business a tobacco vending machine shall place in a conspicuous place on the machine a sign stating the purchase of tobacco products from the machine by a minor is prohibited by law. Violation constitutes a misdemeanor; provided, however, penalty for the first offense is a fine not to exceed 300 dollars. OFF. CODE OF GA ANN. § 16-12-173 (1993).

F. LICENSING REQUIREMENTS

Cigarette and cigar manufacturers, purchasers, sellers, consignors, vending machine operators, dealers (retailers), and distributors must be licensed to sell these products. OFF. CODE OF GA ANN. § 48-11-4 (1993).

Licensing fee: Licenses for tobacco dealers are free of charge and valid indefinitely. Distributor licenses cost an initial \$250 per place of business and an annual renewal fee of \$50; cigarette and other tobacco product vending machine licenses are \$1 per machine annually. OFF. CODE OF GA ANN. § 48-11-4 (1993).

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS****H. ADVERTISING AND PROMOTION**

NONE

**The ALA, AHA and ACS oppose laws that elevate smokers to a protected class.

HAWAII

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Extensive

Public Places

Smoking is prohibited in public elevators, theaters, museums, libraries, galleries, public areas of retail stores with more than 5,000 square feet of floor space, banks and similar business establishments, public restrooms, taxicabs carrying non-smokers, and any area open to the public that has been designated by the person having control of the area as a nonsmoking area. Signs stating "Smoking Prohibited by Law" shall be placed in all non-smoking areas. Violators are subject to a fine up to 20 dollars. HI REV. STAT. ANN. § 328K-1 et seq. (1992).

Government Buildings

Smoking is prohibited in the following areas in state or county owned or controlled buildings: meeting or conference rooms; auditorium or sports arenas that are enclosed; enclosed community centers; waiting areas, baggage claim areas and check-in counters within buildings in all state airports; and, all areas open to the public including service counters and reception or waiting areas. State or county agencies, or private corporations which receive state funds under chapter 42D, must adopt, implement and maintain a written smoking policy that either accommodates both smokers and non-smokers or reflects the preference of a simple majority of the employees in each affected work area. Property owned by the federal government and enclosed private offices occupied exclusively by smokers are exempt from this law. Violators are liable for a civil penalty up to \$500. HI REV. STAT. ANN. § 328K-1 et seq. (1992).

Private Workplaces

NONE

Schools

Board of Education rule prohibits all tobacco use by any person on school campuses, including non-school events held on campus during non-school hours; at school-sponsored events and activities held off-campus; at department-operated schools on non-Department of Education property; in school vehicles and at district and state administrative offices of the Department of Education. HI Administrative Rules 8-31-1 through 8-31-6 (1993).

Day Care

Smoking is banned in child care facilities, including group child care homes, group child care centers, and family day care homes during their hours of operation. HI REV. STAT. ANN. § 346 (1993).

HAWAII**Health Facilities**

Smoking is prohibited in wards, waiting rooms, lobbies, and public hallways of public and private health care facilities. Smoking is permitted in a private room or in a semi-private room when there is no objection by any patient occupying such room. Signs stating "Smoking Prohibited by Law" shall be placed in all non-smoking areas. Violators are subject to a fine up to 20 dollars. HI REV. STAT. ANN. § 328K-1 et seq. (1993).

Restaurants

Retail eating establishments with a seating capacity of 51 patrons or more and the dining area of cruise ships shall provide nonsmoking areas proportionate to the preference of the customers and so located as to obtain the maximum effect of existing physical barriers and ventilation systems to minimize the toxic effect of smoke in adjacent nonsmoking areas. Violators may be fined up to 20 dollars. HI REV. STAT. ANN. § 328K-1 et seq. (1993).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 60 cents

Date last changed: April 1993 – 40% of wholesale price to 60 cents per pack.

Year first enacted: 1939

The excise tax rate will increase if a federal law regarding the purchase of cigarettes by military installations in the state is enacted. HI REV. STAT. ANN. § 235-55.9 (1993).

Other Tobacco Products

Chewing tobacco and snuff: 40% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: No person shall sell or furnish tobacco to a minor under 18 years of age. Any person who violates this law shall be fined not more than \$100 for the first offense and \$100 to 1,000 dollars for subsequent offenses. HI REV. STAT. ANN. § 709-908 (1990).

Sign posting requirement: Signs using the statement, "The sale of tobacco products to persons under 18 is prohibited", shall be posted at or near the point of sale where tobacco products are sold in letters at least one-half inch high. Any person who violates this law shall be fined not more than \$100 for the first offense and \$100 to 1,000 dollars for subsequent offenses. HI REV. STAT. ANN. § 709-908 (1996).

Penalties to minors: Any minor under the age of 18 who purchases any tobacco product shall be fined \$10 for the first offense and \$50 or 48-72 hours of community service for subsequent offenses. HI REV. STAT. ANN. § 709-908 (1990).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful to sell single cigarettes or packs of cigarettes containing less than 20 cigarettes. It is unlawful to sell cigarettes other than in sealed packages originating with the manufacturer and bearing the health warning by law. Violators will be fined no more than \$2,500 for the first offense and \$100-\$5,000 for any subsequent offense. HI REV. STAT. ANN § 712 (1996).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: The sale of cigarettes from vending machines is prohibited unless the vending machine is located in a bar, cabaret, or any other establishment for which the minimum age of admission is eighteen. It is also unlawful to sell cigarettes from a lunch wagon within one thousand feet of any public or private secondary school. Violations are subject to a fine of up to \$1,000 per day for each violation. Lunch wagons may be subject to forfeiture for any subsequent violation. HI REV. STAT. ANN. § 328K-7 (1996)

Sign posting requirement: A sign stating "The sale of tobacco products to persons under 18 is prohibited" shall be posted on or near any vending machine in letters at least one-half inch high and at or near the point of sale of any other location where tobacco products are sold in letters at least one-half inch high. A person who sells tobacco to a minor or fails to post the appropriate sign shall be fined not more than \$100 for the first offense and \$100 to \$1,000 for subsequent offenses. HI REV. STAT. ANN. § 709-908 (1996).

F. LICENSING REQUIREMENTS

NONE

G. SMOKING PROTECTION LAWS**

NONE

**The ALA, AHA and ACS oppose laws that elevate smokers to a protected class.

HAWAII

H. ADVERTISING AND PROMOTION

NONE



IDAHO**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is restricted to designated areas in enclosed indoor areas used by the public including but not limited to retail stores, grocery stores, stores that sell food primarily for off-site consumption, public conveyances, auditoria, arenas and meeting rooms. Smoking is prohibited in elevators and buses, except a charter bus. Smoking restrictions do not apply to bars, bowling allies, and private social functions. The proprietor of a public place shall post the appropriate signs designating smoking and nonsmoking areas. Failure to post signs shall not be construed as indicating the area to be either smoking or nonsmoking. A person who violates this law is guilty of an infraction and is subject to a fine not to exceed \$50. ID CODE § 39-5501 et seq. (1985).

Government Buildings

By Executive Order, smoking is banned entirely in all state buildings. Exec. Order 92-2 (1992). Smoking is prohibited during public meetings or hearings of any board, commission, council, department or agency of the state, county, or local government. A violation is punishable by a fine of \$5 to \$10. ID CODE § 18-5904 et seq. (1975).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in any public and private preschool, kindergarten, elementary, junior high or high school, vocational school, college, or university. ID CODE § 39-5501 et seq. (1985).

Day Care

NONE

Health Facilities

Smoking is restricted to designated areas in hospitals and nursing homes. ID CODE § 39-5501 et seq. (1985).

Restaurants

Smoking is restricted to designated areas in restaurants seating 30 or more persons. The proprietor of the restaurant shall post the appropriate signs designating smoking and nonsmoking areas. Failure to post signs shall not be construed as indicating the area to be either smoking or nonsmoking. A person who violates this law is guilty of an infraction and is subject to a fine not to exceed \$50. ID CODE § 39-5501 et seq. (1985).

IDAHO

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 28 cents

Date last changed: July 1, 1994 -- 18 cents to 28 cents

Year first enacted: 1945

Other Tobacco Products

Chewing tobacco, cigars, and snuff: 35% of wholesale sales price

Initially, the entire revenue from the 1994 cigarette excise tax increase was distributed to the public school income fund for substance abuse programs in the public school system. Now half of the revenue will assist the counties in meeting start-up costs for expanded juvenile probation services and programs. This funding will be reexamined in one year to determine if it remains justifiable, and after two years, all the revenue will be returned to the public school substance abuse programs. ID CODE § 63-2506 (1995).

Of the remaining revenue from the tobacco excise taxes, a sufficient amount of money shall be distributed to the state refund account to pay current claims for overpaid tobacco tax, and the balance is distributed as follows: 43.3% to the permanent building account; 6.7% to the water pollution control account; 1% to the central tumor registry account; 2.5% to the cancer control account; and, all remaining moneys to the general account the state. The Cancer Control Account was developed for the purpose of contracting for and obtaining the services to promote cancer control for the citizens of the state through research, education, screening and treatment. ID CODE § 57-1702 (1987) and § 63-2520 (1994).

Although not from the collection of excise taxes, the legislature in 1992 established the Youth Education Account within the state treasury to provide monies for the production and purchase of radio and television advertising designed to advise children of the risks associated with the use of alcohol, drugs and tobacco. ID CODE § 33-47 (1992).

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: Every person who sells or furnishes tobacco products or cigarette papers to a minor, or permits a minor to frequent any premises owned or managed by him for the purpose of indulging in the use of tobacco products, shall be guilty of a misdemeanor. ID CODE § 18-1502A (1994).

Sign posting requirement: NONE

IDAHO

Penalties to minors: Every minor who purchases, accepts or possesses tobacco products or cigarette papers shall be guilty of a misdemeanor. ID CODE § 18-1502A (1994).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

NONE

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

A person making tobacco vending machines accessible to individuals under 18 years of age, or otherwise making tobacco available to minors, is guilty of a misdemeanor and maintaining a nuisance. Such persons may be enjoined from maintaining such nuisance and such building or place may be abated as a nuisance. ID CODE §§ 18-1503 and 18-1504 (1972).

F. LICENSING REQUIREMENTS

Wholesalers must obtain a license from the tax commission to sell cigarettes. Retailers are not required to obtain a specific license to sell tobacco products. ID CODE § 63-2501 et seq. (1974).

Licensing fee: \$50

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA and ACS oppose laws that elevate smokers to a protected class.

ILLINOIS

A. CLEAN INDOOR AIRClean Indoor Air Rating: Moderate**Public Places**

Smoking is restricted to designated areas in any enclosed indoor area used by the public or serving as a place of work including, but not limited to, retail stores, offices, commercial establishments, indoor theaters, libraries, art museums, concert halls, public conveyances, auditoriums, arenas, and meeting rooms. Excluded from this Act are bowling establishments, places whose primary business is the sale of alcoholic beverages for consumption on the premises, hotel rooms, private enclosed offices occupied exclusively by smokers, and rooms or halls used for private social functions. The appropriate signs shall be posted. Violators are guilty of a petty offense. **A unit of local government in this state shall not have the power and authority, after October 1, 1989, to regulate smoking in public places.*** 410 ILCS 80/1 et seq. (1989).

Government Buildings

The elected and appointed officials of the state and of any unit of local government having control over a public place may establish an area on the premises as a smoking area using existing physical barriers and ventilation to minimize the intrusion of smoke into nonsmoking areas. The appropriate signs shall be posted. Violators are guilty of a petty offense. **A unit of local government in this state shall not have the power and authority, after October 1, 1989, to regulate smoking in public places.*** 410 ILCS 80/1 et seq. (1989).

Private Workplaces

Smoking is restricted to designated areas in enclosed indoor areas serving as a place of work. Private enclosed offices occupied exclusively by smokers and factories, warehouses and similar places of work not usually frequented by the general public are excluded from this law. The appropriate signs shall be posted. Violators are guilty of a petty offense. **A unit of local government in this state shall not have the power and authority, after October 1, 1989, to regulate smoking in public places.*** 410 ILCS 80/1 et seq. (1989).

Schools

Each school board shall prohibit the use of tobacco on school property by any school personnel, student or other person when such property is being used for any school purposes. The school board may not authorize or permit any exception to the

* The ALA, AHA, and ACS oppose preemption of local tobacco control authority.

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prohibition at any place or at any time, including without limitation outside of school buildings or before or after the regular school day. "School purposes" include but are not limited to all events, activities or other use of school property that are authorized by school officials including all interscholastic or extracurricular athletic, academic or other sponsored events in which pupils participate. 105 ILCS 5/10-20.5b and 105 ILCS § 5/34-18.11 (1995).

Day Care

Smoking tobacco products is forbidden in any area of an operating child care center, day care home, or group day care home where children are allowed, regardless of whether children are present. 225 ILCS 10/5.5 (1993).

Health Facilities

Smoking is restricted to designated areas in hospitals and nursing homes. The appropriate signs shall be posted. Violators are guilty of a petty offense. **A unit of local government in this state shall not have the power and authority, after October 1, 1989, to regulate smoking in public places.*** 410 ILCS § 80/1 et seq. (1989).

Restaurants

Smoking is restricted to designated areas in restaurants. The appropriate signs shall be posted. Violators are guilty of a petty offense. **A unit of local government in this state shall not have the power and authority, after October 1, 1989, to regulate smoking in public places.*** 410 ILCS § 80/1 et seq. (1989).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 44 cents

Date last changed: 1993 -- 30 cents to 44 cents

Year first enacted: 1941

Other Tobacco Products

All other tobacco products, including cigars: 18% of wholesale purchase price.

All the revenue from the excise tax on tobacco products other than cigarettes goes to the Long-Term Care Provider Fund of the State Treasury. 35 ILCS 143/10-10 (1995).

C. YOUTH ACCESS

* The ALA, AHA, and ACS oppose preemption of local tobacco control authority.

Age Restrictions on Sales of Tobacco Products**Minimum age for sales of cigarettes and smokeless: 18**

Penalty: No person shall sell, buy for or furnish tobacco in any form to a minor. Violators are guilty of a petty offense and shall be fined \$200 for the first offense, \$400 for the second offense in a 12-month period and \$600 for subsequent offenses within a 12-month period. 720 ILCS § 675/1 et seq. (1993). Persons who knowingly sell, deliver or give away cigarette papers or other tobacco accessories to minors shall be guilty of a Class C misdemeanor. 720 ILCS 685/1 et seq. (1981).

Sign posting requirement: No person may sell or offer to sell cigarettes at retail unless a sign with the message "Surgeon General's Warning: Smoking by pregnant women may result in fetal injury, premature birth, and low birth weight" printed on white cards in red letters at least one-half inch in height, is posted in a conspicuous place upon the premises. Failure to post such a warning sign is a business offense for which a fine up to \$1,000 each day may be imposed. 410 ILCS § 85/1 et seq. (1991). Any place of business where tobacco accessories are sold shall post conspicuously a sign warning that the sale of tobacco accessories to minors or minors misrepresenting their age to procure such a sale is prohibited by law. Violation is a Class C misdemeanor. 720 ILCS 685/1 et seq. (1981).

Penalties to minors: No minor under 18 years of age shall buy tobacco in any form. Any person who violates this Act is guilty of a petty offense and shall be fined \$200 for the first offense, \$400 for the second offense within a 12 month period, and \$600 for subsequent offenses within a 12 month period. 720 ILCS § 675/1 et seq. (1993). Any minor who uses false or forged identification to obtain cigarette papers or other tobacco accessories shall be guilty of a Class C misdemeanor. 720 ILCS 685/1 et seq. (1981).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall distribute samples of tobacco products without charge or at nominal cost to anyone under 18 years of age. Any person who violates this Act is guilty of a petty offense and shall be fined \$200 for the first offense, \$400 for the second offense within a 12 month period, and \$600 for subsequent offenses within a 12 month period. 720 ILCS § 675/1 et seq. (1993). Any person who distributes a sample of smokeless tobacco to a minor shall be guilty of a business offense and subject to the same fines listed in this section. 720 ILCS 680/4 (1993).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Tobacco product vending machines are restricted to: factories, businesses, offices, private clubs, and other places not open to the general public; places to which minors under 18 years of age are not permitted access; places where alcoholic beverages are sold and consumed on the premises; places where the vending machine is in the unimpeded line of sight of the owner or an employee of the establishment; or, places where the vending machine can only be operated by the owner or an employee either directly or through a remote control device if the device is inaccessible to all customers. 720 ILCS 675/1 (1995).

Sign posting requirement: No person may sell cigarettes at retail using a cigarette vending machine unless a sign with the message "Surgeon General's Warning: Smoking by pregnant women may result in fetal injury, premature birth, and low birth weight" printed on a white card in red letters at least one-half inch in height, is displayed in plain view on the machine. Failure to post such a warning sign is a business offense for which a fine up to \$1,000 each day may be imposed. 410 ILCS § 85/1 et seq. (1991).

F. LICENSING REQUIREMENTS

Distributors must obtain a license from the Department of Revenue to sell cigarettes and other tobacco products. Retailers are not required to obtain a license to sell tobacco products. 35 ILCS 130/4 and 143/10 (1995).

Licensing fee: \$250 annually for cigarettes.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

No individual may be discriminated against in any manner because of the exercise of any rights afforded by the Clean Indoor Air Act of 1990. This act allows smoking in places of work in designated areas. 410 ILCS 80/90 (1990).

H. ADVERTISING AND PROMOTION

All outdoor billboard advertisements for smokeless tobacco shall bear one of the following statements in capital letters: "Warning: This product may cause mouth cancer. Warning: This product may cause gum disease and tooth loss. Warning: This product is not a safe alternative to cigarettes." The warnings shall be rotated every 4 months by

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

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the manufacturer, package or importer of the product. Any outdoor billboard advertisement that does not conform to these provisions shall be deemed a nuisance affecting the public health. **No other warning, format or type style in any outdoor billboard advertisement shall be required by any State or local statute or regulation.** 410 ILCS § 75/2 (1987).



INDIANA**A. CLEAN INDOOR AIR**

Clean Indoor Air Rating: Minimal

Public Places

NONE

Government Buildings

Smoking is restricted to designated areas in public buildings occupied by an agency of state or local government. IN STAT. ANN. § 16-41-37-1 et seq. (1993).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in public schools and classroom buildings of state educational institutions. IN STAT. ANN. § 16-41-37-1 et seq. (1993).

Day Care

NONE

Health Facilities

Smoking is restricted to designated areas in a public building licensed as a health facility. IN STAT. ANN. § 16-41-37-1 et seq. (1993).

Restaurants

NONE

Enforcement

No-smoking signs must be posted conspicuously in the appropriate areas. A person who smokes in a nonsmoking area commits a class C infraction and may be removed by the official in charge of the public building for failing to refrain from smoking when asked to do so. IN STAT ANN. § 16-41-37-1 et seq. (1993).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 15.5 cents

Date last changed: July 1, 1987 – 10.5 cents to 15.5 cents

Year first enacted: 1947

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Other Tobacco Products

Chewing tobacco and snuff: 15% of manufacturer's selling price

All of the taxes, distributor licensing fees and related monies shall be deposited in the following manner: $\frac{16}{31}$ to the state general fund; $\frac{2}{31}$ to the pension relief fund; $\frac{1}{31}$ to the mental health centers fund; and $\frac{7}{31}$ to the cigarette tax fund. Of the money dedicated to the cigarette tax fund, two-thirds is appropriated to cities, towns and certain local government entities and one-third is appropriated to the department of natural resources. IN STAT. ANN § 6-7-1-28.1 (1994).

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: A person who knowingly sells or distributes tobacco to a minor commits a class C infraction. IN STAT ANN. § 35-46-1-10 (1988).

Sign posting requirement: A location selling tobacco at retail shall post and maintain in a conspicuous place a sign stating "The sale of tobacco to persons under 18 years of age is forbidden by Indiana Law". Violation is a Class C infraction for the owner or person who has control over the establishment. IN STAT ANN. § 35-46-1-11 (1987).

Penalties to minors: A minor who purchases tobacco or accepts tobacco for personal use commits a class C infraction. IN STAT. ANN. § 35-46-1-10.5 (1988).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Distributing tobacco to a person under the age of 18 as a means of promoting, advertising or marketing the product is prohibited. Violation of this law is a Class C infraction. IN STAT. ANN. § 35-46-1-10 (1988).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Tobacco product vending machines are restricted to licensed premises, private industrial or office locations and private clubs, if they are accessible only to persons over age 18, or to locations where the machine can be operated only by the owner or an employee who is at least eighteen. The vending machine may be operated directly, or through a remote control device if the device is inaccessible to all customers. Violation is a Class C infraction. IN STAT. ANN. § 35-46-1-11.5 (1990)

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Sign posting requirement: The following notice must be posted on machines located in a public place: "If you are under 18 years of age, YOU ARE FORBIDDEN, by Indiana law to buy tobacco from this machine". The owner or person who has control over a vending machine in violation commits a class C infraction. IN STAT. ANN. § 35-46-1-11 (1987).

F. LICENSING REQUIREMENTS

Distributors must obtain a license to sell cigarettes and other tobacco products. Retailers are not required to obtain a license to sell tobacco products. IN STAT. ANN. § 6-7-1-16 (1992) and § 6-7-2-8 (1987).

Licensing fee: \$500 annually for cigarettes, \$25 annually for other tobacco products.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

An employer may not require, as a condition of employment, an employee or prospective employee to refrain from using tobacco products outside the course of the employee's or prospective employee's employment. An employer also may not discriminate against an employee with respect to compensation and benefits, or terms and conditions of employment based on the employee's use of tobacco products outside the course of employment. An employee or prospective employee may bring civil action against the employer to enforce this law. IN STAT. ANN. § 22-5-4-1 et seq. (1991).

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

IOWA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is restricted to designated areas in any enclosed indoor space used by the general public, or serving as a place of work containing 250 or more square feet of floor space. These areas include, but are not limited to, retail stores, lobbies and malls, commercial establishments, public conveyances with departures, travel and destination entirely within the state, auditoriums, theaters, libraries, art museums, concert halls, indoor arenas and meeting rooms. Smoking is prohibited on elevators. Public places not covered by this law include retail stores where 50 percent or more of the sales result from the sale of tobacco products, the portion of a retail store where tobacco products are sold, a room used primarily as the residence of students or other persons at an educational facility, sleeping rooms in motels or hotels and rooms or halls used for a private social function. IA CODE ANN. § 142B (1990).

Government Buildings

Smoking is restricted to designated areas in the state capitol, and during a gathering in person of the members of a governmental body, whether an open or a closed session. IA CODE ANN. § 142B.1 et seq. (1990).

Private Workplaces

Smoking is restricted to designated areas in offices with 250 square feet or more of floor space. Excluded from this law are private, enclosed offices occupied exclusively by smokers, even though the office may be visited by non-smokers. Prohibition does not apply to factories, warehouses, and similar places of work not usually frequented by the general public, except that an employee cafeteria in such place of work shall have a designated nonsmoking area. IA CODE ANN. § 142B.1 et seq. (1990).

Schools

Smoking is restricted to designated areas in educational facilities. This law does not apply to rooms used primarily as the residence of students or other persons at an educational facility. IA CODE ANN. § 142B.1 et seq. (1990).

Day Care

NONE

Health Facilities

Smoking is restricted to designated areas in hospitals, clinics, nursing homes and other health care and medical facilities. Smoking is not prohibited in patient rooms in health care facilities, but the person in custody or control of the facility shall provide a sufficient

IOWA

number of no-smoking rooms to accommodate persons who do not smoke. IA CODE ANN. § 142B.1 et seq. (1990).

Restaurants

Smoking is restricted to designated areas in restaurants seating more than 50 people. IA CODE ANN. § 142B.1 et seq. (1990).

Enforcement

Signs must be posted that designate smoking and non-smoking areas. A person who smokes in a nonsmoking area or a person in control of a public place who fails to post the appropriate sign shall pay a civil fine. **The provisions of this chapter shall supersede any local law or regulation which is inconsistent with or conflicts with this law.*** IA CODE ANN. § 142B.1 et seq. (1990)

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 36 cents

Date last changed: June 1, 1991 – 31 cents to 36 cents

Year first enacted: 1921

Other Tobacco Products

Chewing tobacco and snuff: 22% of manufacturer's gross list price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: A person shall not sell, give or otherwise supply tobacco products to any person under 18 years of age. Any violation is a simple misdemeanor. If a retailer or employee of a retailer commits a violation, the department of revenue and finance or local authority shall also assess a civil penalty of \$300 for a first violation. Failure to pay the fine shall result in automatic suspension of the permit for a period of 14 days. For a second violation within a period of two years, the violator's permit shall be suspended for a period of thirty days. For a third violation within five years, the violator's permit shall be suspended for 60 days. For a fourth violation in the same period, the permit shall be revoked for one year. **This law shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.*** IA CODE ANN. § 453A.1 et seq. (1991).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

Sign posting requirement: NONE

Penalties to minors: A minor shall not use, purchase or attempt to purchase any tobacco products. Violators are guilty of a simple misdemeanor. **This law shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.*** IA CODE ANN. § 453A.1 et seq. (1991).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

A manufacturer, distributor, wholesaler, retailer or distributing agent shall not give away any tobacco products to persons under eighteen, or within 500 feet of any playground, school, high school or other facility when such facility is being used primarily by persons under 18 for educational, recreational or other purposes. **This law shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.*** IA CODE ANN. § 453A.39 and § 453A.56 (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Tobacco vending machines are to be equipped with lock-out devices and under the supervision of a person of legal age responsible for prevention of purchases by minors. Lock-out devices are not required if the machine is located in a commercial establishment holding a class "C" liquor license or a class "B" beer permit if the establishment is not also licensed as a food service establishment, or a private facility or workplace not open to the public. Machines that are not required to have a lock-out device are not to be placed in a doorway or other area readily accessible to minors. **This law shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.*** IA CODE ANN. § 453A.36 and § 453A.56 (1991).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, distributors, and vending machine operators must obtain a permit to sell cigarettes. IA CODE ANN. § 453A.13

Licensing fee: \$50-\$100 annually for a retail permit, depending on local population; \$100 annually for a wholesaler, distributor, or vending machine operator permit.

Penalty for sales to minors: If a retailer or employee of a retailer commits a violation, including vending machine and sample distribution violations, the department of revenue

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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and finance or local authority shall assess a civil penalty of \$300 for a first violation. Failure to pay the fine shall result in automatic suspension of the permit for a period of 14 days. For a second violation within a period of two years, the violator's permit shall be suspended for a period of thirty days. For a third violation within five years, the violator's permit shall be suspended for 60 days. For a fourth violation in the same period, the permit shall be revoked for one year. **This law shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.** * IA CODE ANN. § 453A.1 et seq. (1991).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

KANSAS**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is restricted to designated areas in enclosed indoor areas open to, or used by, the general public including, but not limited to, retail stores, libraries, courtrooms, rest rooms, grocery stores, museums, theaters, auditoriums, arenas, and recreational facilities. Smoking is prohibited entirely in passenger elevators and public means of transportation. Signs shall be posted designating smoking and nonsmoking areas. KS STAT. ANN. § 21-4009 et seq. (1987).

Government Buildings

Smoking is restricted to designated areas in state, county or municipal buildings. KS STAT. ANN. § 21-4009 et seq. (1987). On and after July 1, 1995, no person shall smoke in any area, room, hallway, or other place in the state capitol and no area shall be designated as a smoking area. KS STAT. ANN. § 21-4016 (1993).

Private Workplaces

NONE

Schools

The use of tobacco products in any public school building is prohibited. A school building is defined as an enclosed building used for pupil attendance purposes by the board of education of a unified school district. Not included are buildings or portions thereof used for residential purposes or leased from the school district for non-school sponsored activities. KS STAT. ANN. § 72-53,107 (1988). Smoking is also prohibited on school buses. KS STAT. ANN. § 21-4009 et seq. (1987).

Day Care

Smoking is prohibited in day care homes, group day care homes and family day care homes during hours of operation. The secretary of health and environment may levy a civil fine against any day care home for a first or second violation, and suspend the license for third or subsequent violations. KS STAT. ANN. § 65-530 (1994).

Health Facilities

Smoking is forbidden in hospitals, ambulatory surgery centers or recuperation centers, and any licensed psychiatric hospital, except that a smoking area may be established within a licensed long-term care unit if such area is well ventilated. KS STAT. ANN. § 21-4017 (1993). Smoking is restricted to designated areas in other places where health care services are provided to the public. KS STAT. ANN. § 21-4009 et seq. (1987).

KANSAS**Restaurants**

Smoking is restricted to designated areas in restaurants. KS STAT. ANN. § 21-4009 et seq. (1987).

Enforcement

Any person found guilty of smoking in violation of this Act is guilty of a misdemeanor punishable by a fine of not more than \$20 for each violation. Any person found guilty of failing to post signs, as required by this Act, is guilty of a misdemeanor punishable by a fine of not more than 50 dollars. KS STAT. ANN. § 21-4009 et seq. (1993).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 24 cents
Date last changed: October 1, 1985 -- 16 cents to 24 cents
Year first enacted: 1927

Other Tobacco Products

Chewing tobacco and snuff: 10% of manufacturer's net price.

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products****Minimum age for sales of cigarettes and smokeless tobacco: 18**

It is unlawful to sell, furnish or distribute cigarettes and smokeless tobacco to any person under 18. Violators are guilty of a misdemeanor and punishable by a fine not more than \$1,000 or not more than 1 year imprisonment, or both. It is a class B misdemeanor punishable by a minimum fine of \$200 for any person, directly or indirectly, to : (1) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age; or (2) buy any cigarettes or tobacco products for any person under 18 years of age. However, it shall be considered mitigating circumstances for employees who have completed a training program, approved by the secretary of revenue or the secretary's designee, in avoiding sale, furnishing or distributing of cigarettes and tobacco products to persons under 18 years of age. KS STAT. ANN. §§ 79-3321, 79-3322 and 79-3390 (1996).

Sign posting requirement: It is unlawful for any person who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "By law, cigarettes and tobacco products may be sold only to persons 18 years of age and older." KS STAT. ANN. §79-3321 (1996)

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Penalties to minors: It is unlawful for any person under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products. It is unlawful for any person who is under 18 years of age to possess or attempt to possess cigarettes or tobacco products. Violators are guilty of a misdemeanor and punishable by a fine not more than \$1,000 or not more than 1 year imprisonment, or both. KS STAT. ANN. §§ 79-3321 and 79-3322 (1996).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful for any person to distribute samples within 500 feet of any school when such facility is being used primarily by persons under 18 years of age unless the sampling is: (1) in an area to which persons under 18 years of age are denied access; (2) in or at a retail location where cigarettes and tobacco products are the primary commodity offered for sale at retail; or (3) at or adjacent to an outdoor production, repair or construction site or facility. Violators are guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1000, up to one year in prison, or both. KS STAT. ANN. § 79-3322 (1996).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement Restriction: It is unlawful for any person to sell cigarettes or tobacco products by means of a vending machine in any establishment, or portion of an establishment, which is open to minors, except: (1) installation and use behind the counter; (2) installation and use in a commercial building or industrial plant; or (3) vending machines with lockout devices. Violators are guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1000, up to one year in prison, or both. KS STAT. ANN. § 79-3322 (1996).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, and vending machine operators must be licensed to sell cigarettes. Licenses are renewed every two years. KS STAT. ANN. § 79-3303 (1993). A vending machine operator is required to obtain a vending machine operator's master license and, in addition, a separate permit for each vending machine operated by the operator. KS STAT. ANN. § 79-3303 (1996).

Licensing fee: \$25 for each retail establishment, \$50 for retailer's licence on railroad or sleeper cars. For wholesale dealer's licence, \$50 for each dealer establishment, for temporary show, carnival or catering license, \$50 for each concession. For manufacturer's salesperson licence, \$20 for each salesperson. \$50 for vending machine distributor licence, no fee for vending machine operator's license and \$25 permit for

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each vending machine. KS STAT. ANN. § 79-3304 (1996).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

KENTUCKY

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Minimal

Public Places

NONE

Government Buildings

Smoking policies in state or local government office buildings may be adopted. If such a policy is adopted, it must be by executive order of the Governor, action of the General Assembly or the local governing authority; require accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority. KY REV. STAT. § 61.165 (1994). An administrative regulation restricts smoking to designated areas in state owned or leased buildings occupied by the executive branch agencies. Designated areas cannot be places used by all employees or visitors, such as hallways, elevators, restrooms, conference rooms, and libraries. 200 KAR 6:045 (1993).

Private Workplaces

NONE

Schools

Smoking is restricted to designated smoking areas in school buildings or on school grounds. Every secondary school may have a designated smoking area for adults and students, other schools' designated areas must be for adults only. The superintendent or principal may designate the smoking areas. Violation is punishable by a fine of \$1 to 5 dollars. KY REV. STAT. § 438.050 (1988).

Day Care

NONE

Health Facilities

NONE

Restaurants

NONE

KENTUCKY**B. TOBACCO EXCISE TAXES****Cigarettes**

Tax rate per pack of 20: 3 cents

Date last changed: July 1, 1970 -- 2.5 cents to 3 cents

Year first enacted: 1936

One-half cent of the cigarette excise tax is earmarked to the Tobacco Research-Trust Fund. Money appropriated for the Fund goes to the University of Kentucky tobacco and health research institute and is applied exclusively to projects and programs directed toward improvements in the tobacco industry and proving or disproving questions of health hazards to tobacco users and toward preserving and strengthening the tobacco industry in Kentucky. A 14-member Tobacco Research Board, including a president or member of the board of directors of a tobacco company located in the state, authorizes and reviews the research projects and makes yearly reports. **This provision has the support of the tobacco industry.** KY REV. STAT. §§ 248.510 et seq. (1988)

Other Tobacco Products

Chewing tobacco and snuff: NONE

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

No person shall sell or cause to be sold any tobacco product at retail to any person under the age of 18, or solicit any person under the age of 18 to purchase any tobacco product at retail. Any person selling tobacco products must require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of 18.

Enforcement: The Department of Agriculture shall conduct annual random, unannounced inspections of retail establishments where tobacco products are sold. The department may use minors in their compliance checks if the testing is conducted under the direct supervision of the department, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The Department of Agriculture is entitled to keep 100% of any fines collected to offset the costs of enforcement. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, display, sale, or distribution of tobacco products.*** KY REV. STAT. § 438.330 (1996).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

KENTUCKY

Penalty: Fine of \$100 to \$500 for the first violation and \$500 to \$1000 for subsequent violations. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, display, sale, or distribution of tobacco products.*** KY REV. STAT. § 438.310 (1996).

Sign posting requirement: Notice must be posted in a conspicuous place stating that it is illegal to sell tobacco products to persons under age eighteen. Fine of \$100 to \$500 for the first violation and \$500 to \$1000 for subsequent violations. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, display, sale, or distribution of tobacco products.*** KY REV. STAT. § 438.310 (1996).

Penalties to Minors: Except for the provisions of KRS 438.330, it is unlawful for person under 18 to purchase or accept receipt of or attempt to purchase or accept receipt of a tobacco product, or to offer false proof of age. Violations shall be punishable by a fine of \$50 and 20 hours of community service for a first offense within a one year period, and a fine of \$200 and 40 hours community service for a second or subsequent offense within a one year period.

Other provisions: All retail sales clerks must signify in writing that they understand that it is illegal under state law for persons to sell or distribute tobacco products to persons under 18 and for minors to purchase such products. The owner of the retail establishment shall keep the signed notice in a place that is easily accessible to persons conducting a compliance inspection. Any owner of a retail establishment who violates this provision is subject to a fine of \$10 to \$25 for each violation. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, display, sale, or distribution of tobacco products.*** KY REV. STAT. § 438.325 (1996).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may distribute samples of these products free of charge or otherwise, to any person under 18 years old. Violators shall be fined not less than \$100 nor more than \$250 for each offense. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, display sale, or distribution of tobacco products.*** KY REV. STAT. § 438.313 (1996).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

KENTUCKY**E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES**

Placement restriction: The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of 18 years. The purchase of tobacco products dispensed through a vending machine is prohibited to any person under 18 years or age. As of July 15, 1995, vending machines from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment. This does not apply to vending machines located in factories, or bars or taverns to which minors are not permitted access. Any owner of a retail establishment violating this section shall be subject to a fine of \$10 to \$25 for each violation. **This law supersedes any subsequently enacted local law, ordinance, or regulation which relates to the use, sale, or distribution of tobacco products.*** KY REV. STAT. § 438.315 (1994).

F. LICENSING REQUIREMENTS

Any person who operates one or more cigarette vending machine shall first secure a license from the revenue cabinet. Retailers are not required to obtain a license to sell tobacco products. KY REV. STAT. § 138.195 (1988).

License fee: \$25 annually.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

It is an unlawful practice for an employer to : fail or refuse to hire, or to discharge any individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because the individual is a smoker or nonsmoker; limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee because the individual is a smoker or nonsmoker; or require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking. KY REV. STAT. § 344.040 (1994).

H. ADVERTISING AND PROMOTION

No cigarette or tobacco products advertising shall be posted on a billboard with display

*The ALA, AHA and ACS oppose preemption of local tobacco control authority.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

space larger than 50 square feet located within 500 feet of any elementary or secondary school building or adjacent school-owned property. Violators shall be fined at least \$100 for each offense. KY REV. STAT. § 438.047 (1992).

LOUISIANA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is prohibited in areas that are clearly designated by a no smoking sign on passenger elevators, public transportation vehicles that are not privately chartered, and in areas where the state fire marshal has determined that smoking may be hazardous. Smoking is restricted to designated areas in public places other than those publicly owned including, but not limited to, theaters, public access areas of buildings and offices, bowling centers, arenas, hotels and motels, convention halls, auditoriums, and public meeting rooms. The person in control of such place may designate a separate room on each floor to be used for smoking, but shall not be required to make expenditures or structural changes. Taxi cab or limousine owners or operators may designate their vehicle as either smoking or nonsmoking and post signs accordingly. A business or location which derives more than 50% of its gross revenues from the sale of alcoholic beverages may be designated as a smoking area in its entirety by the owner or operator. The provisions of this law do not apply to horse racing tracks, casinos, river boat gambling facilities, areas in truck stops designated for video poker machines, or off-track betting parlors. However, owners of such facilities may designate separate smoking rooms. This law does not affect any meeting areas of the legislature, its committees, or its members. LA REV. STAT. § 40:1300.41 et seq. (1993).

Government Buildings

Every employer which employs 25 or more full-time employees must maintain a written smoking policy that provides, at a minimum, the right for non-smoking employees to object to smoke in their office space. The employer must attempt to reach reasonable accommodations without expenditures or structural changes. State, parish or municipal buildings or workplaces where smoking is restricted shall attempt to designate smoking areas in a separate room for employees. A written copy of the policy must be posted and all non-smoking areas must be clearly marked with signs. The provisions of this section do not apply to facilities or areas of facilities which serve as courtrooms, or other areas used by the judicial branch of state government or to private enclosed office workplace occupied exclusively smokers, even though such areas may be visited by nonsmokers. **No local agency or political subdivision may impose ordinances or regulations relating to smoking in an office workplace which are more restrictive or stringent than this law after September 1, 1993.*** LA REV. STAT. § 40:1300.21 et seq. (1993).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

LOUISIANA**Private Workplaces**

Every employer which employs 25 or more full-time employees must maintain a written smoking policy that provides, at a minimum, the right for non-smoking employees to object to smoke in their office space. The employer must attempt to reach reasonable accommodations without expenditures or structural changes. A written copy of the policy must be posted and all non-smoking areas must be clearly marked with signs. This law does not apply to private enclosed office workplace occupied exclusively smokers, even though such area may be visited by nonsmokers. **No local agency or political subdivision may impose ordinances or regulations relating to smoking in an office workplace which are more restrictive or stringent than this law after September 1, 1993.*** LA REV. STAT. § 40:1300.21 et seq. (1993).

Schools

The use of tobacco products is prohibited in all elementary and secondary school buildings. Smoking is restricted on the grounds of elementary and secondary school property to areas specifically designated as a smoking area. Smoking is prohibited on any school bus transporting children to or from school. The governing authority of each public and private school may provide for appropriate penalties, including but not limited to disciplinary action or a fine not to exceed two hundred dollars, or both. LA REV. STAT. § 17:240 (1994).

Day Care

Smoking is restricted to designated areas in day care facilities. LA REV. STAT. § 40:1300.41 et seq. (1993).

Health Facilities

Smoking is prohibited in public and private hospitals except in patient rooms upon the order of the patient's primary treating physician, with the consent of all patients in the room and in accordance with all standards set by the Joint Commission on Accreditation of Health Care Organizations and all applicable state and federal regulations. The governing board of a psychiatric hospital, the Department of Corrections and the Department of Health and Hospitals shall establish rules and policies to reasonably accommodate inpatients and inmates who smoke. LA REV. STAT. § 40:2115 (1992).

Restaurants

The owner, manager, or operator of a restaurant may maintain flexible smoking and non-smoking areas within the restaurant according to customer demand. LA REV. STAT. § 40:1300.41 et seq. (1993).

Enforcement

Violators of LA REV. STAT. § 40:1300.41 to 1300.47 (1993) may be fined no less than \$25 and no more than 50 dollars. **Local governments or agencies may not impose**

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

ordinances or regulations which are more restrictive than this law after September 1, 1993.*

TOBACCO EXCISE TAXES

Cigarettes

Tax rate per pack of 20: 20 cents

Date last changed: August 1, 1990 – 16 cents to 20 cents

Year first enacted: 1926

\$750,000 from the General Fund is dedicated to the Louisiana Cancer and Lung Trust Fund to administer to the state wide Louisiana Tumor Registry Program, and for research projects on cancer and lung disease. About \$130,000 is provided annually for research. LA REV. STAT. ANN. § 47:869 and § 40:1299.88 (1980).

Other Tobacco Products

Chewing tobacco and snuff: NONE

Cigarette Papers

Authorized parish governing authorities to levy an additional tax on the sale at retail of cigarette papers. In all situations, specific provisions are made for the dedication of all proceeds. In most parishes, the proceeds must be used solely for the purpose of developing or continuing the Drug Abuse Resistance Education (DARE) programs within the public and private educational systems of the parish. LA REV. STAT. § 33:2740.25 (1994).

C. YOUTH ACCESS

Age Restrictions on Sales of Tobacco Products

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The commissioner of the office of alcoholic beverage control in the Department of Revenue and Taxation, acting through local law enforcement personnel, shall annually conduct random, unannounced inspections of all locations where tobacco products are sold or distributed. Minors may be enlisted to test compliance only if the testing is conducted under the direct supervision of the local law enforcement department and written parental consent has been provided. LA REV. STAT. § 26:793 (1994).

Penalty: A person who sells tobacco products to minors shall be fined not more than

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

LOUISIANA

\$50 for the first violation, \$100 for the second violation, \$250 for the third violation and \$400 for any subsequent violations. **This law shall supersede existing or subsequently adopted local ordinances or regulations which relate to the sale, promotion, and distribution of tobacco products.*** LA REV. STAT. § 14:91.8 (1994).

Sign posting requirement: Signs are required at points of purchase stating that Louisiana law prohibits the sale of tobacco to persons under 18. Owners of the establishment where a violation of this provision occurs shall be fined not more than \$50 for the first violation, \$100 for the second violation, \$250 for the third violation and \$500 for any subsequent violations. **This law shall supersede existing or subsequently adopted local ordinances or regulations which relate to the sale, promotion, and distribution of tobacco products.*** LA REV. STAT. § 14:91.8 (1994).

Penalties to minors: It is unlawful for any person under the age of eighteen to buy any tobacco product. A minor who buys tobacco products shall be fined not more than \$50 for the first violation, \$100 for the second violation, \$250 for the third violation and \$400 for any subsequent violations. **This law shall supersede existing or subsequently adopted local ordinances or regulations which relate to the sale, promotion, and distribution of tobacco products.*** LA REV. STAT. § 14:91.8 (1994).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall distribute or cause to be distributed to persons under eighteen years of age a promotional sample of any tobacco product. Violators shall be fined not less than \$100 nor more than 500 dollars upon conviction. LA REV. STAT. § 14:91.6 (1988).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Sign posting requirement: Tobacco vending machines must display stickers stating Louisiana law prohibits the sale of tobacco products to persons under 18. The owner of a vending machine in violation of this provision shall be fined not more than \$50 for the first violation, \$100 for the second violation, \$250 for the third violation and \$500 for any subsequent violations. **This law shall supersede existing or subsequently adopted local ordinances or regulations which relate to the sale, promotion, and distribution of tobacco products.*** LA REV. STAT. § 14:91.8 (1994).

F. LICENSING REQUIREMENTS

Any person who sells or is about to engage in the business of selling either at wholesale, or by vending machine, or is about to engage in the business of receiving

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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nontax-paid, stamped cigarettes at wholesale shall first apply to and obtain from the collector a permit for each place of business. LA REV. STAT. § 47:844 (1986).

Licensing fee: \$50 annually for wholesale dealers, or \$100 for untimely applications. No other specific fees are mentioned. LA REV. STAT. § 47:844 (1986).

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

As long as an individual, during the course of employment, complies with applicable law and any adopted workplace policy regulating smoking it shall be unlawful for an employer to discriminate against the individual with respect to discharge, compensation, promotion, any personnel action or other condition, or privilege of employment because the individual is a smoker or nonsmoker or require, as a condition of employment, that the individual abstain from smoking or otherwise using tobacco products outside the course of employment. Any employer who violates the provisions of this law shall be fined up to \$250 for the first offense and up to \$500 for any subsequent offense. LA REV. STAT. § 23:966 (1991).

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

MAINE**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is restricted to designated areas in all places not open to the sky where the public is invited or allowed. Smoking is prohibited in all public restrooms. Smoking areas are not to be designated in public areas where sales, services, or other commercial or public activities are conducted. Exceptions to this law are public places when they are not open to the public, theaters when smoking is part of the performance, smoking during a religious ceremony or cultural activity, taverns and lounges, hotel and motel rooms, private offices when no member of the public is present, retail tobacco stores that are under 2,000 square feet, areas where beano or bingo games are being played, and privately chartered buses. Signs must be posted conspicuously in buildings where smoking is regulated. A person who violates any provision of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged. 22 ME REV. STAT. ANN. § 1541 et seq. (1993). Smoking is prohibited in jury rooms, unless all members give their consent. 22 ME REV. STAT. ANN. § 1580 (1983).

Government Buildings

Every employer, who has one or more employees, must establish, or may negotiate through the collective bargaining process, a written policy on smoking. Employer includes the State or a political subdivision of the State. The policy shall restrict smoking to designated areas. Failure to establish, post or supervise the implementation of a policy is a civil violation punishable by a fine of not more than 100 dollars. 22 ME REV. STAT. ANN. § 1580-A (1985).

Private Workplaces

Every employer, who has one or more employees, must establish, or may negotiate through the collective bargaining process, a written policy on smoking. To protect the employer and employees from the detrimental effects of smoking by others, the policy shall restrict smoking to designated areas. Failure to establish, post or supervise the implementation of a policy is a civil violation punishable by a fine of not more than 100 dollars. 22 ME REV. STAT. ANN. § 1580-A (1985).

Schools

Tobacco use by students in public school buildings, and on public school property, is prohibited. School employees are similarly banned from smoking in these areas, but a local school board or school employees may establish designated smoking areas through collective bargaining. Smoking areas must be located away from areas frequented by students. 22 ME REV. STAT. ANN. § 1578-B (1993).

MAINE**Day Care**

Smoking is restricted to designated areas in day care facilities. In private residences being used as licensed day care or baby-sitting services, smoking is restricted in the areas being used to care for children during the hours these services are provided. Designated smoking areas may not be within an area where services are conducted. 22 ME REV. STAT. ANN. § 1541 et seq. (1993).

Health Facilities

Smoking is prohibited in any enclosed area of any licensed hospital. Smoking is permitted in designated areas by patients or residents in psychiatric or substance abuse units upon order of a licensed physician. Residents of a state mental health institute may smoke in designated areas, also. Patients or residents of psychiatric, substance abuse units, or state mental health institutes who are allowed to smoke, must have designated smoking areas that are enclosed and adequately ventilated. Smoking by employees at state mental health institutes is governed by §1580-A (see workplace section). 22 ME REV. STAT. ANN. § 1580-B (1991). Smoking by residents, visitors and personnel in licensed nursing homes is restricted to designated areas. 22 ME REV. STAT. ANN. § 1825 (1983).

Restaurants

Enclosed indoor restaurants are required to provide a no-smoking area reasonably calculated to address the needs of the non-smoking public. Failure to post a sign or announce a policy, to provide a no-smoking area as required, or to comply with rules promulgated is a civil violation punishable by a fine of not less than \$100 nor more than \$500. Nothing in this section prohibits a restaurant from designating more than 50% of its indoor seating or all of its indoor seating as a no-smoking area. 22 ME REV. STAT. ANN. § 1579-A (1989).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 37 cents
Date last changed: July 1, 1991 -- 28 cents to 37 cents
Year first enacted: 1941

Other Tobacco Products

Chewing tobacco and snuff: 62% of wholesale sales price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

MAINE

Enforcement: All law enforcement officers shall enforce this section. A citizen may register a complaint under this section with the law enforcement agency having jurisdiction. The law enforcement agency may notify any establishment or individual subject to this section of all citizen complaints regarding the establishment or individual's alleged violation of this section and keep a record of that notification. 22 ME REV. STAT. ANN., c. 262-A, § 1555 (1995). **Municipalities may enact ordinances that are more restrictive than this chapter, except they are expressly prohibited from enacting ordinances and regulations regarding tobacco displays, product placement and the time of tobacco product sales after 9/29/95.*** 22 ME REV. STAT. ANN., c. 262-A, § 1556 (1995).

Penalty: A person may not knowingly sell, furnish, give away or offer to sell, furnish or give away tobacco products or cigarette products to any person under the age of 18. Any person who violates this law commits a civil violation for which a fine between \$50 and \$1,500, plus court costs, may be adjudged for any one offense. Any employer of a person who violates this law commits a civil violation for which a fine between \$50 and \$1,500 may be imposed. It is an affirmative defense to prosecution that the defendant cigarettes, cigarette paper or any other tobacco product to a person under 18 years of age who furnished fraudulent proof of age. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1555 (1995).

Sign posting requirement: Notices must be publicly and conspicuously displayed in each licensed place of business stating the prohibition on tobacco sales to minors. Signs must be provided at cost by the department. Failure to post the required notice is a civil violation for which a fine between \$50 and \$200 may be imposed for any one offense. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1552-A (1995).

Penalties to minors: It is unlawful for any person under the age of 18 to offer false identification in attempt to purchase any tobacco products or to purchase, possess or use cigarettes, cigarette paper or any other tobacco product. Any person who violates this section commits a civil violation for which the following forfeitures may be adjudged: a fine between \$100 and \$300 and/or community service may be imposed for the first offense; a fine between \$200 and \$500 and/or community service may be imposed for the second offense; and, a mandatory fine of \$500 that may not be suspended, and possibly additional community service for all subsequent offenses. **See above preemption.*** 22 ME REV STAT. ANN., c. 262-A, § 1555 (1995).

Other provisions: To the extent that funds are available, the Department of Human Services and the Office of Substance Abuse shall collaboratively coordinate, develop and implement programs to educate retailers, schools, retail clerks, juveniles and the general public about the laws relating to cigarette sales to, and purchases by juveniles, the consequences of violating those laws and of using tobacco products. They shall

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

MAINE

also work in cooperation with the Department of Education, tobacco industry retailers and non-profit health agencies. The Office of Substance Abuse will also make tobacco cessation programs available throughout the state. P.L. 1995, c. 470, § 17 and § 19.

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

A person in the business of selling or otherwise distributing any tobacco product for profit, may not in the course of business distribute any free tobacco product to any person under the age of 18 in any place, including, but not limited to, public ways or sidewalks, public parks or playgrounds, public schools, public buildings, or entrances, lobbies, halls or other common areas of a private building, shopping center, or mall. Any person who violates this law commits a civil violation for which a fine between \$50 and \$1,500, plus court costs, may be adjudged for any one offense. Any employer of a person who violates this law commits a civil violation for which a fine between \$50 and \$1,500 may be imposed. It is an affirmative defense to prosecution that the defendant sold or distributed cigarettes, cigarette paper or any other tobacco product to a person under 18 years of age who furnished fraudulent proof of age. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1555 (1996).

A person may not sell cigarettes except in the original, sealed package in which they were placed by the manufacturer, nor may any person sell cigarettes in smaller quantities than placed in the package by the manufacturer. A person who violates this section commits a civil violation for which a forfeiture between \$10 and \$100 may be adjudged. An employer of a person who violates this law commits a civil violation for which a forfeiture between \$100 and \$1,000 may be adjudged. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1554-A (1995).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Any vending machine used for the sale of tobacco products may only dispense tobacco products. At all times during the hours the vending machine is accessible, it must be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons under 18 years of age from purchasing any tobacco product from that machine. This provision does not apply to any vending machine that may be located in an area where minors are not allowed by law or by policy of the owner of the premises. Any person in control of a facility who violates this section commits a civil violation for which a fine between \$100 to \$500 may be adjudged, or the person may be prohibited from having a cigarette vending machine located on the premises for up to 6 months, or both. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1553-A (1995). It is a civil violation for any person, firm

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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or corporation to knowingly distribute or sell any tobacco product from a vending machine to a person under 18 years of age. Violators are subject to the same penalties listed for over-the-counter retail tobacco sales to minors. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1555 (1995).

Sign posting requirement: A sign must be affixed to the front of the machine warning that it is unlawful for a minor to purchase cigarettes in this state. Penalty for a violation is listed above. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1553-A (1995).

F. LICENSING REQUIREMENTS

All retailers, including sales through vending machines or free distribution of tobacco products must obtain a license from the Department of Human Services. A separate license shall be obtained for each premises and vending machine. All retail licenses are valid indefinitely unless suspended or revoked. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, §1551-A (1995).

License fee: Up to but not exceeding \$25 for each premises and vending machine.

Penalty for sales to minors: The Administrative Court may impose fines or revoke or suspend licenses for violation of state law or rule related to the sale of tobacco products. Upon discovering a violation, the commissioner or their designee shall report the violation to the Court in a signed complaint, or issue warnings to the licensees involved. The Court upon receipt of a signed complaint, shall notify the licensee and hold a hearing, or send the licensee a warning upon the written recommendation of the commissioner or their designee. Hearsay testimony is not admissible during the hearing, all witnesses must testify in person. The Court shall issue a written decision within 12 days of the hearing and may suspend a penalty, or place a case on file instead of imposing a penalty. License suspensions apply only to the premises where the violation occurs, but the Court may order that a revocation apply to any of the licensee's premises or machines. Suspensions and revocations must be for a definite period of time (determined by the Court). If the licensee files an appeal in the Superior Court, the operation of a license suspension or revocation imposed by the lower court must be suspended pending judgement. If the person licensed to sell tobacco products has engaged in or is about to engage in any act or practice that violates this chapter, the Court may grant an injunction, restraining order or other order as appropriate. 22 ME REV. STAT. ANN., c. 262-A, § 1557 et seq. (1996). A person in violation of the vending machine provisions may be prohibited from having a cigarette vending machine located on the premises for up to 6 months. **See above preemption.*** 22 ME REV. STAT. ANN., c. 262-A, § 1553-A (1995).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

MAINE**G. SMOKING PROTECTION LAWS****

An employer or an agent of an employer may not require, as a condition of employment, that any employee or prospective employee refrain from using tobacco products outside the course of that employment or otherwise discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment for using tobacco products outside the course of employment as long as the employee complies with any workplace policy concerning the use of tobacco. 26 ME REV. STAT. ANN., c. 7, § 597 (1991).

**H. ADVERTISING AND PROMOTION
NONE**

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

MARYLAND

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Comprehensive

Public Places

Smoking is prohibited unless enclosed, separately ventilated smoking areas are constructed meeting the specifications listed under private workplace. Code of MD Regulations § 9.12.23 (1994). Hotels and motels may only permit smoking in their bar and up to 40% of their sleeping rooms. ANN. CODE OF MD, Business Regulation Art., § 2-105 (1995). Smoking is prohibited in any intrastate motor bus carrier while in public service. Maximum fine is \$25. ANN. CODE OF MD, Art. 78, § 35A (1975). Smoking is prohibited on public elevators. No-smoking signs must be posted. Maximum fine is \$25. ANN. CODE OF MD, Art. 89, § 64 (1975). Smoking or carrying lighted tobacco products is prohibited in a public transit vehicle or facility. Violation is a misdemeanor, subject to a fine of \$500 for each offense. ANN. CODE OF MD, Transportation Art., § 7-705 (1992).

Government Buildings

By Executive Order smoking is banned in all state buildings and facilities, in all space leased or rented by the state, and in government operated shuttle buses. State employees are strongly encouraged to refrain from smoking in state vehicles and may not smoke when other nonsmoking passengers are present in the vehicle. State officials or employees in charge of facilities housing clients, patients, inmates, or wards of the state may prohibit or restrict smoking by residents. This order does not apply to the ground and first floor of the State House and spaces assigned to the legislative and judicial branches of government. However, these branches are called upon to establish smoke free environments in those work spaces. Exec. Order 01.01.1992.20 (1992).

Private Workplaces

The Maryland Occupational Safety and Health Advisory Board adopted a regulation banning smoking in all enclosed places of employment. The prohibition includes all indoor work areas, vehicles when in use during the course of employment and it is occupied by more than one employee, restaurants, bars or taverns, and hotel and motel rooms. Smoking areas may be designated if the area has all of the following characteristics: solid walls that tightly join the floor and ceiling; a closable door; openings to adjacent enclosed workplaces limited to make-up air inlets; a ventilation system that exhausts directly to the outdoors without recirculation to nonsmoking areas; may not be in a location where an employee, other than a custodial or maintenance employee, is required to work; and, shall be under negative pressure sufficient to prevent smoke migration to enclosed workplaces. Code of MD Regulations § 9.12.23 (1994).

MARYLAND**Schools**

Each local superintendent of schools must certify in writing to the State Superintendent that all school buildings and grounds are tobacco free. Each local school system must post notification to students, staff, and the general public that school buildings and grounds are tobacco free. State Board of Education Title 13A, Subtitle 02, c. 04 (1992).

Day Care

Smoking is prohibited unless enclosed, separately ventilated smoking areas are constructed meeting the specifications listed under private workplace. Code of MD Regulations § 9.12.23 (1994).

Health Facilities

Smoking is prohibited unless enclosed, separately ventilated smoking areas are constructed meeting the specifications listed under private workplace. Code of MD Regulations § 9.12.23 (1994).

Restaurants

Restaurants that do not possess an alcoholic beverages license may have a separate enclosed smoking room not to exceed 40% of the total area of the restaurant. Restaurants that do possess an alcoholic beverage license may designate the bar or bar area, a separate enclosed room not exceeding 40% of the total restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant including the bar or bar area, as a smoking area. A separate enclosed room in which smoking is permitted is not required to have a specially modified ventilation system for the room. Smoking is permitted in any location that possesses an alcoholic beverage license for consumption on the premises and is generally recognized as a bar or tavern or club. ANN. CODE OF MD, Business Regulation Art., § 2-105 (1995).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 36 cents
Date last changed: April, 1992 -- 16 cents to 36 cents
Year first enacted: 1958

Other Tobacco Products

Chewing tobacco and snuff: NONE

A portion of the tobacco excise tax is earmarked for tobacco control programs, including advertisements.

MARYLAND

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: A person engaged in selling or otherwise distributing tobacco products for commercial purposes may not distribute tobacco products or cigarette papers to persons under 18 years of age. No person may purchase for, deliver or sell tobacco products or cigarette rolling papers to a minor. Persons who violate this law shall be subject to a fine of not more than \$300 for the first violation, \$1,000 for a second violation within 2 years, and \$3,000 for subsequent violations within a two year period. The owner or person in control of a tobacco vending machine that has the required sign displayed, is not subject to these penalties if a person under 18 has purchased tobacco from their machine. ANN. CODE OF MD, Art. 27, § 404 and § 405 (1994).

Sign posting requirement: NONE

Penalties to minors: Minors may not use or possess any tobacco product or cigarette rolling papers, or present falsified identification for the purpose of obtaining these products. A violation of these provisions shall be deemed a code violation and is a civil offense. A code violation is punishable by a referral to a smoking cessation or education program, assignment to a supervised work program for up to 20 hours for the first violation and 40 hours for subsequent violations, or forwarding the citation to the state's attorney for further action. ANN. CODE OF MD, Art. 27, § 405A and Courts and Judicial Proceedings Art., § 3-801, § 3-810, § 3-820, § 3-835 (1994).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes may not give away, offer or dispense tobacco products, cigarette rolling papers or a coupon redeemable for any tobacco product to a minor. Persons who violate this law shall be subject to a fine of not more than \$300 for the first violation, \$1,000 for a second violation within 2 years, and \$3,000 for subsequent violations within a two year period. ANN. CODE OF MD, Art. 27, § 404 and § 405 (1994).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

It is unlawful to sell tobacco products through vending machines to any individual under the age of 18. Persons who violate this law shall be subject to a fine of not more than \$300 for the first violation, \$1,000 for a second violation within 2 years, and \$3,000 for

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subsequent violations within a two year period. The owner or person in control of a tobacco vending machine that has the required sign displayed, is not subject to these penalties if a person under 18 has purchased tobacco from their machine. ANN. CODE OF MD, Art. 27, § 404 and § 405 (1994).

Sign posting requirement: A licensee who sells cigarettes through a vending machine shall display on a conspicuous label the prohibition and penalties for sales or distribution of tobacco products to minors. ANN. CODE OF MD, Business Regulation Art. § 16-209 (b)(2)(ii) (1992).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, and vending machine operators must obtain a license to sell cigarettes. Licenses must be renewed annually. ANN. CODE OF MD, Business Regulation Art., § 16-201 et seq. (1994).

Licensing fee: \$30 for a state retail license, and \$25 for a county retail license; \$750 for a wholesale license; \$500 for a vending machine license. In addition, vending machine operators must pay a non-refundable application fee of \$200 to the Comptroller for initial issuance of a license, and a fee of \$30 for renewal of a license. ANN. CODE OF MD, Business Regulation Art., § 16-201 et seq. (1994).

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

MASSACHUSETTS

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is prohibited in public elevators, supermarkets or retail food outlets, and courtrooms. Smoking is restricted to designated areas in museums, libraries, courthouses, trains, airplanes, and waiting areas of airports. The person in control of these facilities must post no-smoking notices. MA GEN. LAWS ANN. Ch. 270, § 22 (1990). Smoking in a public conveyance, or in a terminal or other facility of the Massachusetts Bay Transportation Authority is prohibited. Those who violate this law must appear in court or pay a fine of 25 dollars. Failure to comply, warrants a criminal complaint; individuals who do not appear in court in response to this complaint are subject to arrest and may be punished by a fine of no more than \$100, or not more than 10 days in prison, or both. MA GEN. LAWS ANN. ch. 161A, § 33 and ch. 272 § 43A (1993). Smoking is prohibited in jury deliberation rooms, except when a majority of the members of such jury give their consent to smoking. MA GEN. LAWS ANN. ch. 234, § 34C (1986). Smoking is prohibited during an election in polling places and in places where town meetings are held. MA GEN. LAWS ANN. Ch. 54, § 73 (1946).

Government Buildings

Smoking is restricted to designated areas in all workplaces and public areas where state executive branch agencies are located. Executive Order, Administrative Bulletin 87-1 (1987). Smoking is restricted to designated areas in buildings owned or occupied by any department or agency of the commonwealth, or political subdivision thereof. Smoking is prohibited at any open meeting of most governmental bodies. MA GEN. LAWS ANN. Ch. 270, § 22 (1990).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in any school, college, and university. MA GEN. LAWS ANN Ch. 270, § 22 (1990). Students in primary or secondary public schools in the Commonwealth are prohibited from using tobacco products of any type on school grounds during normal school hours. MA GEN. LAWS ANN. Ch. 71, § 2A (1987).

Day Care

Smoking is restricted to designated areas in group child care centers, and school-age and family day care centers. MA GEN. LAWS ANN. Ch. 270, § 22 (1990).

MASSACHUSETTS**Health Facilities**

Smoking is restricted to designated areas in waiting areas of health care facilities. Patients are entitled to a non-smoking room and shall be assigned to such a room, upon request, for the duration of their stay or until an alternative assignment is requested. MA GEN. LAWS ANN. Ch. 270, § 22 (1990). All public and private nursing homes shall designate no-smoking sections in certain common areas, including lobbies, cafeterias, conference rooms and employee lounges. Smoking by employees is prohibited in all patient care areas. MA GEN. LAWS ANN. Ch. 111, § 72X (1987).

Restaurants

Smoking is restricted to designated areas in restaurants seating over 75 persons. MA GEN. LAWS ANN. Ch. 270, § 22 (1987).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 76 cents

Date last changed: October 1, 1996 -- 51 cents to 76 cents

Year first enacted: 1939

Other Tobacco Products

Chewing tobacco and snuff: 75% of wholesale price

Cigars and smoking tobacco: 15%

A portion of the tobacco excise taxes (25¢ per pack of cigarettes, 25% of the wholesale price of smokeless tobacco products and 15% of cigars and smoking tobacco) is dedicated to the Children's and Senior's Health Care Assistance Fund. MA GEN. LAWS ANN. CH. 64C, § 7 (1996). An additional amount (25¢ per pack of cigarettes and 25% of the wholesale price of smokeless tobacco products) is dedicated to the Health Protection Fund for school health education programs to incorporate information on the hazards of tobacco use, and community smoking prevention and cessation programs, including public service advertisements and prenatal and maternal programs. MA GEN. LAWS ANN. Ch. 29, § 2T (1992). The remainder of the revenue is credited to the Health Care Access Fund, Local Aid Fund and the General Fund. MA GEN. LAWS ANN. Ch. 64C, § 28 (1992).

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: Whoever sells tobacco in any form to a person under the age of eighteen shall

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be punished by a fine not less than \$100 for the first offense, not less than \$200 for a second offense, and not less than \$300 for subsequent offenses. MA GEN. LAWS ANN. Ch. 270, § 6 (1985). Whoever sells cigarette rolling papers to any person under the age of eighteen shall be punished by a fine of not less than \$25 for the first offense, \$50 for the second offense and \$100 for subsequent offenses. **No city, town, department, board or other political subdivision or agency of the Commonwealth may impose any requirements, restrictions, or prohibitions pertaining to the sale of cigarette rolling papers, in addition to those in this section, notwithstanding any ordinance or regulation that is in effect on 2/20/96.*** MA GEN. LAWS ANN. Ch. 270, § 6A (1995).

Sign posting requirement: The owner or person in charge of a place that sells cigarettes at retail shall conspicuously post a copy of the above law. Whoever violates this provision shall be punished by a fine of not more than \$50. Any person who unlawfully removes the required sign shall be fined \$10. MA GEN. LAWS Ch. 270, § 7.

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall sell, offer for sale or have in possession with intent to sell single unpackaged cigarettes. Whoever violates the provision of this section shall be punished by a fine of not less than two hundred nor more than 500 hundred dollars. MA GEN. LAWS Ch. 94, § 307a(1996).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Any operator of a vending machine containing tobacco products or owner of a location where such a machine is located who permits any person under 18 to use such machines shall be punished by a fine of not more than \$50. MA GEN. LAWS ANN. Ch. 64C, § 10 (1976)

Sign posting requirement: Each vending machine shall have attached to the front of it a notice reading "Persons under 18 are prohibited from using this machine." Any person owning or operation a vending machine that fails to display such a notice shall be punished by a fine of up to \$50. MA GEN. LAWS ANN. Ch. 64C, § 10 (1976).

F. LICENSING REQUIREMENTS

Retailers, wholesalers and vending machine operators must obtain a license to sell tobacco products and registration certificates. Licenses for wholesalers and machine operators expire every year, retailers each even year. Registration certificates may be issued for a specified term of not less than three years, subject to renewal without

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additional fees and in accordance with regulations issued by the commissioner. MA GEN. LAWS ANN. Ch. 62C, § 67 (1986) and Ch. 64C, § 2 (1976).

Licensing fee: The fees for licenses and each renewal shall be determined annually by the commissioner of administration, except that those who maintain more than one place of business the fee for each additional place of business shall be one-half of the above determined fee. MA GEN. LAWS ANN. Ch. 62C §67 (1986).

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

I. PRODUCT DISCLOSURE

Any manufacturer of cigarettes, snuff or chewing tobacco sold in the commonwealth shall provide the department of public health with an annual report, in a form and at a time specified by that department, which list for each brand of such product sold the following information: 1) The identity of any added constituent other than tobacco, water or reconstituted tobacco sheet made wholly from tobacco, to be listed in descending order according to weight, measure or numerical count; and 2) The nicotine yield ratings, which shall accurately predict nicotine intake for average consumers, based on standards to be established by the department of health. MA GEN. ANN. Ch.94 § 307a (1996)

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

MICHIGAN

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Extensive

Public Places

Smoking is restricted to designated areas in places used by the general public in enclosed indoor areas in auditoria, arenas, theaters, museums, concert halls, and other facilities for the performance or exhibit of the arts. This act does not apply to bars, private enclosed rooms or offices occupied exclusively by smokers even if the room or office may be visited by non-smokers, and private functions when the seating arrangements are under the control of the sponsor of the function. MI COMP. LAWS ANN. § 333.12601 et seq. (1993). Smoking is prohibited in retail food establishments. Areas may be designated for employee and public smoking, but shall be isolated from the retail food area. No-smoking signs must be posted at entrances. Smoking outside of designated areas, or the owner of an establishment that is in violation of this act is guilty of a misdemeanor punishable by a fine not to exceed \$100. MI COMP. LAWS ANN. § 289.707a (1976). Smoking, or carrying lighted tobacco in any form is forbidden in passenger elevators. Signs prohibiting smoking must be posted. Violators are subject to a fine of \$50 or 90 days imprisonment. MI COMP. LAWS ANN. § 408.820 (1967).

Government Buildings

Smoking is restricted to designated areas in enclosed indoor areas owned or operated by a state or local government agency and used by the general public or serving as workplaces for public employees or a meeting place for a public body. These areas include offices, educational facilities, auditoria, arenas, meeting rooms and public conveyances. Private, enclosed rooms or offices occupied exclusively by a smoker are not restricted by this law. MI COMP. LAWS ANN. § 333.12601 et seq. (1993). By Executive Order, smoking is prohibited in areas in state government facilities, including, but not limited to, private enclosed offices, meeting rooms, cafeterias, restrooms, breakrooms, and all other general space. Exempt from this order are living units, and a strictly limited number of designated areas, in facilities housing prisoners or mental health patients. Department directors and agency heads are responsible for posting such provisions. Exec. Order 1992-3.

Private Workplaces

NONE

Schools

Tobacco use is forbidden in any building, structure, or real estate owned, leased, or otherwise controlled by a school district. This law does not apply to that part of school

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property consisting of outdoor areas including, but not limited to, an open-air stadium, on weekends or other days on which there are no regularly scheduled classes, or after 6:00 p.m. on regular school days. MI COMP. LAWS ANN. § 750.473 (1993).

Day Care

Individuals may not smoke in child care institutions or child care centers, or on the real property under the control of such facilities, including other related buildings. Violators are guilty of a misdemeanor, punishable by a fine between \$100 and \$1,000. MI COMP. LAWS ANN. § 333.12601 et seq. (1993) and § 722.125 (1993). A smoking ban is a requirement for licensing through the Department of Social Services for child care centers. A ban during the hours of operation is required for licensing of group day care homes and family day care homes. Smoking is permitted on these premises during the time these facilities are not in operation, but the operator of the facility must inform parents or guardians that smoking on the premises may occur during these times. Violators are subject to the aforementioned fines. MI COMP. LAWS ANN. § 722.111 et seq. (1993).

Health Facilities

Smoking is prohibited in the common and treatment areas of health facilities, including hospitals, health clinics, and doctors' offices. Patients may be permitted to smoke if the medical staff determines that this prohibition would be detrimental to treatment. Smoking areas provided in these cases must be separately ventilated to ensure a smoke-free environment in other patient care and common areas. MI COMP. LAWS ANN. § 333.12601 et seq. (1988). Licensed nursing homes and licensed homes for the aged must adopt a policy that regulates smoking to provide patients with the option of no-smoking rooms. Visitors and staff are permitted to smoke in designated smoking areas only. Tobacco sales are prohibited in nursing homes, except as provided for by owners. Notices must be posted for smoking and non-smoking areas. MI COMP. LAWS ANN. §§ 333.21333 and 333.21733 (1978).

Restaurants

Food service establishments seating 50 or more persons that are not owned or operated by a private club must reserve a minimum of 50% of all seating for a non-smoking section. All food service establishments seating fewer than 50 people, including establishments owned and operated by a private club, must reserve a minimum of 25% of the seating for a non-smoking section. Public areas in restaurants must be smoke-free. These areas include, but are not limited to, restrooms, coatrooms, and entrances. Public areas do not include lobbies, waiting rooms, hallways, or lounges. This law also applies to food service establishments or food court areas in enclosed shopping malls. Compliance with this section shall be used by local health departments as criteria to determine whether to deny, suspend, limit, or revoke a license. MI COMP. LAWS ANN. § 333.12905 (1993).

Enforcement

Persons who smoke in nonsmoking areas of public places or health care facilities or a

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person or governmental agency that fails to follow the applicable guidelines or post the appropriate signs shall be subject to a civil fine of not more than \$100 for the first offense and not more than \$500 for subsequent offenses. MI COMP. LAWS ANN. § 333.12611 (1993).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 75 cents

Date last changed: May 1, 1994 --25 cents to 75 cents

Year first enacted: 1947

Other Tobacco Products

Chewing tobacco, snuff, pipe tobacco, cigars and loose tobacco: 16% of the wholesale price.

This measure was part of a referendum which included numerous tax changes to fund public education. All revenues from the non-cigarette tobacco tax and 63.4% of the cigarette tax go to the School Aid Fund. Of the remaining proceeds from the cigarette tax, 25.3% shall be credited to the general fund of the state, 6% shall be dedicated to improving the health care of the residents of the state, 4% shall be credited to the health and safety fund, and 1.3% shall be distributed to city, district and county health departments on a per capita basis for public health prevention programs. **Beginning on the effective date of this law, any local unit of government or political subdivision of this state shall not impose any new requirement or prohibition pertaining to the sale or licensure of tobacco products for distribution purposes.*** MI COMP. LAWS ANN. § 205.501 et seq. (1993).

An additional fund, entitled the "healthy Michigan fund", was created in the state treasury for health programs addressing the needs of vulnerable populations, including smoking cessation and anti-tobacco activities. MI COMP. LAWS ANN. § 333.2951 et seq. (1995).

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: A person shall not sell or furnish any tobacco product to a person under 18 years of age. Violation is a misdemeanor, punishable by a fine of not more than \$50 for

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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each offense. It is an affirmative defense that the defendant had, and continues to have, in force a written policy to prevent the sale of tobacco products to minors. MI COMP. LAWS ANN. § 722.641 (1988). This act does not interfere with the right of a parent or legal guardian in the rearing and management of their minor children within the bounds of his or her private premises. MI COMP. LAWS ANN. § 722.643 (1988).

Sign posting requirement: A person who sells tobacco products at retail shall post, in a place close to the point of sale, conspicuous to both employees and customers, a sign produced by the department of public health that states: "The purchase of tobacco products by a minor under 18 years of age and provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties." Violation is a misdemeanor punishable by a fine of not more than \$50 for each offense. MI COMP. LAWS ANN. § 722.641 (1988).

Penalties to minors: A person under 18 years of age shall not possess or use tobacco in form on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of amusement. Violation is a misdemeanor, punishable by a fine not more than \$50 for each offense. In addition, a person who violates this section is subject to the following: for the first violation, the court may order the person to perform not more than 16 hours of community service in a hospice, nursing home, or long-term care facility, or participate in a health promotion and risk reduction program; for a second violation, in addition to participation in a health promotion and risk reduction program, the court may order 32 hours of community service in the previously listed facilities; and for subsequent violations, the court may order in addition to the risk reduction program, 48 hours of community service in those same facilities. MI COMP. LAWS ANN. § 722.642 (1988).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall give or furnish any tobacco product to a person under 18 years of age. Violation is a misdemeanor, punishable by a fine of not more than \$50 for each offense. MI COMP. LAWS ANN. § 722.641 (1988). This act does not interfere with the right of a parent or legal guardian in the rearing and management of their minor children within the bounds of his or her private premises. MI COMP. LAWS ANN. § 722.643 (1988).

A person who sells tobacco products at retail shall not sell a cigarette separately from its package. Any person who violates this law is guilty of a misdemeanor, punishable by a fine of not more than \$500 for each offense. This law does not apply to tobacco specialty stores or other retail stores that deal exclusively in the sale of tobacco products and smoking paraphernalia. MI COMP. LAWS ANN. § 722.642a (1992).

Other limitations are made on tobacco products distributed through United States mail service, express mail service, parcel post service, or common carrier. Tobacco

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products are not to be distributed via these services unless the receiver has previously paid or agreed to pay for the products at fair market value, in response to a consumer complaint, or as part of marketing to specifically named individuals that involves the prior return by that same individual of a signed authorization card to be kept on file by the tobacco company for at least one year that indicates that the individual is at least 18 years of age. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than one year, a fine not more than \$10,000, or both. MI COMP. LAWS ANN. § 750.42b (1992).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines are restricted to establishments holding a Class C license. If this establishment has a bar that is in a separate room from the rest of the establishment, the vending machine must be located entirely within that room. If the bar area is not separate, the vending machine shall be located entirely within the bar area and not in a hallway, coat room, restroom or similar area, and is under the direct visual supervision of an adult. Vending machines are also permitted in areas, offices, plants, factories and private membership clubs not open to the public, and must be located not less than 20 feet from all entrances and exits accessible to the general public. A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, service to the community for a period of not more than 45 days, or a fine not more than \$1,000, or any combination thereof. MI COMP. LAWS ANN. § 750.470 (1992).

F. LICENSING REQUIREMENTS

Wholesalers and vending machine operators must obtain a license to sell tobacco products. Retailers are not required to obtain a license to sell tobacco products. Beginning on the effective date of this law, any local unit of government or political subdivision of this state shall not impose any new requirement or prohibition pertaining to the sale or licensure of tobacco products for distribution purposes.* MI COMP. LAWS ANN. § 205.501 et seq. (1993).

Licensing fee: \$100 each year for a wholesale license; between \$5 and \$100 annually for a vending machine license.

Penalty for sales to minors: NONE

MICHIGAN**G. SMOKING PROTECTION LAWS****

NONE

H. ADVERTISING RESTRICTIONS

A person who uses an outdoor sign to advertise a smokeless tobacco product shall display on the outdoor sign one of the following statements: "Warning: This product may cause mouth cancer. Warning: This product may cause gum disease and tooth loss. Warning: This product is not a safe alternative to cigarettes." The warning statements shall be rotated every 4 months, and shall meet several size and format requirements. Outdoor sign is defined as a sign, display, device, figure, painting, drawing, message, placard, poster, or billboard that is placed outdoors, is stationary, has a surface area of more than 150 square feet, and is designed, intended, or used to advertise or promote. A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than one year or a fine of not more than \$5,000, or both. **An ordinance, regulation or other law enacted by a local unit of government shall not require a statement, format or type style other than those required by this section.* MI STAT. ANN. § 28.231 (1).**

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

MINNESOTA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Extensive****Public Places**

Smoking is restricted to designated areas in enclosed, indoor spaces used by the general public including, but not limited to, retail stores, offices and other commercial establishments, public conveyances, auditoria, arenas and meeting rooms, common areas of rental apartment buildings and at public meetings. The law does not apply when an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place. No public place other than a bar may be designated as a smoking area in its entirety. If a bar is designated as such, signs stating this fact must be posted conspicuously on all entrances normally used by the public. MN STAT. ANN. § 144.411 et seq. (1994). Smoking is prohibited in a hotel sleeping room designated as non-smoking. A person who violates this law is guilty of a misdemeanor, and may be required to pay the innkeeper not more than \$100 to restore the room to its pre-violation condition. MN STAT. ANN. § 327.742 (1993).

Government Buildings

Smoking is banned in all buildings managed or leased by the state, except in veterans homes, where smoking areas may be designated. MN STAT. ANN. § 16B.24(9) (1993).

Private Workplaces

Smoking is restricted in enclosed indoor areas serving as places of work. Smoking is not restricted in private, enclosed offices occupied exclusively by smokers, even though such offices may be visited by non-smokers. Factories, warehouses and similar places not usually frequented by the general public are also excluded, except where the Public Health Commissioner determines the existence of smoke pollution to be detrimental to nonsmoking employees. MN STAT. ANN. § 144.411 et seq. (1992).

Schools

No person shall at any time smoke or use other tobacco products in public schools. This prohibition extends to all facilities, school grounds, and school vehicles. This prohibition does not apply to a technical college or the lighting of tobacco by an adult as part of a traditional Indian spiritual or cultural ceremony. In educational facilities other than public schools, smoking is restricted to designated areas. MN STAT. ANN. § 144.411 et seq. (1993).

Day Care

Smoking is prohibited in licensed day care centers and during the hours of operation in licensed family day care homes or group family day care provider homes. MN STAT. ANN. § 144.411 et seq. (1993).

Health Facilities

Smoking is prohibited in any area of a hospital, health care clinic, doctor's office, or other health care-related facility, other than a nursing home, boarding care facility, or licensed residential facility. Smoking by patients in a chemical dependency treatment program or mental health program may be allowed in a separate, well-ventilated area pursuant to a policy established by the administrator of the program that identifies circumstances in which prohibiting smoking would interfere with the treatment of persons recovering from chemical dependency or mental illness. Smoking by participants in peer reviewed scientific studies related to the health effects of smoking may be allowed in separate rooms with a specific rate of ventilation pursuant to a policy that is approved by the commissioner and established by the administrator of the program to minimize the exposure of nonsmokers to smoke. MN STAT. ANN. § 144.411 et seq. (1995).

Restaurants

Smoking is restricted to designated areas in restaurants. MN STAT. ANN. § 144.411 et seq. (1992).

Enforcement

Proprietors of public places must post no-smoking signs and arrange for non-smoking seating areas. Persons who smoke in a public school or outside of designated areas in public places or public meetings are guilty of a petty misdemeanor. A board of health or affected individuals may institute court action to enjoin repeated violations. MN STAT. ANN. § 144.411 et seq. (1992).

B. TOBACCO EXCISE TAXES

Cigarettes

Tax rate per pack of 20: 48 cents
Date last changed: April 23, 1992 -- 43 cents to 48 cents
Year first enacted: 1947

One cent of the cigarette excise tax (up to \$1.5 million) goes to the Public Health Fund, which includes funding for the Department of Health and the Department of Education Tobacco Use and Prevention programs. MN STAT. ANN. §144.401 (1985).

Other Tobacco Products

Chewing tobacco and snuff: 35% of the wholesale price

C. YOUTH ACCESS

Age Restrictions on Sales of Tobacco Products

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: Whoever sells tobacco to a person under the age of 18 years is guilty of a gross misdemeanor. Whoever furnishes tobacco or related devices to a minor is guilty of a misdemeanor. However, an Indian may furnish tobacco to an Indian minor as part of a traditional Indian spiritual or cultural ceremony. MN STAT. ANN. § 609.685 (1993).

Sign posting requirement: NONE

Penalties to minors: Any minor who uses, purchases or attempts to purchase tobacco products or related devices is guilty of a petty misdemeanor. MN STAT. ANN. § 609.685 (1993).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall distribute promotional samples of tobacco products to the general public at no or nominal cost. Single serving samples of tobacco may be distributed in tobacco stores. The court may impose a civil penalty in an amount not to exceed \$5,000 for each offense. MN STAT. ANN. § 325F.76 et seq. (1987).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Tobacco vending machines may only be located in an area within a factory, business, office or other place not open to the general public or to which persons under 18 are not generally permitted. They may also be located in an on-sale alcoholic beverage establishment or an off-sale liquor store if the machine is located in the plain view and control of a responsible employee who will be able to observe all tobacco purchases, the vending machine is not located in a coatroom, restroom, or similar unmonitored area, and the machine is inaccessible to the public when the establishment is closed. Vending machines may be located in other establishments if they meet the criteria set for alcoholic beverage establishments and each sale from the vending machine is only operable by an employee controlling an electronic switch or insertion of special tokens dispensed by an employee. MN STAT. ANN. § 325E.075 (1990).

Sign posting requirement: A warning shall be posted and maintained in a conspicuous place on each vending machine stating "Any person under 18 years of age is forbidden by law to purchase cigarettes from this machine." Violation constitutes a misdemeanor. MN STAT. ANN. § 325E.07 (1961).

MINNESOTA**F. LICENSING REQUIREMENTS**

Distributors must obtain a license to sell tobacco products. Retailers are not required to obtain a license to sell tobacco products. MN STAT. ANN. § 297.01 et seq. (1989) and § 297.33 (1989).

Licensing fee: \$300 every other year for a wholesale cigarette license; \$75 every other year for a wholesale license to sell other tobacco products.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

MISSISSIPPI**A. CLEAN INDOOR AIR**

Clean Indoor Air Rating: None

Public Places

Smoking is prohibited on passenger buses or coaches. Persons who continue to smoke after being asked to refrain from smoking can be ejected from public buses and charged with a misdemeanor, punishable by a fine not more than \$500, imprisonment up to 30 days, or both. MS CODE ANN. § 97-35-1 (1964).

Government Buildings

NONE

Private Workplaces

NONE

Schools

NONE

Day Care

NONE

Health Facilities

NONE

Restaurants

NONE

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 18 cents

Date last changed: June 1, 1985 -- 11 cents to 18 cents

Year first enacted: 1930

Other Tobacco Products

Chewing tobacco and snuff: 15% of manufacturer's sale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The Commissioner of Public Safety acting through the sheriffs of several counties and local chiefs of police shall conduct random, unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance with the law. Persons under the age of 18 may be enlisted by the sheriffs or chiefs of police to test compliance if the testing is conducted under their direct supervision and written parental consent has been provided. The law enforcement official shall provide the parent with detailed written information before they ask for their consent as to the duties the minor will be asked to perform and the methods and procedures to be employed. **The provisions of this law shall supersede any existing or subsequently enacted local law, ordinance or regulation which relates to the use, sale, promotion, and distribution of tobacco products.* MS CODE ANN. § 45-37-7 (1994).**

Penalty: If any person sells, barter, delivers, or gives any tobacco product to any person under the age of 18 years, he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$20 nor more than \$100. **See above preemption.* MS CODE ANN. § 97-5-25 (1994).**

Sign posting requirement: Every person who sells tobacco products at retail shall post conspicuously at the each point of sale a sign that states the prohibition of sales to minors and proof of age may be required. Violators of this provision shall be fined \$25 for the first offense and \$75 for each succeeding offense within a two year period. **See above preemption.* MS CODE ANN. § 97-5-43 (1994).**

Other provisions: Every person employed as a retail sales clerk by a person engaged in the business of selling tobacco products at retail shall sign an agreement with his employer which states that they understand that state law prohibits the sale or distribution of tobacco products to persons under the age of 18 and out-of-package sales, and requires that proof of age may be demanded if the purchaser appears to be under the age of 18, and promise, "as a condition of [their] employment, to observe this law". Any person violating the provisions of this section shall be guilty of a misdemeanor and fined \$20 to \$100 upon conviction. **See above preemption.* MS CODE ANN. § 97-5-45 (1994).**

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

* The ALA, AHA and ACS oppose preemption of local control authority.

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If any person barter, delivers, or gives any tobacco product to any person under the age of 18 years, he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$20 nor more than \$100. **See above preemption.*** MS CODE ANN. § 97-5-25 (1994).

It shall be unlawful for any person, partnership or corporation to sell cigars, cigarettes, smoking tobacco or snuff if such products are not in a sealed container, as packaged by the manufacturer. Any person in violation of this law shall be fined not less than \$50 nor more than \$100 and may have their permit (issued pursuant to §27-69-5) revoked at the court's discretion. **See above preemption.*** MS CODE ANN. § 97-27-35 (1994).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines are restricted to the following locations: in areas of factories, businesses, offices, or other places that are not open to the public; in places that are open to the public but to which persons under the age of 18 are not admitted; in places where alcoholic beverages are sold for consumption on the premises, but only if the vending machine is under the continuous supervision of the owner or their employee and it is inaccessible to the public when the establishment is closed; in any other retail establishment where the vending machine is in constantly in the line of sight of the owner or their employee. Persons violating this provision shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$100. **The provisions of this law shall supersede any existing or subsequently enacted local law, ordinance or regulation which relates to the use, sale, promotion, and distribution of tobacco products.** MS CODE ANN. § 97-5-47 (1994).

F. LICENSING REQUIREMENTS

Retailers and wholesalers must obtain a license to sell cigarettes. The state tax commission shall make rules and regulations respecting applications therefor or issuance thereof. MS CODE ANN. §75-23-27 (1954).

Licensing fee: Not known.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

* The ALA, AHA and oppose preemption of local tobacco control authority.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

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H. ADVERTISING AND PROMOTION

NONE

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A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is restricted to designated areas in public meetings, commercial or retail establishments, public transportation vehicles, restrooms, elevators, libraries, museums, auditoria and art galleries, public areas and waiting rooms of public transportation facilities including airport facilities, indoor places used for entertainment or recreation, indoor corridors, and shopping malls. No more than 30% of the space of any public place may be designated as a smoking area. Areas not covered by this law are rooms or halls used for private social functions, limousines and taxicabs where the driver and passengers agree to allow smoking, performers on stage, tobacco retail stores, bowling alleys, and indoor sports arenas seating more than 15,000 persons. ANN. MO STAT. § 191.765 et seq. (1992).

Government Buildings

Smoking is restricted to designated areas in all public buildings. A designated smoking area where state employees may smoke during the work day shall be provided by each state executive department and institution of higher education, provided an area can be adequately ventilated at minimum cost within the physical confines of each facility. ANN. MO STAT. § 191.765 et seq. (1992).

Private Workplaces

Smoking is restricted to designated areas in enclosed indoor areas serving as a place of work. ANN. MO STAT. § 191.765 et seq. (1992).

Schools

Use of tobacco products is prohibited entirely in any indoor area of a public elementary or secondary school building or educational facility, excluding institutions of higher learning, and on buses used to transport students any place for educational purposes. School boards or school districts may set policies on the use of tobacco products on school grounds or in facilities not occupied by students. Any person who violates this section shall be guilty of an infraction. ANN. MO STAT. § 191.775 et seq. (1993).

Day Care

Smoking, and the use of other tobacco products, is banned in licensed day care facilities during hours of operation. Any person who violates this section is guilty of an infraction. ANN. MO STAT. § 191.775 et seq. (1993).

Health Facilities

Smoking is restricted to designated areas in all health care facilities including hospitals,

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nursing homes, and health care offices. ANN. MO STAT. § 191.765 et seq. (1992).

Restaurants

The person in charge of a restaurant seating 50 or more people shall designate an area of sufficient size to accommodate usual customer demand for non-smoking areas. ANN. MO STAT. § 191.765 et seq. (1992).

Enforcement

The person in control of a public place shall post signs and arrange seating to isolate smoking areas. Persons who smoke in a nonsmoking area or proprietors who allow persons to smoke in those areas where smoking is prohibited are guilty of an infraction. ANN. MO STAT. § 191.765 et seq. (1992).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 17 cents
Date last changed: August 28, 1993 – 13 cents to 17 cents
Year first enacted: 1955

Other Tobacco Products

Chewing tobacco and snuff: 10 % of manufacturer's invoice price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: Any person who sells tobacco products or rolling papers to a minor shall be fined \$25 for the first offense, \$100 for the second offense and \$250 for subsequent offenses. If an employee of an establishment commits the offense, they shall be guilty of the offense and subject to the fines. A person selling or distributing tobacco products shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the person may be under the age of 18. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation. ANN. MO STAT. § 407.925 et seq. (1992).

Sign posting requirement: Signs shall be conspicuously displayed at every display from which tobacco products are sold stating "It is a violation of state law for cigarettes or other tobacco products to be sold to any person under the age of 18" and include a depiction of a pack of cigarettes defaced by a red diagonal diameter of a surrounding

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red circle, and the words "Under 18". Violators shall be fined \$25 for the first offense, \$100 for a second offense and \$250 for subsequent offenses. ANN. MO STAT. § 407.925 et seq. (1992).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Distribution of tobacco products to minors is prohibited. This subsection shall not apply to the distribution by family members on property that is not open to the public. Violators shall be fined \$25 for the first offense, \$100 for a second offense and \$250 for subsequent offenses. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense and responsible for the fine. ANN. MO STAT. § 407.925 et seq. (1992).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

If a vending machine is in violation of the sign posting requirement, the owner of the establishment shall be guilty of an offense established for distributing tobacco products to a minor and subject to the fine of \$25 for the first offense, \$100 for a second offense and \$250 for subsequent offenses. ANN. MO STAT. § 407.931 (1992).

Sign posting requirement: Signs shall be conspicuously posted on every vending machine where tobacco products are purchased stating "It is a violation of state law for cigarettes or other tobacco products to be sold to any person under the age of 18" and include a depiction of a pack of cigarettes defaced by a red diagonal diameter of a surrounding red circle, and the words "Under 18". Violators shall be fined \$25 for the first offense, \$100 for a second offense and \$250 for subsequent offenses. ANN. MO STAT. § 407.925 et seq. (1992).

F. LICENSING REQUIREMENTS

Wholesalers must obtain a license from the department of revenue to sell tobacco products. Retailers are not required to obtain a license to sell tobacco products. ANN. MO STAT. § 149.035 (1993).

Licensing fee: \$100 each year.

Penalty for sales to minors: NONE

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G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

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A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Minimal

Public Places

The proprietor or manager of an enclosed public place shall designate smoking and non-smoking areas with easily readable signs. Public areas are defined as indoor areas, rooms, or vehicles used by the general public, including, but not limited to, elevators, stores, offices, trains, buses, auditoriums, arenas, museums, galleries, libraries, and public meeting rooms. Most areas may be designated entirely smoking or non-smoking. However, no smoking signs must be posted in elevators, museums, galleries, intrastate buses that are not chartered, kitchens, and libraries of any establishment doing business with the general public. Exempt from this law are restrooms, taverns or bars where meals are not served, vehicles or rooms seating less than six members of the public, and school district or community college buildings and facilities designated smoke-free by the board of trustees. MT CODE ANN. § 50-40-101 et seq. (1991).

Government Buildings

Smoking is restricted to designated areas in buildings owned and occupied by the state. In these buildings, smoking is prohibited in general office space, auditoriums, classrooms, conference rooms, elevators, corridors, lobbies, restrooms, stairways, medical care facilities, libraries, and other areas where it is determined that smoking would be hazardous. Agency heads must establish at least one enclosed adequately ventilated smoking area, provided that the building is suited by architectural design and functional purpose to have one. Smoking areas are not required in buildings in the Montana University system, or in structures containing artistic or historical items that may be damaged by smoke. The legislature shall designate smoking sections in areas of the state capitol used by the legislature. Agency heads are required to post signs stating where smoking areas are located and must provide adequate ashtrays or other receptacles in these areas. In offices in local government buildings where seven or more people are employed, the person in charge shall arrange non-smoking and smoking areas in convenient locations. MT CODE ANN. § 50-40-201 et seq. (1993).

Private Workplaces

The proprietor or manager of place of work, defined as an enclosed room where more than one employee works, shall designate smoking and non-smoking areas with easily readable signs. MT CODE ANN. § 50-40-101 et seq. (1991).

Schools

Smoking is restricted during school hours in public school buildings or on public school property to areas designated by the school administrator or the board of trustees. Only

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non-student adults may smoke in such areas. MT CODE ANN. § 20-5-411 (1993).

Day Care

The registrants or licensees of all day care facilities shall ensure that no smoking occurs within the facility while children are in care. ARM § 11.14.112 (1994).

Health Facilities

When possible, smoking and non-smoking accommodations must be provided for patients. Smoking is prohibited in hospital kitchens, laboratories, corridors, and places where supplies are stored. Employees may not smoke in patients' rooms; visitors can only smoke in a room if all patients approve. A non-smoking area must be provided in hospital waiting rooms. MT CODE ANN. § 50-40-101 et seq. (1991).

Restaurants

The proprietor or manager of a restaurant must designate smoking and non-smoking areas with easily readable signs. MT CODE ANN. § 50-40-101 et seq. (1991).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 18 cents

Date last changed: July 1, 1989 – 16 cents to 18 cents

Year first enacted: 1947

Other Tobacco Products

Chewing tobacco and snuff: 12.5% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The department of corrections and human services shall conduct inspections of persons selling or distributing tobacco products to determine compliance with § 16-11-301 et seq. Inspections may be conducted directly by the department or may be provided for by contract let by the department. The department of corrections and human services shall provide documentation of alleged violations of licensing, sales or distribution of tobacco to minors or sales of single cigarettes provisions to the department of revenue. An individual under 18 years of age assisting in the enforcement of this part is not liable under a civil or criminal law for possession of a

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tobacco product. **This law preempts localities from enacting stricter regulations.***
MT CODE ANN. § 16-11-301 et seq. (1995).

Penalty: A person may not sell or distribute a tobacco product to a person under 18 years of age. The first through third offenses at any one location within a 3-year period is punishable by a verbal notification of violation. The fourth offense is punishable by a written notice of violation to be sent by the department of corrections and human services to the owner of the establishment. The fifth offense is punishable by an assessment of a tobacco education fee of \$500 against the owner of the establishment who may request a hearing to dispute the assessment. The employee or other person who sold the tobacco product, the establishment manager, and the owner, if the owner is a sole proprietor or partner, shall read and view the tobacco education material. The sixth offense is punishable by a 3 month license suspension, and the seventh and subsequent violations are punishable by a one year license suspension. Upon the sixth and subsequent violations of this section, the department of revenue shall review the record of violations and if they decline to initiate suspension proceedings, the violation may not be charged against the licensee. After 2 years from the first violation, if a person has not received notice of any further violation, a second violation is considered a first violation. **This law preempts localities from enacting stricter regulations.***
MT CODE ANN. § 16-11-301 et seq. (1995).

Sign posting requirement: Signs must be conspicuously posted at each place on the premises at which tobacco products are displayed and sold stating "Montana law prohibits the sale of tobacco products to persons under 18 years of age". Failure to do so is punishable by a civil penalty of \$100. **This law preempts localities from enacting stricter regulations.*** MT CODE ANN. § 16-11-301 et seq. (1995).

Penalties to minors: A person under 18 years of age who knowingly possesses or consumes any tobacco product commits the offense of possession or consumption of a tobacco product. Violators shall be fined \$35 for the first offense, between \$75 and \$100 for the second offense, and between \$100 and \$250 for subsequent offenses, or may be adjudicated on a petition alleging the person to be a youth in need of supervision under the provisions of the Montana Youth Court Act. In addition, the violator may be required to perform community service or to attend a tobacco cessation program. MT CODE ANN. § 45-5-637 (1995).

Other provisions: In addition to the penalties listed above for tobacco sales to minors, the first and subsequent violations are punishable by an assessment of a tobacco education fee of \$25 against the employee who sold the tobacco product, if the employee is not the owner of the establishment. The fee must be assessed and collected by the department of corrections and human services. The employee may object to the assessment and request a hearing. The employee must review self-teaching materials provided by the department, and the owner or manager must return

* The ALA, AHA and oppose preemption of local tobacco control authority.

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these materials and a written statement verifying that the employee complied with this provision. **This law preempts localities from enacting stricter regulations.*** MT CODE ANN. § 16-11-301 et seq. (1995).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

A person may not distribute, meaning give, deliver or sample, a tobacco product to a person under 18 years of age. Violations are punishable by the same penalties listed for over-the-counter sales to minors, including the tobacco education fee assessed against the employee who made the sale. **This law preempts localities from enacting stricter regulations.*** MT CODE ANN. § 16-11-301 et seq. (1995).

A person may not distribute a tobacco product for commercial purposes in other than a sealed package that is provided by the manufacturer and that contains the health warning required by federal law. Single cigarettes may not be sold. Violations are punishable by the same penalties listed for over-the-counter sales to minors, including the tobacco education fee assessed against the employee who made the sale. **This law preempts localities from enacting stricter regulations.*** MT CODE ANN. § 16-11-301 et seq. (1995).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Tobacco vending machines are allowed in: factories, businesses, offices and other places not open to the public; places to which individuals under 18 years of age are denied access; places where alcoholic beverages are sold and consumed on the premises; and places where the vending machine is under the direct supervision of the owner or an employee of the establishment. The sale of tobacco products from a vending machine under direct supervision of the owner or their employee is considered a sale of tobacco products by the person directly responsible and subject to the same penalties listed for over-the-counter sales to minors, including the tobacco education fee assessed against the employee who made the sale. **This law preempts localities from enacting stricter regulations.*** MT CODE ANN. § 16-11-301 et seq. (1995).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, and vending machine operators must obtain a license from the department of revenue to sell tobacco products. **This law preempts localities from enacting stricter regulations.*** MT CODE ANN. § 16-11-301 et seq. (1993) and § 16-

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

11-120 (1969) .

Licensing fee: \$50 annually for wholesalers, \$5 annually for a retail license; fee for vending machine licenses not listed. MT CODE ANN. § 16-11-122 (1969).

Penalty for sales to minors: The sixth offense is punishable by a 3 month license suspension, and the seventh and subsequent violations are punishable by a one year license suspension. Upon the sixth and subsequent violations of this section, the department of revenue shall review the record of violations and if they decline to initiate suspension proceedings, the violation may not be charged against the licensee. After 2 years from the first violation, if a person has not received notice of any further violation, a second violation is considered a first violation. **This law preempts localities from enacting stricter regulations.*** MT CODE ANN. § 16-11-301 et seq. (1995).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

NEBRASKA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is restricted to designated areas in public places and at public meetings. Public places are defined as enclosed, indoor areas used by the general public or serving as a workplace, including, but not limited to, retail stores, offices and other commercial establishments, public conveyances, auditoriums, arenas and meeting rooms. REV. STAT. OF NE § 71-5701 et seq. (1979).

Government Buildings

Not specifically mentioned in state law.

Private Workplaces

Smoking is restricted to designated areas in places of work. Private offices occupied exclusively by smokers and entire rooms or halls used for a private function and controlled by the function's sponsor are exempt from this law. In factories, warehouses, and similar places of work not usually frequented by the general public, the Department of Health is required to establish rules to restrict or prohibit smoking in those places where the close proximity of workers or the inadequacy of ventilation causes smoke pollution that is detrimental to the health and comfort of non-smoking employees. REV. STAT. OF NE § 71-5701 et seq. (1979).

Schools

Smoking is restricted to designated areas in educational facilities. REV. STAT. OF NE § 71-5701 et seq. (1979).

Day Care

NONE

Health Facilities

Smoking is restricted to designated areas in hospitals and nursing homes. REV. STAT. OF NE § 71-5701 et seq. (1979).

Restaurants

Smoking is restricted to designated areas in restaurants. Bars and restaurants having a serving area of less than 1,200 square feet may be designated as a smoking area in its entirety. REV. STAT. OF NE § 71-5701 et seq. (1979).

Enforcement

The person in charge of the public place must post notices designating smoking and non-smoking areas. Any person who smokes in a nonsmoking area is guilty of a Class

NEBRASKA

V misdemeanor. REV. STAT. OF NE § 71-5701 et seq. (1979).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 34 cents

Date last changed: July 1, 1993 – 27 cents to 34 cents

Year first enacted: 1947

Two cents of the cigarette tax is to be used exclusively for grants and contracts for research on cancer and smoking diseases. Not more than one-half of these funds shall be distributed to the University of Nebraska Medical Center for research in cancer and allied diseases. The remaining funds shall be distributed for contracts with other institutions having colleges of medicine in Nebraska which have cancer research programs for the purpose of conducting research in cancer and allied diseases. Another amount derived from one cent of the cigarette tax shall fund the cancer registry and expenses of the Department of Health for administering such registry. REV. STAT. OF NE § 81-637 et seq. (1993).

Other Tobacco Products

Chewing tobacco and snuff: 15% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless: 18

Penalty: Whoever sells or furnishes tobacco products to a minor is guilty of a Class III misdemeanor for each offense. REV. STAT. OF NE § 28-1419 (1977).

Sign posting requirement: NONE

Penalties to minors: A minor who uses tobacco in any form shall be guilty of a Class V misdemeanor. Any minor so charged may be free from prosecution when they furnish evidence for the conviction of the person who sold or gave them tobacco products. REV. STAT. OF NE § 28-1418 (1975). A minor who misrepresents their age while purchasing tobacco products shall be guilty of a Class V misdemeanor. REV. STAT. OF NE § 28-1427 (1975).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No licensee shall give or furnish in any way tobacco products to a minor. Violation is a Class III misdemeanor. In addition, such licensee shall be subject to the additional penalty of revocation and forfeiture of their license. REV. STAT. OF NE § 28-1425 (1975). Smokeless tobacco products, or coupons or rebate offers for such products, shall not be distributed for promotional purposes by manufacturers, wholesalers, retailers, or representatives of these people. Violators of this law may be fined a civil penalty of \$500 for the first offense, and between \$600 and \$3,000 for subsequent offenses. REV. STAT. OF NE § 69-1901 et seq. (1989).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines are banned except when located in areas not open to the public such as offices, businesses, plants or factories, or in a room where alcohol is dispensed in establishments holding licenses under the Nebraska Liquor Control Act. REV. STAT. OF NE § 28-1429.01 to 24-1429.02 (1992).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, and vending machine owners must obtain a license to sell tobacco products from the clerk or finance director of the city, town or village where their place of business is located. REV. STAT. OF NE § 28-1420 (1993).

Licensing fee: The annual license fee for retailers is \$25 in cities of metropolitan class, \$15 in cities of primary and first classes, and \$10 for all other locations. Licenses for wholesalers are \$100 if their combined annual sales are over 150,000 packages of tobacco, and \$15 if their annual sales are below that amount. REV. STAT. OF NE § 28-1423 (1993).

Penalty: A licensee who furnishes cigars, tobacco, cigarettes, or cigarette material to a minor is guilty of a Class III misdemeanor. Corporation officers, directors, and managers are subject to this section's penalty if they have knowledge of the violation. As an additional penalty, the license can be revoked at the discretion of the court. REV. STAT. OF NE § 28-1425 (1975).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

NEVADA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is restricted to designated smoking areas in public areas of retail food stores, hotels and motels when the operators have posted signs prohibiting smoking, buses used by the general public, other than chartered buses, and in maintenance facilities or offices associated with a bus system. Smoking is prohibited in public elevators. A business which derives more than 50% of its gross receipts from the sale of alcoholic beverages or gaming operations may be designated as a smoking area in its entirety. NV REV. STAT. ANN. § 202.2485 et seq. (1993).

Government Buildings

Smoking is restricted to designated areas in any building or office space owned or occupied by the state or a political subdivision, including any component of the University and Community College System of Nevada. This restriction does not include areas used by the department of prisons to house or provide other services to offenders. NV REV. STAT. ANN. § 202.2485 et seq. (1993).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in any building owned or occupied by a state school district, or the University of Nevada system. A school district which prohibits the use of tobacco by pupils need not designate a separate area which may be used by pupils to smoke. Smoking is prohibited on school buses. NV REV. STAT. ANN. § 202.2485 et seq. (1993).

Day Care

Smoking is restricted to designated areas in licensed child care facilities. The person in control of the facility shall not allow children in these areas. Any such room or area must be sufficiently separate or ventilated so that there are no irritating or toxic effects of smoke in other areas of the facility. NV REV. STAT. ANN. § 202.2485 et seq. (1993).

Health Facilities

Smoking is restricted to designated areas in public hallways, waiting rooms, and lobbies in medical facilities and offices of health care professionals. NV REV. STAT. ANN. § 202.2485 et seq. (1993).

NEVADA

Restaurants

Restaurants seating 50 or more people are required to maintain a flexible nonsmoking area and offer each patron the opportunity to be seated in a smoking or nonsmoking area. NV REV. STAT. ANN. § 202.2485 et seq. (1993).

Enforcement

All places where smoking is prohibited shall be designated by the appropriate sign. A person who violates this law shall be guilty of a misdemeanor, and in addition, liable for a civil penalty of \$100 for each violation. The health authorities or local police officers shall, within their respective jurisdictions, enforce the provisions of this law. All funds collected due to a violation of this law shall be deposited to the account for health education for minors. **An agency, board, commission or political subdivision of this state shall not impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display, or promotion of tobacco products than provided by Nev. Rev. Stat. § 202.2491, 202.2492, 202.2493 and 202.2494 (1995).***

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 35 cents

Date last changed: July 1, 1989 – 20 cents to 35 cents

Year first enacted: 1947

Other Tobacco Products

Chewing tobacco and snuff: 30% of manufacturer's invoice cost

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless: 18

Enforcement: The attorney general shall conduct random, announced inspections at locations where tobacco and products made from tobacco are sold, distributed or offered for sale to inspect for and enforce compliance with laws regarding sales to minors and restrictions on tobacco vending machines. The attorney general may contract with local law enforcement officials or any other person who will perform the inspection in a fair and impartial manner. The inspector may enlist a child under 18 to assist with the inspection if written consent is obtained from the child's parent, the child

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

NEVADA

- states his true age and that he is under 18 if questioned during the inspection, the child's appearance is not altered to make him appear older and a picture is taken of the child immediately before the inspection and retained. An inspector assisted by a child shall inform the establishment that an inspection has been performed and the result, and prepare a written report. The attorney general shall compile the results of the inspections performed and submit the report as required by federal law. NV REV. STAT. ANN § 202.2496 and § 202.2497 (1995).

Penalty: It is unlawful for any person to sell, distribute or offer to sell tobacco in any form or cigarette papers to a child under the age of 18 years. Violators shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500. A person shall be deemed to be in compliance with this provision if before he sells or distributes any tobacco product to another, he demands valid proof of age, is presented with the required identification and reasonably relied upon the information presented to him. Please also see the "Other provisions" section below. See above preemption.* NV REV. STAT. ANN. § 202.2493 (1995).

Sign posting requirement: NONE

Other provisions: With respect to any sale made by his employee, the owner of a retail establishment shall be deemed to be in compliance with the provisions for sales or distribution to minors if he had no actual knowledge of the sale and establishes and carries out a continuing program of training for his employees which is reasonably designed to prevent violations. See above preemption.* NV REV. STAT. ANN. § 202.2493 (1995).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful for any person to furnish, give away or provide products made from tobacco or samples thereof at no cost to promote the product, whether or not in combination with a sale, to a child under the age of 18 years. Violators shall be punished by a fine of not more than \$500 and a

civil penalty of not more than \$500. A person shall be deemed to be in compliance with this provision if before he distributes any tobacco product to another, he demands valid proof of age, is presented with the required identification and reasonably relied upon the information presented to him. Please also see the "Other provisions" section listed above. See above preemption.* NV REV. STAT. ANN. § 202.2485 and § 202.2493 (1995).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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A person shall not sell, distribute or offer to sell tobacco products in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. A person who violates this section shall be punished by a fine of \$100 and a civil penalty of \$100. **See above preemption.*** NV REV. STAT. ANN. § 202.2485 and § 202.2493 (1995).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: A cigarette vending machine may not be placed in public waiting rooms, hallways or lobbies of medical facilities and health professional's offices, public areas of stores which sell food for consumption off the premises, or child care facilities, if minors are permitted access to these areas. A coin-operated vending machine containing cigarettes must not be used to dispense any product not made from tobacco. **See above preemption.*** NV REV. STAT. ANN. § 202.2494 (1995).

F. LICENSING REQUIREMENTS

Retailers and wholesalers must obtain a license to sell cigarettes. NV REV. STAT. ANN. § 370.080 (1977).

Licensing fee: Annual fee for each wholesale license is \$150. No fee is charged for a retail dealer's license. NV REV. STAT. ANN. § 370.150 (1977).

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

NEW HAMPSHIRE

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Extensive

Public Places

Smoking is prohibited in elevators, public conveyances, and by customers in grocery stores. Smoking is restricted in all enclosed places of public access including, but not limited to, retail stores, common carrier waiting rooms, arcades, libraries, theaters, concert halls, auditoriums, arenas, barber shops, hair salons, laundromats, shopping malls, museums, art galleries, sports and fitness facilities, planetariums, historical sites, resident rooms in dormitories, in public meetings and common areas of hotels, motels and resorts including the lobbies, hallways, elevators, restaurants, restrooms and cafeterias. Smoking is permitted in these locations only in effectively segregated areas designated by the person in charge. If smoking cannot be effectively segregated, it will be banned entirely. Exempt from this law are guest rooms of hotels, motels and resorts, and facilities rented out for private functions. NH REV. STAT. ANN. § 155.64 et seq. (1990).

Government Buildings

Smoking is restricted to effectively segregated areas in all buildings, offices, and facilities owned, leased, or rented by state, county, or municipal governments, or agencies supported by funds from the collection of federal, state, county, or municipal taxes. This definition includes legislative offices and other areas used by legislative bodies, courtrooms, jury rooms, recreation facilities, penal and detention institutions, public housing, subsidized housing, polling places and public meeting and hearing rooms. NH REV. STAT. ANN. § 155.64 et seq. (1990).

Private Workplaces

Smoking is restricted to effectively segregated areas in all private enclosed workplaces that employ more than four people or volunteers. If smoking can not be effectively segregated, it shall be banned entirely. NH REV. STAT. ANN. § 155.64 et seq. (1990).

Schools

Smoking is prohibited at all times in all enclosed portions of public educational facilities used for the instruction of students grades kindergarten through twelve. NH REV. STAT. ANN. § 155.64 et seq. (1990).

Day Care

Smoking is prohibited in licensed child care agencies during the hours of operation. Smoking is not prohibited in foster family homes or foster family group homes. NH REV. STAT. ANN. § 155.64 et seq. (1990).

NEW HAMPSHIRE**Health Facilities**

Smoking is prohibited in hospitals and other acute care facilities. Resident rooms in other health care facilities such as nursing homes, sheltered care facilities, and residential treatment and rehabilitation facilities are allowed to have effectively segregated smoking areas. NH REV. STAT. ANN. § 155.64 et seq. (1990).

Restaurants

Smoking is restricted to effectively segregated smoking areas in restaurants seating 50 or more people. NH REV. STAT. ANN. § 155.64 et seq. (1990).

Enforcement

The person in charge of the enclosed place shall develop, or oversee the development of, written policies to comply with the regulations of this law that shall specify the area or areas where smoking is permitted in the building or facility. The appropriate signs shall be posted for notification of smoking restrictions in all facilities regulated under this law. Any person in charge who repeatedly fails to comply with any of the provisions of this Act and rules adopted pursuant to it or any person who smokes where smoking is prohibited shall be guilty of a violation and shall be subject to a fine of not less than 100 dollars. N.H. REV. STAT. ANN. § 155:64 et seq. (1990).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 25 cents

Date last changed: February 20, 1990 – 17 cents to 25 cents

Year first enacted: 1939

Other Tobacco Products

Chewing tobacco and snuff: 24.7 % of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: Any person licensed to sell tobacco products, including vending machine owners or operators, who sells tobacco products to a person under 18 years of age shall be guilty of a violation and punished by a fine of \$100 for each offense. NH REV. STAT. ANN. § 78:12-b (1995).

Sign posting requirement: Signs shall be posted at any location where tobacco products are sold or distributed. The commissioner of revenue administration shall

adopt rules relative to the enforcement of this section. NH REV. STAT. ANN. § 78:12-b (1991).

Penalties to minors: No person under 18 years of age shall purchase, use, or possess any tobacco product. A person under 18 years of age shall not misrepresent his or her age for the purpose of purchasing tobacco products. Violators shall be guilty of a violation and punished by a fine up to \$100 for each offense or shall be required to complete up to 20 hours of community service for each offense, or both. Where available, punishment may also include participation in an educational program. NH REV. STAT. ANN. § 78:12-c (1995).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person licensed to sell tobacco products shall distribute promotional samples of any tobacco product to a person under 18 years of age. Violation of this law is punishable by a fine of \$100 for each offense. NH REV. STAT. ANN. § 78:12-b (1995).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines are allowed only inside establishments where an employee or agent of the business will be present to monitor the machine when the establishment is open for business. The vending machine shall be located such that it is close enough to an employee or agent of the business that such person can determine the age of any person using the machine. Any person who violates this section shall be guilty of a violation and punished by a fine of \$100 for each offense. NH REV. STAT. § 78:12-d (1995).

Sign posting requirement: Signs shall be posted at any location where tobacco products are sold or distributed. The commissioner of revenue administration shall adopt rules relative to the enforcement of this section. NH REV. STAT. ANN. § 78:12-b (1991).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, and vending machine operators must obtain a license to sell tobacco products for each outlet under their control. Licenses are to be renewed each even numbered year. NH REV. STAT. ANN. § 78:2 (1993).

Licensing fee: \$10 for a retail license; \$250 for a wholesale license, and \$70 for a vending machine operator's license.

NEW HAMPSHIRE

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

NEW JERSEY

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking on passenger elevators, other than those in a single-family dwelling, is prohibited; signs must be posted to that effect. Smoking is also forbidden in enclosed retail food and marketing stores. Non-smoking areas must be established in indoor theaters, libraries, museums, concert halls, auditoria or other similar facilities, except sporting event facilities. NJSA §§ 26:3D-1 et seq. (1985). Anyone who smokes or carries lighted tobacco on public transportation or in a public place where municipal ordinance, or the person in control of the place, prohibits smoking is guilty of a petty offense and is subject to a fine of up to 200 dollars. NJSA § 2C:33-13a (1979).

Government Buildings

Smoking is prohibited during public meetings, and in libraries, theaters, museums, lecture and concert halls, and gymnasiums located in public buildings. The supervisor of state, county, and municipal buildings must establish written rules designating non-smoking areas, and may designate smoking areas. NJSA § 26:3D-46 et seq. (1989).

Private Workplaces

Employers of 50 or more individuals must establish written rules to govern smoking in the workplace. The rules must contain a written policy and procedures to protect the health, welfare and comfort of employees from the detrimental effects of tobacco smoke. Such policy shall include designated non-smoking areas. NJSA § 26:3D-23 et seq. (1989).

Schools

Smoking is prohibited in all public school buildings. The board of education of each school district shall make and enforce regulations to prohibit smoking in its buildings, except as part of a classroom instruction or a theatrical production. In non-public schools, public and private colleges, universities and professional training schools smoking is prohibited in classrooms, lecture halls and auditoria, but smoking sections may be designated in other areas. The administration which controls these institutions must develop and enforce regulations to control smoking on these premises. NJSA § 26:3D-17 (1989).

Day Care

NONE

NEW JERSEY**Health Facilities**

Smoking is prohibited in health care facilities, except in designated areas. Smoking is permitted in private patient rooms or in rooms where all patients have consented to smoking, in waiting rooms where non-smoking areas can be provided, in cafeterias seating 50 or more if an adequate non-smoking section can be provided and in enclosed employee offices if permitted by the person in control of the facility. The state, its agencies, or its political subdivisions, may suggest guidelines for non-smoking areas. Smoking and no-smoking signs must be posted at entrances to health care facilities and in health care providers' waiting rooms. NJSA § 26:3D-7 et seq. (1989).

Restaurants

Restaurants are encouraged to establish non-smoking areas, and must post signs at every public entrance indicating whether or not they maintain a non-smoking section. Any person who smokes in a nonsmoking area or a proprietor who fails to comply with this law after receiving notification of a violation, is subject to a fine not to exceed \$25. NJSA § 26:3E-7 et seq. (1985).

Enforcement

Violation of these restrictions is punishable by a fine of up to 100 dollars. Health departments are to notify the person in control of a building of violations, and must order compliance with this law. Failure to comply is punishable by up to \$25 for the first offense, up to \$100 for the second offense, and up to \$200 for each subsequent offense. **Local governing bodies are prohibited from enacting ordinances more stringent than this regulation.*** NJSA §§ 26:3D-1 to 26:3D-45 (1989).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 40 cents
Date last changed: July 1, 1990 -- 27 cents to 40 cents
Year first enacted: 1948

One million dollars of the cigarette surtax is deposited annually in the Cancer Research Fund, to be appropriated toward funding of the New Jersey State Commission on Cancer Research or to projects authorized and approved by the commission. NJSA § 54:40A-37.1 (1990).

A seven-member tobacco industry advisory council of the Cigarette Tax Bureau reports to the governor, director and supervisor of the Bureau and gives advice and counsel to the enforcement and administration of the Cigarette Tax Act. NJSA § 54:40A-45 (1968).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

NEW JERSEY**Other Tobacco Products**

Chewing tobacco and snuff: 24% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The Commissioner of Health is authorized to enforce the prohibition on the sale and commercial distribution of tobacco products to persons under 18 years of age. The commissioner may delegate the enforcement authority to local health agencies, subject to the availability of sufficient funding. Grants from the special projects and development fund (revenues generated by license fees) shall be made on an annual basis to local health agencies for local enforcement efforts in an amount based on the number of cigarette retail dealer and vending machine licenses issued within their jurisdiction. Each grant recipient shall report quarterly to the commissioner on the number of compliance check inspections it has completed and the results of those compliance checks. The commissioner shall determine any other conditions applicable to the grants. Beginning in 1999, the commissioner may make grants from the special projects and development fund to public and private local agencies to reduce teenage use of addictive substances. NJSA § 26:2F-7 and § 26:3A2-20.1 (1995)

Penalty: Any person who directly or indirectly, acting as an agent or otherwise, sells, gives or furnishes tobacco, either from a vending machine or by retail counter sales, to a minor under 18 years of age is liable to a civil penalty of \$250 for the first violation, \$500 for the second violation and \$1,000 for each subsequent violation. In addition, upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation may suspend or, after a second or subsequent violation, revoke the license of a retail dealer. The licensee shall be subject to administrative charges based on a schedule issued by the Director of the Division which may provide for a fine in lieu of the suspension. The establishment of all of the following shall constitute a defense to any prosecution brought pursuant to this section: that the purchaser of the tobacco product or person receiving a promotional sample falsely represented that he was of legal age by producing photo identification; that the appearance of the purchaser or recipient of the tobacco product was such that an ordinary prudent person would believe him to be of legal age; and that the sale or distribution was made in good faith, relying upon the identification, the minor's appearance, and in the reasonable belief that the purchaser or recipient was actually of legal age to make the purchase or receive the sample. NJSA § 2A:170-51 (1995).

Sign posting requirement: A person to whom a license is issued shall, as a condition of the license, conspicuously post a legible sign at the point of display and at the point of sale, stating "A person who sells or offers to sell a tobacco product to a person under 18

years of age shall pay a penalty of up to \$1,000 and may be subject to a license suspension or revocation. Proof of age may be required for purchase." NJSA § 54:40A-4.1 (1995).

Other provisions: A person 18 years of age or older who purchases a tobacco product for a person who is under 18 years of age is a petty disorderly person. NJSA § 2A:170-51.1 (1995).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Any person who directly or indirectly, acting as an agent or otherwise, distributes any tobacco product for commercial purposes at no cost or at minimal cost or with coupons or rebate offers to a minor under the age of 18 years is liable to a civil penalty of \$250 for the first violation, \$500 for the second violation and \$1,000 for each subsequent violation. A defense to such action may be established if the conditions are met for the provisions listed under the penalty section for sales to minors. NJSA § 2A:170-51 (1995).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

A person who directly or indirectly, acting as an agent or otherwise, sells, gives or furnishes tobacco products to a minor under the age of 18 from a vending machine is liable for the same penalties listed for over-the-counter sales. NJSA § 2A:170-51 (1995).

Sign posting requirement: A legible sign shall be posted conspicuously on any licensed cigarette vending machine stating "A person who sells or offers to sell a tobacco product to a person under 18 years of age shall pay a penalty of up to \$1,000 and may be subject to a license suspension or revocation. Proof of age may be required for purchase." NJSA § 54:40A-4.1 (1995).

F. LICENSING REQUIREMENTS

Retailers, vending machine operators, wholesalers, distributors, and manufacturers must obtain a license to sell cigarettes. NJSA § 54:40A-3 (1952). Of the license fee for retail dealers and cigarette vending machine operators, \$30 shall be credited in 1996 and \$40 shall be credited in 1997 and each year thereafter to the special projects and development fund, and \$5 shall be credited each year beginning in 1996 to the division for administrative costs. NJSA § 54:40A-4 (1995).

Licensing fee: \$40 in 1996 and \$50 annually beginning in 1997 for a retail dealer or

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vending machine license for each place of business or machine; \$250 annually for each wholesale dealer license; \$350 annually for each distributor license; \$10 annually for a manufacturer license; and \$5 annually for each manufacturer's representative license. NJSA § 54:40A-4 (1995).

Penalty for sales to minors: Upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation may suspend or, after a second or subsequent violation, revoke the license of a retail dealer. The licensee shall be subject to administrative charges based on a schedule issued by the Director of the Division which may provide for a fine in lieu of the suspension. NJSA § 2A:170-51 (1995).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

NEW MEXICO**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Minimal****Public Places**
NONE**Government Buildings**

It is unlawful for a person to smoke in a public place or at a public meeting, except in designated smoking areas. A public place is defined as any enclosed indoor area in a building owned or leased by the state, or any of its political subdivisions. Public employers must implement and maintain a written smoking policy that provides, at a minimum, smoke-free work areas to accommodate employees who request them, maintains a nonsmoking area of at least one-half of the floor space in cafeterias, lunchrooms and lounges, and prohibits smoking in elevators and nurses' aid stations, or similar facilities for treatment of employees. Signs designating smoking and non-smoking areas must be posted by the individual in charge of the area, or the public meeting. Any person who smokes in a nonsmoking area or any employer who fails to adopt a smoking policy or post the appropriate signs shall be fined between \$10 and \$25. NM STAT. ANN. § 24-16-1 et seq. (1985).

Private Workplaces
NONE**Schools**

The State Board of Education adopted a regulation that prohibits the use of tobacco products in school buildings, on school property and for students at school functions away from school property. Each school district shall develop provisions for enforcement of this policy and communicating the policy to all affected parties. NM SBE Regulation 94-2 (1994).

Day Care
NONE**Health Facilities**
NONE**Restaurants**
NONE

NEW MEXICO**B. TOBACCO EXCISE TAXES****Cigarettes**

Tax rate per pack of 20: 21 cents

Date last changed: July 1, 1993 – 15 cents to 21 cents

Year first enacted: 1943

Other Tobacco Products

Chewing tobacco and snuff: 25% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The alcohol and gaming division of the regulation and licensing department and the appropriate law enforcement authorities in each county and municipality shall conduct random, unannounced inspections of facilities where tobacco products are sold to ensure compliance with the laws of this Act. **When a municipality or county adopts an ordinance pertaining to the sales of tobacco products, the ordinance or regulation shall be consistent with the provisions of NMSA §§ 39-49-1 to 39-49-12.*** NM STAT. ANN. §§ 39-49-1 to 39-49-12 (1993).

Penalty: No person shall knowingly sell or offer to sell tobacco products to persons under 18. Any person who violates this law is guilty of a misdemeanor. **See above preemption.*** NM STAT. ANN. § 30-49-1 et seq. (1993).

Sign posting requirement: Any entity engaged in the retail sale of tobacco products shall prominently display a warning sign in the place where tobacco products are sold. Signs must state that minors who purchase tobacco products, and persons who sell such products to minors are subject to a fine of up to 1,000 dollars. **See above preemption.*** NM STAT. ANN. § 30-49-1 et seq. (1993).

Penalties to minors: A minor who procures or attempts to procure tobacco products for their own use, or for the use of any other minor shall be punished by a fine not to exceed \$100 or 48 hours of community service. Any minor who presents false evidence of their age or identity to procure tobacco products for such use shall be subject to the same penalty.

See above preemption.* NM STAT. ANN. § 30-49-1 et seq. (1993).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

NEW MEXICO**D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES**

A person who sells, distributes, promotes or advertises tobacco products shall not provide free samples of tobacco products to a minor. This law shall not apply to an individual who provides free samples to a family member or to an acquaintance on private property not held open to the public. Violation of this law is a misdemeanor. See above preemption.* NM STAT. ANN. § 30-49-1 et seq. (1993).

No person shall sell, offer to sell or deliver a tobacco product in a form other than an original factory-sealed package. Specific penalty for a violation of this subsection is not listed. See above preemption.* NM STAT. ANN. § 30-49-1 et seq. (1993).

E. Restrictions on the Sale of Tobacco Products in Vending Machines

Placement restriction: Tobacco products may be sold through vending machines only in locations not open to the public, including factories, businesses and offices, in places where alcoholic beverages are sold for on-site consumption and in other areas where minors are not permitted unless accompanied by an adult. Violation of this law is a misdemeanor. See above preemption.* NM STAT. ANN. § 30-49-1 et seq. (1993).

Sign posting requirement: Warning signs shall be prominently displayed where a tobacco product vending machine is located. Signs must state that minors who purchase tobacco products, and persons who sell such products to minors, are subject to a fine of up to 1,000 dollars. See above preemption.* NM STAT. ANN. § 30-49-1 et seq. (1993).

F. LICENSING REQUIREMENTS

NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

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A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Extensive

Public Places

Smoking is prohibited entirely in auditoriums, elevators, gymnasiums, enclosed indoor public swimming pools, indoor areas open to the public in food stores except for portions dedicated as on-premises consumption areas, ticketing and boarding areas in public transportation terminals, public transportation vehicles including subways, underground subway stations, and buses, vans, taxicabs and limousines occupied by passengers, youth centers and facilities for detention. Smoking is restricted to designated areas in indoor areas open to the public, including but not limited to, theaters, museums, libraries, retail stores, commercial establishments, indoor arenas, waiting rooms and areas, banks and other financial institutions, restrooms, waiting areas in public transportation terminals and zoos. The owners or operators of bowling alleys and bingo games shall provide nonsmoking areas. NY PUB. HEALTH LAW § 1399-n et seq. (1994).

Government Buildings

Smoking is restricted to designated areas in all buildings owned or operated by the state or any of its political subdivisions. Each employer, including the legislative, executive and judicial branches of any political subdivision, which employs one or more persons shall adopt and implement a written smoking policy that requires, at a minimum, a smoke-free work area for non-smoking employees, a work area for smoking if all employees assigned to the work area agree to the designation, and contiguous non-smoking areas in employee cafeterias, lunch rooms, and lounges sufficient to meet demand. The policy must prohibit smoking in auditoria, gymnasiums, restrooms, elevators, classrooms, hallways, employee medical facilities, and company vehicles occupied by more than one person. NY PUB. HEALTH LAW § 1399-n et seq. (1989).

Private Workplaces

Each employer that employs one or more persons shall adopt and implement a written smoking policy that requires, at a minimum, a smoke-free work area for non-smoking employees, a work area for smoking if all employees assigned to the work area agree to the designation, and contiguous non-smoking areas in employee cafeterias, lunch rooms, and lounges sufficient to meet demand. The policy must prohibit smoking in auditoria, gymnasiums, restrooms, elevators, classrooms, hallways, employee medical facilities, and company vehicles occupied by more than one person. NY PUB. HEALTH LAW § 1399-n et seq. (1989).

Schools

Tobacco use is prohibited on the grounds of all pre-schools, nursery schools, and

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elementary or secondary schools and any vehicles used to transport children or school personnel; provided, however that smoking by adult faculty and staff members may be permitted in a designated smoking area during non-school hours. School hours shall include any student activity that is supervised by faculty or staff, or any officially sanctioned school event. NY PUB. HEALTH LAW § 1399-n et seq. and NY EDUC. LAW § 409.2 (1994).

Day Care

Smoking is prohibited in all facilities that provide child care services, except for private homes, including child day care centers, group homes, public institutions and residential treatment facilities for children. NY PUB. HLTH. LAW § 1399-o (1994).

Health Facilities

Smoking is restricted to designated areas in general hospitals and licensed residential health care facilities. NY PUB. HEALTH LAW § 1399-n et seq. (1989).

Restaurants

Smoking is restricted to designated areas in service areas in cafeterias and businesses selling food for on-premises and off-premises consumption. The owner, operator or manager of a food service establishment shall designate a contiguous non-smoking area sufficient to meet customer demand and may not determine that no such demand exists. If 70% of a food service establishment's indoor seating capacity for dining is designated as a non-smoking area, then customer demand will be deemed to have been met. Any place may be designated by the owner, operator or manager as a non-smoking area in its entirety. NY PUB. HEALTH LAW § 1399-n et seq. (1989).

Enforcement

Signs shall be prominently posted and maintained indicating smoking and nonsmoking areas. Failure to comply with any of the provisions of this article or persons who smoke in areas where smoking is prohibited is punishable by a civil penalty up to \$1,000, if imposed by the state and up to \$500 if imposed by a local enforcement officer. NY PUB. HEALTH LAW § 1399-n et seq. (1989).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 56 cents

Date last changed: June 1, 1993 – 39 cents to 56 cents

Year first enacted: 1939

Other Tobacco Products

Chewing tobacco and snuff: 20% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: Hearings with respect to violations shall be conducted by the board of health of a county. Where a civil penalty has not been imposed for a specific violation, a parent or guardian of a minor to whom tobacco products are sold or distributed in violation of this article may submit a complaint, including detailed information of the incident, to the county board of health. Fifty percent of any penalty imposed with respect to this section shall be collected for educational efforts administered by the board or a local school district for the purposes of preventing adolescent tobacco use. NY PUB. HLTH. LAW §1399-aa et seq. (1992).

Penalty: Any person operating a place of business wherein tobacco products are sold or offered for sale is prohibited from selling such products to individuals under 18. A civil penalty shall be imposed for violators in the amount of \$100 to \$300 for the first offense, and \$1,000 for subsequent offenses. In addition, if it is determined that a retail dealer has violated this article three times within a two year period, or four times cumulatively the commissioner of taxation and finance shall suspend the dealer's registration for one year. NY PUB. HLTH. LAW, § 1399-aa et seq. (1992).

Sign posting requirement: Any person operating a business wherein tobacco products are sold shall post in a conspicuous place a notice that the sale of cigarette products to persons under 18 years of age is prohibited by law. Violation is punishable by a fine of \$100 to \$300 for the first offense and \$1,000 for subsequent violations. NY PUB. HLTH. LAW, § 1399-aa et seq. (1992).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes, or any agent or employee of such person shall not knowingly distribute free tobacco product samples or coupons for redemption of such products to minors. Distribution of such samples is permitted if five days written notice is given to the enforcement officer and distribution takes place in one of the following locations: at private social functions, designated areas of conventions and trade shows, designated areas of events sponsored by tobacco manufacturers, bars, tobacco businesses, and designated areas of factories. Designated areas in the aforementioned locations is defined as areas generally accessible only to persons over the age of eighteen. This section shall govern and take precedence over the provisions of any local law, ordinance, rule, regulation, resolution, charter or administrative code hereafter

enacted by any political subdivision of the state.* NY PUB. HLTH LAW § 1399-bb. (1992).

All cigarettes must be sold or offered for sale in the package or container provided by the manufacturer which bears all health warnings required by applicable law. NY PUB. HLTH. LAW § 1399-gg (1994).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines are restricted to locations such as bars or bar areas of food service establishments with valid, on-premises full liquor licenses, private clubs, tobacco businesses, and workplaces that have an insignificant portion of its regular workforce comprised of minors and only in such locations that are not accessible to the general public. However, vending machines located in such places of employment must be in plain view and under the direct supervision and control of the person in charge of the location or their designated employee. Violations result in civil penalties of \$100 to \$300 for the first offense and \$1000 for each subsequent violation. In addition, if it is determined that a vending machine operator has violated this article 3 times within a two year period, or four times cumulatively the commissioner or taxation and finance shall suspend the vendor's registration for one year. NY PUB. HLTH. LAW § 1399-aa et seq. (1992).

Sign posting requirement: Any person operating a place of business wherein tobacco products are sold shall post in a conspicuous place a notice that the sale of cigarette products to persons under 18 years of age is prohibited by law. Violation is punishable by a fine of \$100 to \$300 for the first offense and \$1,000 for subsequent violations. NY PUB. HLTH. LAW § 1399-aa et seq. (1992).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, and vending machine operators must be licensed by the commissioner of taxation and finance to sell tobacco products. A separate license must be obtained for each retail location and vending machine. NY TAX LAW § 480 et seq. (1991).

Licensing fee: \$100 annually for a retail license; \$1,500 for a wholesale license; \$25 annually for a vending machine license.

Penalty for sales to minors: If it is determined that a retail dealer or vending machine operator has violated this article 3 times within a two year period, or four times cumulatively the commissioner or taxation and finance shall suspend the dealer's or

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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vendor's registration for one year. NY PUB. HLTH. LAW, § 1399-aa et seq. (1992).

G. SMOKING PROTECTION LAW**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

NORTH CAROLINA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Minimal**

Public Places
NONE

Government Buildings

Non-smoking areas may be designated in buildings owned, leased, or occupied by the state government. However, if a non-smoking area is assigned, at least 20% of the interior area, of equal quality, *is required* to be designated as a smoking area. Existing physical barriers and ventilation systems shall be used for non-smoking areas. Exempt from this law are primary or secondary schools or day care centers -- except for a teacher's lounge, enclosed elevators, public school buses, hospitals, nursing homes and other rest homes, local health departments, tobacco manufacturing, processing or administrative facilities, and non-profit organizations whose primary purpose is to discourage the use of tobacco products by the general public. Individuals who continue to smoke in a non-smoking area, despite notice by the person in charge, will be guilty of an infraction and be fined no more than 25 dollars. **This law does not supersede any local law, rule, or ordinance enacted prior to October 1, 1993. After this date, local laws, rules, or ordinances shall not be amended or enacted to contain restrictions regulating smoking which exceed those in this law.*** GEN. STAT. OF NC § 143-595 et seq. (1993).

Private Workplaces
NONE

Schools
NONE

Day Care
NONE

Health Facilities
NONE

Restaurants
NONE

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 5 cents

Date last changed: 1991 – 2 cents to 5 cents

Year first enacted: 1969

Other Tobacco Products

Chewing tobacco and snuff: 2% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: If any person shall knowingly send or assist a person less than 18 years to purchase, acquire, or receive tobacco products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor. However, persons under 18 may be enlisted by police or local sheriffs' departments to test compliance if the testing is under the direct supervision of that law enforcement department and written parental consent is provided. The Department of Human Resources shall also have the authority, pursuant to a written plan prepared by the Secretary, to use persons under 18 years of age in annual, random, unannounced inspections, provided that prior written parental consent is given for the involvement of these persons and that the inspections are conducted for the sole purpose of preparing a scientifically and methodologically valid statistical study of the extent of success the State has achieved in reducing the availability of tobacco products to persons under the age of 18, and preparing any report to the extent required by federal law. **No political subdivisions, boards, or agencies of the State may enact ordinances, rules or regulations concerning the sale, distribution, display or promotion of tobacco products or cigarette wrapping papers on or after 9/1/95. This subsection does not apply to the regulation of vending machines, nor rules adopted by the Secretary of Revenue for administration of tobacco taxes.* GEN. STAT. OF NC § 14-313 (1995).**

Penalty: If any person shall knowingly distribute, or knowingly aid, assist, or abet any other person in distributing tobacco products or cigarette wrapping papers to any person under the age of 18 years, or if any person shall knowingly purchase tobacco products on behalf of a person less than 18 years, the person shall be guilty of a Class 2 misdemeanor. A person engaged in the sale of tobacco products shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the purchaser is under 18 years of age. Failure to demand proof of age as required, is a

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

Class 2 misdemeanor. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought under this subsection. **See above preemption.*** GEN. STAT. OF NC § 14-313 (1995).

Sign posting requirement: NONE

Penalties to minors: If a person under the age of 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of tobacco products or cigarette wrapping papers, or presents or offers to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product, the person shall be guilty of an infraction. **See above preemption.*** GEN. STAT. OF NC § 14-313 (1995).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

If any person shall knowingly furnish, give, or provide tobacco products or cigarette wrapping papers, including tobacco product samples at no cost for the purpose of promoting the product, to any person under the age of 18 years, the person shall be guilty of a Class 2 misdemeanor. **See above preemption.*** GEN. STAT. OF NC § 14-313 (1995).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

NONE

F. LICENSING REQUIREMENTS

No person shall engage in business as a distributor of cigarettes without obtaining a license from the Secretary of Revenue. Retail dealers and wholesale dealers of tobacco products other than cigarettes must also obtain a license for each place of business. Retailers are not required to obtain a license to sell cigarettes. Renewal frequency is not specified. GEN. STAT. OF NC § 105-113.11 (1973) and § 105-113.36 (1991).

License fee: \$25 for each place of business for cigarette distributors and wholesale dealers of other tobacco products, and \$10 for a retail dealer of other tobacco products.

Penalty for sales to minors: NONE

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

NORTH CAROLINA

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

*** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

NORTH DAKOTA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is restricted to designated areas, in enclosed theaters, elevators, auditoriums, gymnasiums, libraries, public transportation vehicles, and waiting areas in public transportation terminals. ND CENT. CODE § 23-12-9 et seq. (1993).

Government Buildings

Smoking is restricted to designated areas in enclosed structures owned or leased by the state, its agencies or any political subdivision. ND CENT. CODE § 23-12-9 (1993).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in all public education buildings. ND CENT. CODE § 23-12-9 et seq. (1993).

Day Care

Smoking is not permitted in an early childhood facility at any time during which a child who receives services from that facility is present, and receiving such services. ND CENT. CODE § 50-11.1 (1993).

Health Facilities

Smoking is restricted to designated areas in rooms where individuals are confined as a matter of health care including waiting rooms, restrooms, lobbies or hallways of hospitals, nursing homes, rest homes or other health care institutions or facilities. ND CENT. CODE § 23-12-9 et seq. (1993).

Restaurants

Smoking is restricted to designated areas in buildings or enclosed structures that seat 50 or more persons and are available to the public including restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food – regardless of whether the establishments serve alcoholic beverages. The proprietor of a food service establishment may temporarily, during the course of daily business, expand the designated smoking area beyond 50% of the total available area if the smoking area becomes fully occupied and additional space is needed. ND CENT. CODE § 23-12-9 (1993).

NORTH DAKOTA**Enforcement**

Smoking areas may only be designated by proprietors of privately owned buildings or by public officials having responsibility for government buildings, except in places where smoking is prohibited by the state fire marshal. Smoking areas may not occupy more than 50% of the area available to the public and must be situated to minimize smoke drift. The proprietor of a place of public assembly must post signs in appropriate smoking area. Maximum penalty for violation is \$100 for each violation. ND CENT. CODE § 23-12-09 et seq. (1993).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 44 cents

Date last changed: July 1, 1993 – 29 cents to 44 cents

Year first enacted: 1925

Other Tobacco Products

Chewing tobacco and snuff: 28% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: It is a class B misdemeanor for any person to sell or procure tobacco products to or for a minor. "Sell" includes dispensing from a vending machine under the control of the actor. ND CENT. CODE § 12.1-31-03 (1973).

Sign posting requirement: NONE

Penalties to minors: It is a class B misdemeanor for a minor to use tobacco in any form. ND CENT. CODE § 12.1-31-13 (1973).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is a class B misdemeanor for any person to furnish or procure tobacco products to or for a minor. ND CENT. CODE § 12.1-31-03 (1973).

NORTH DAKOTA**E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES**

NONE

F. LICENSING REQUIREMENTS

Retailers and wholesalers must obtain a license for each place of business from the Attorney General to sell tobacco products. ND CENT. CODE § 57-36-02 (1991).

Licensing fee: \$15 annually for a retail license; \$25 annually for a wholesale license.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

*** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

OHIO

OHIO

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Non-smoking areas must be designated by signs posted in places of public assembly, including enclosed theaters, opera houses, auditoriums, classrooms, elevators, and other enclosed buildings with a seating capacity of 50 or more persons available to the public. Restaurants, bowling alleys and taverns are expressly excluded from this law. OH REV. CODE ANN. § 3791.031 (1992). Smoking is also prohibited on public transportation vehicles where non-smoking areas are clearly marked. Violators are guilty of misconduct involving a public transportation system. OH REV. CODE ANN. § 2917.41(2) and (3)(E) (1984).

Government Buildings

Non-smoking areas must be designated in enclosed structures owned by the state, its agencies, or political subdivisions, including university and college buildings that are not used for residences, office buildings, libraries, museums and public transportation vehicles. OH REV. CODE ANN. § 3791.031 (1992).

Private Workplaces

NONE

Schools

Students are prohibited from smoking, using or possessing tobacco in any area under the control of a school district or at any school-supervised activity. OH REV. CODE ANN. § 3313.751 (1988).

Day Care

Smoking is prohibited in child day-care centers or family day-care homes. Persons may be allowed to smoke if they cannot be seen smoking by the children being cared for and they are either in an indoor area that is separately ventilated from the rest of the center or home, or in an outdoor area that is so far removed from the children being cared for that they cannot inhale any smoke. OH REV. CODE ANN. § 5104.015 (1994).

Health Facilities

Non-smoking areas must be designated in rooms in health care facilities, including hospitals and rest homes, and in state-owned hospitals and institutions for the mentally retarded and mentally ill. OH REV. CODE ANN. § 3791.031 (1992).

Restaurants

NONE

OHIO**Enforcement**

Smoking areas shall be designated by the assigned person in control of a place of public assembly. No person shall smoke in any area designated as a no smoking section. Violation of this law constitutes a minor misdemeanor. OH REV. CODE ANN. § 3791.031 (1992).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 24 cents

Date last changed: December 1992 -- 18 cents to 24 cents

Year first enacted: 1931

Other Tobacco Products

Chewing tobacco and snuff: 17% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: No manufacturer, distributor, wholesaler or retailer of tobacco products, or employee thereof, shall sell or otherwise distribute tobacco products to any person under eighteen. First violation constitutes a fourth degree misdemeanor and subsequent violations constitute a misdemeanor of the third degree. OH REV. CODE ANN. § 2927.02 (1991).

Sign posting requirement: No person shall give away, sell or distribute tobacco products in any place that does not have posted a sign stating that giving, selling, or otherwise distributing tobacco products to a minor is prohibited by law. Violation constitutes a fourth degree misdemeanor for the first offense and a third degree misdemeanor for each subsequent violation. OH REV. CODE ANN. § 2927.02 (1991).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No manufacturer, distributor, wholesaler or retailer of tobacco products, or employee thereof, shall give or otherwise distribute tobacco products to any person under eighteen. First violation constitutes a fourth degree misdemeanor and subsequent violations constitute a misdemeanor of the third degree. OH REV. CODE ANN. §

OHIO

2927.02 (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Sales from vending machines are prohibited unless the machine is in an office, factory, business or other place not open to the general public, or in a place where persons under eighteen are not permitted. Vending machines are also in allowed in locations where they are in the immediate vicinity, plain view, and control of the owner or operator of the establishment. In such locations, vending machines shall not be located in an unmonitored coatroom, restroom, hallway or outer waiting room, and must be inaccessible to the public when the place is closed. Violations are a misdemeanor of the fourth degree for the first offense and a misdemeanor of the third degree for subsequent offenses. OH REV. CODE ANN. § 2927.02 (1991).

F. LICENSING REQUIREMENTS

Retailers and wholesalers must obtain a license from the County Auditor to sell cigarettes. OH REV. CODE ANN. § 5743.15 (1959).

Licensing fee: \$30 annually for a retail license for the first 5 places of business, and \$25 annually for each additional place of business; \$200 annually for a wholesale license.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA., AHA, and ACS oppose laws that elevate smokers to a protected class.

OKLAHOMA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is restricted to designated areas in privately-owned enclosed, indoor areas used by the general public or serving as a meeting place for a public body, including auditoria, arenas, theaters, public conveyances, museums, places licensed to sell liquor for consumption on the premises, concert halls or performance or exhibition facilities of the arts. 63 OK STAT. ANN. § 1-1521 et seq. (1989). Smoking is prohibited in elevators. Signs shall be posted by the person responsible for the facility. Violators are guilty of a misdemeanor and shall be fined between \$10 and \$100. 21 OK STAT. ANN. § 1247 (1975)

Government Buildings

Smoking is not permitted in areas designated as non-smoking in enclosed indoor places owned or operated by a state or local governmental agency and used by the general public, including offices, auditoria, arenas, meeting rooms, public conveyances, workplaces for public employees, and meeting places for public bodies. This law does not apply to a private, enclosed room or office occupied exclusively by smokers. 63 OK STAT. ANN. § 1-1521 et seq. (1989).

Private Workplaces

NONE

Schools

An educational facility in which children in grades kindergarten through twelve are educated may prohibit the use of all tobacco products on the grounds of the facility. Smoking areas may only be designated for adults and must be separately ventilated. In those facilities that designate a smoking area, a nonsmoking area shall also be designated for use by school personnel for breaks, lunch, or similar activities. 63 OK STAT. ANN. § 1-1521 et seq. (1994).

Day Care

No person shall smoke in a licensed child care facility during the hours of operation. In addition to the other penalties listed below, the Department of Human Services shall impose administrative fines against child care facilities for violations. 63 OK STAT. ANN. § 1-1521 et seq. (1994).

Health Facilities

Health facilities may prohibit smoking entirely, or may designate smoking and non-smoking areas within the facility. Nursing facilities may designate smoking areas for

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residents and guests. Nursing facilities may also designate smoking areas for employees if these areas are in separate rooms that are not used by residents. In addition to the penalties listed below, the State Board of Health shall impose administrative fines against nursing facilities and/or their employees for violations of this law. 63 OK STAT. ANN. § 1-1521 et seq. (1994).

Restaurants

A restaurant with a seating capacity of fifty or more persons may have designated smoking and nonsmoking areas or may be designated as being a totally smoking area or a totally nonsmoking area. 63 OK STAT. ANN. § 1-1521 et seq. (1994).

Enforcement

Smoking and non-smoking areas shall be designated by the state or local governmental agency or the person who owns or operates a public place, except in a public place in which smoking is prohibited by law. A person who smokes in a designated nonsmoking area will be fined \$50 for the first offense, \$100 for the second offense, and \$200 for subsequent offenses within a one-year period. **Local governing bodies are prohibited from enacting ordinances more stringent than this regulation.*** 63 OK STAT. ANN. § 1-1521 et seq. (1989).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 23 cents

Date last changed: July 1, 1987 -- 18 cents to 23 cents

Year first enacted: 1933

Other Tobacco Products

Chewing tobacco and snuff: 30% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless: 18

Enforcement: The Alcoholic Beverage Laws Enforcement Commission (ABLE) shall annually conduct random unannounced inspections at locations where tobacco products are sold or distributed and conduct targeted inspections at those locations which have been in violation of this law. Persons under 18 years of age may be enlisted by the

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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ABLE Commission to assist in enforcement if written parental consent has been provided and the testing is conducted under the direct supervision of the ABLE Commission or another authorized law enforcement agency. Provided, however, that this subsection shall not apply to the use of persons under 18 to test compliance if the test is being conducted by or on behalf of a retailer of cigarettes at any location the retailer is authorized to sell cigarettes. Any other use of minors to test compliance shall be unlawful and punishable by a fine of \$100. 37 OK STAT. ANN. § 600.1 et seq. (1996). **No agency or other political subdivision of the state may adopt any ordinance or regulation concerning the sale, purchase, distribution, advertising, sampling, promotion, display, possession, licensing, or taxation of tobacco products, except as provided in OK STAT. ANN. Title 68 § 1511, Title 63 § 1-1521 et seq., and Title 21 § 1247. 37 OK STAT. ANN. § 600.10.***

Penalty: Persons who violate this law shall be fined \$25 for the first offense, \$50 for the second offense, \$75 for subsequent offenses within a one year period. If the sale is made by the employee of the owner of the store, the employee shall be guilty of the violation and shall be subject to the fine. Upon failure of the employee to pay the administrative fine within 90 days of the day of the assessment of such fine, their driver license may not be issued or renewed.. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age, shall be a defense to any action brought pursuant to this. **Cities and towns may enact and municipal police officers may enforce ordinances, but the provisions of ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.*** 37 OK STAT. ANN. § 600.3 (1996).

Sign posting requirement: Every person who sells tobacco at retail shall post at the place of business shall post a sign that states "It's the Law. We do not sell tobacco products to persons under 18 years of age". Violators shall be fined \$50 for each day such offense occurs. **See first preemption statement.*** 37 OK STAT. ANN. § 600.5 (1994).

Penalties to minors: It is unlawful for a person who is under eighteen years of age to purchase, accept receipt of, or have in their possession a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. Minors found guilty shall be fined \$25 for a first offense and \$50 for subsequent offenses within a one-year period. If they fail to pay within 90 days, their driver license may be suspended, or not be issued or renewed. **Cities and towns may enact and municipal police officers may enforce ordinances, but the provisions of ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.*** 37 OK

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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STAT. ANN. § 600.4 (1996). Any minor in possession of tobacco products who is asked where and from whom such products were obtained by any police officer, constable, juvenile court officer, truant officer, or teacher, who refuses to furnish such information shall be guilty of a misdemeanor. If the minor is 16 years of age or older, they shall be sentenced to a fine of \$5 or imprisonment in the county jail for up to 5 days. If younger than 16, they shall be certified to the juvenile court for such action that court deems proper. 21 OK STAT. ANN. § 1242 (1985).

Other provisions: Each individual employed as a retail clerk shall be informed of the state law and shall sign a form attesting to their understanding of this law and promising as a condition of their employment to observe the law. See first preemption statement.* 37 OK STAT. ANN. § 600.6 (1994).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It shall be unlawful for any person to distribute tobacco product samples to anyone under 18, in or on any public street, sidewalk, or park that is within 300 feet of any playground, school, or other facility when the facility is being used primarily by persons under 18. Violators shall be fined \$25 for the first offense, \$50 for the second offense, and \$75 for any subsequent offense within a one-year period. If they fail to pay within 90 days, their driver license may be suspended, or not be issued or renewed. **Cities and towns may enact and municipal police officers may enforce ordinances, but the provisions of ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.*** 37 OK STAT. ANN. § 600.8 (1996).

It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer. Violators will be fined \$200 for each offense. **Cities and towns may enact and municipal police officers may enforce ordinances, but the provisions of ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.*** 37 OK STAT. ANN. § 600.9 (1996).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines containing tobacco products shall be located in following areas: areas of factories, businesses, offices or other places that are not open to the public; places that are open to the public, but to which persons under 18 are not admitted; places where alcoholic beverages are sold for consumption on the premises, but only if the machine is under the continuous supervision of the owner,

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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lessee, or employee of the premises, and is inaccessible to the public when the establishment is closed; and, other places, but only if the machine is under the continuous supervision, or can be operated only by the activation of an electronic switch by the owner or employee for each purchase, or can be operated only by a special token purchased from the owner or employee. The person responsible for the supervision of the vending machine, activation of the electronic switch, or sale of a special token shall demand proof of age from the prospective purchaser if any ordinary person would conclude on the basis of appearance that the prospective purchaser may be under 18 years of age. See first preemption statement.* 37 OK STAT. ANN. § 600.7 (1994).

F. LICENSING REQUIREMENTS

Retailers, distributors and wholesalers must obtain a license from the Tax Commission to sell cigarettes. 68 OK STAT. ANN. § 304 (1994).

Licensing fee: \$30 every three years for each place of business for a retail license; \$25 annually for each place of business for a wholesale license.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

OREGON**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Non-smoking areas are required in public places, including, but not limited to, bowling centers, retail stores, banks, commercial establishments, auditoriums, arenas, meeting rooms, and grocery stores. Smoking is prohibited in a room during the time that jurors are required to use the room. No public place shall allow smoking in all areas except bars, offices occupied exclusively by smokers, private social functions under the sponsor's control, and retail tobacco businesses. The person in charge of the public place is to designate non-smoking areas and to post appropriate signs. Proprietors in charge of a public place in violation of this law are punishable by a fine(s) totaling not more than \$100 in any 30 day period. OR REV. STAT. § 433.835 et seq. (1985). Smoking is prohibited in public elevators and no-smoking signs must be posted. Violation of this law is punishable by a \$10 fine for those who smoke and a \$100 fine for those who fail to post signs. OR REV. STAT. § 479.015 (1975). The use of lighted tobacco in any form in vehicles engaged in transporting passengers in regular scheduled service is prohibited. OR ADMIN. RULES Chap 860, Division 65, Public Utility Commission.

Government Buildings

Smoking is restricted in state-operated places of employment to designated smoking areas. The state's personnel division is required to adopt rules and standards to implement this provision. This section also requires state agencies and departments providing employee lounges to provide smoke-free lounge areas and to prohibit smoking in non-smoking areas. Offices occupied exclusively by smokers are exempt. OR REV. STAT. §§ 243.345 and 243.350 (1977). Smoking is prohibited in all rooms where public meetings are being held. OR REV. STAT. § 192.710 (1973).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in educational facilities. OR REV. STAT. § 433.835 et seq. (1985).

Day Care

NONE

OREGON**Health Facilities**

No hospital employee, patient or visitor shall smoke in any room of the hospital in which more than one patient is accommodated, unless the room is designated as smoking, or in other areas where patient care is provided. The person in charge of the hospital shall designate reasonable nonsmoking areas in lobbies, waiting rooms and rooms. OR REV. STAT. § 441.815 (1983). Smoking is restricted to designated areas in nursing homes. OR REV. STAT. § 433.835 et seq. (1985).

Restaurants

Smoking is restricted to designated areas in restaurants seating 30 or more patrons. The owner or person in charge of a restaurant may expand or contract the size of the smoking area to meet the requirements of patrons. Restaurants with a seating capacity of 30 or fewer patrons may be designated as a smoking area in its entirety. The appropriate signs shall be posted. OR REV. STAT. § 433.835 et seq. (1985).

Enforcement

The health division is responsible for adopting and implementing rules and for enforcing compliance by actions to enjoin repeated violations of OR REV. STAT. §§ 433.835 to 433.990(5) (1987). Violation of provisions relating to improper designation of smoking areas and sign-posting requirements are punishable by a fine totaling no more than \$100 within a 30-day period.

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 68 cents

Date last changed: February 1, 1997 -- 38 cents to 68 cents

Year first enacted: 1966

A portion of all monies shall be paid over and credited to the General Fund and shall be used exclusively to fund the Oregon Health Plan. OR REV. STAT. § 323.455 et seq. (1996).

Other Tobacco Products

Chewing tobacco and snuff: 65% of wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The Department of Human Resources shall coordinate with law

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enforcement agencies to conduct random, unannounced inspections of tobacco retailers and wholesalers to ensure compliance with laws regulating youth access to tobacco. The department shall adopt rules concerning these inspections providing that inspection may only take place in areas open to the public and during the hours that tobacco products are sold or distributed, and shall not be more frequent than once a month in any single establishment unless a compliance problem exists or is suspected. OR REV. STAT. ANN. § 431.853 (1993).

Penalty: A person commits the crime of endangering the welfare of a minor if the person knowingly distributes, sells, or causes to be sold any tobacco product or device for the use of tobacco to a person under 18 years of age. A violation is punishable by a fine between \$100 and \$500. OR REV. STAT. ANN. § 163.575 (1991).

Sign posting requirement: Notice shall be posted in a location clearly visible to the seller and purchaser that the sale of tobacco products to persons under 18 years of age is prohibited. Violation constitutes a civil penalty between \$100 and \$500. OR REV. STAT. ANN. § 431.840 et seq. (1991).

Penalties to minors: It is unlawful for any person under the age of 18 to possess tobacco products. Any person who violates this law is punishable by a fine not more than \$100. OR REV. STAT. ANN. § 167.400 (1991). The juvenile court may enter an order directing that all cases involving these offenses be waived to municipal court if the municipal court has agreed to accept jurisdiction. The municipal court may impose any sanction authorized for the offense except for incarceration and shall notify the juvenile court of the disposition of the case. OR REV. STAT. ANN. § 419C.370 (1995).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful to distribute free tobacco products to persons under 18 years of age as part of a marketing strategy to encourage the use of tobacco products. Violation constitutes a civil penalty between \$100 and \$500. OR REV. STAT. § 431.840 et seq. (1991).

It is unlawful to sell cigarettes in any form other than a sealed package. Violation constitutes a civil penalty between \$100 and \$500. OR REV. STAT. § 431.840 et seq. (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines are prohibited in areas legally accessible to minors, except for in taverns, industrial plants, hotels and motels. Violation is punishable by a fine up to \$250 for each day the violation exists. **Cities and counties**

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by ordinance or resolution shall not regulate vending machines that dispense tobacco products in any form and that are in any manner accessible to minors.*
OR REV. STAT. § 167.402 and § 167.404 (1991).

F. LICENSING REQUIREMENTS

Wholesalers and distributors must obtain a license to sell cigarettes from the Department of Revenue. Retailers are not required to obtain a license to sell tobacco products. OR REV. STAT. §§ 323.105 (1965) and 323.107 (1967).

Licensing fee: No fee for distributors, no fee specified for wholesalers.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

PENNSYLVANIA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Minimal

Public Places

No person shall smoke in areas designated as non-smoking by the proprietor or person in charge of a public place or at a public meeting, including auditoria, arenas, theaters, museums, public conveyance and concert halls. Exempt from this act are private social functions where the space utilized is under the control of the sponsor and not the proprietor, factories, warehouses and similar places of work not frequented by the general public, bar areas in liquor licensee establishments, areas in public places commonly referred to as lobbies and hallways, hotel and motel rooms, and tobacco retail stores. **This act shall preempt and supersede any local ordinance or rule concerning this subject matter, except that this preemption shall not apply to local rules or regulations that were adopted by cities of the second class and were in effect prior to 9/1/88.*** 35 PA CONS. STAT. ANN. § 1230.1 and § 1235.1 (1988). Smoking is prohibited in any auditorium, balcony or gallery of any theater. 35 PA CONS. STAT. ANN. § 1225 (1927). City councils of first and second class cities may prohibit smoking or the carrying of lighted tobacco products in retail stores accommodating 300 persons or more, or employing 25 or more workers. Regulations may be imposed in stores accommodating 100 or more persons and 10 or more employees in each third class city. **However, city councils may not, under this Act, prohibit smoking in any restaurant room, restroom, beauty parlor, executive office or any designated smoking room in such store.*** 53 PA CONS. STAT. ANN. §§ 3702 (1951) and 37403(33) (1946). Smoking is prohibited on any public conveyance owned or operated by the port authority including buses, street railway cars, light rail vehicles, a commuter rail train or incline. 55 PA CONS. STAT. ANN. § 560.1 (1992).

Government Buildings

No person shall smoke in an area designated non-smoking by the proprietor or person in charge of a public place, or at a public meeting. Public places are defined as enclosed, indoor areas owned or operated by state or local governmental agencies, which are used by the general public, or serve as workplaces for public employees or meeting places for public bodies. Such areas include offices, auditoria, arenas, meeting rooms and public conveyances. Employers shall develop, post and implement a policy to regulate smoking in the workplace, **provided that nothing in this section or any local law, rule or regulation shall impair or diminish any contractual agreement, collective bargaining agreement, rights or procedures. This act shall preempt and supersede any local ordinance or rule concerning this subject matter, except**

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

that this preemption shall not apply to local rules or regulations that were adopted by cities of the second class and were in effect prior to 9/1/88.* Violation is punishable by a civil fine of not more than 50 dollars. Other penalties are provided for refusal to comply after receiving a written order to do so. PA CONS. STAT. ANN. § 1230.1 and § 1235.1 (1988).

Private Workplaces

Employers shall develop, post and implement policies to regulate smoking in the workplace, **provided that nothing in this statute, or any local law, rule or regulation, affects any contractual agreement, or collective bargaining agreement, rights, or procedures.** The employer shall provide a copy of the smoking policy to any employee upon request. Violation is punishable by a civil fine of not more than 50 dollars. Other penalties are provided for refusal to comply after receiving a written order to do so. **Please see additional preemption listed under the Government Buildings section.*** PA CONS. STAT. ANN. § 1230.1 and § 1235.1 (1988).

Schools

Tobacco use, including smokeless tobacco, by pupils is prohibited in school buildings, on school buses, and on school property owned, leased, or under the control of a school district. The board of school directors may designate smoking areas for employees and shall establish a policy to enforce the prohibition of tobacco use. **This section supersedes any municipal ordinance or school board regulation to the contrary.*** 35 PA CONS. STAT. ANN. § 1223.5 (1988).

Day Care

NONE

Health Facilities

Smoking is prohibited in hospital patient care areas, non-smoking patient rooms, and non-smoking public areas. Only patients may smoke in patient rooms designated as smoking. Violators may be fined up to \$10 and the costs of prosecution. 35 PA CONS. STAT. ANN. § 361 (1977). Smoking is restricted to designated areas in other health facilities. **This act shall preempt and supersede any local ordinance or rule concerning this subject matter, except that this preemption shall not apply to local rules or regulations that were adopted by cities of the second class and were in effect prior to 9/1/88.*** 35 PA CONS. STAT. ANN. § 1230.1 and § 1235.1 (1988).

Restaurants

Restaurants with seating capacities of 75 or more shall provide smoking and non-smoking areas reasonably calculated to address the needs of their clientele. The size of the smoking area may be increased or decreased by the proprietor or person in charge,

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

PENNSYLVANIA

according to need. Restaurants with fewer than 75 seats shall either provide a non-smoking section or post a notice at each entrance stating that there is no smoking policy. **This act shall preempt and supersede any local ordinance or rule concerning this subject matter, except that this preemption shall not apply to local rules or regulations that were adopted by cities of the second class and were in effect prior to 9/1/88.*** 35 PA CONS. STAT. ANN. § 1230.1 and § 1235.1 (1988).

TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 31 cents

Date last changed: August 19, 1991 – 18 cents to 31 cents

Year first enacted: 1935

Other Tobacco Products

Chewing tobacco and snuff: NONE

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and cigarette papers: 21 (18 enforced)

Minimum age for the sale of smokeless tobacco: 18

Penalty: A person is guilty of a summary offense if they sell or purchase tobacco in any form to or for a minor. Violators will be sentenced to pay a fine of not less than \$25 for the first offense, not less than \$100 for subsequent offenses. 18 PA CONS. STAT. ANN. § 6305 (1990). Persons who furnish or sell cigarettes or cigarette papers to minors are subject to the aforementioned fines and shall be guilty of a misdemeanor of the third degree for third and subsequent offenses. 18 PA CONS. STAT. ANN. § 6306 (1973).

Sign posting requirement: NONE

Penalties to minors: If a minor falsely represents himself to be 18 years of age or older to procure tobacco products he shall be sentenced to pay a fine of not less than \$25 for the first offense, not less than \$100 for subsequent offenses. 18 PA CONS. STAT. ANN. § 6305 (1990).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

A person is guilty of a summary offense if he by purchase, gift or other means furnishes tobacco to a minor. Violators will be sentenced to pay a fine of not less than \$25 for the first offense, not less than \$100 for subsequent offenses. 18 PA CONS. STAT. ANN. § 6305 (1990). Persons who furnish cigarettes or cigarette papers to minors are subject to the aforementioned fines and shall be guilty of a misdemeanor of the third degree for third and subsequent offenses. 18 PA CONS. STAT. ANN. § 6306 (1973).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

NONE

F. LICENSING REQUIREMENTS

Retailers, wholesalers and vending machine operators must obtain and post licenses to sell cigarettes. 72 PA CONS. STAT. ANN. § 201-A et seq. (1993).

License fee: \$25 annually for a retail license; \$500 annually for a wholesale license; and \$25 annually for a vending machine license. 72 PA CONS. STAT. ANN. § 208-A (1993).

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

RHODE ISLAND**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking is declared a public nuisance and a public health danger and is restricted to areas separated from those used by the general public and identified by signs, in the state house, elevators, indoor movie theaters, libraries, art galleries, museums, concert halls, buses, auditoria, colleges and universities (including dormitories), supermarkets, and public hallways in court buildings and elderly housing complexes. Bars, nightclubs, lounges, dance clubs, and privately sponsored social functions are exempt from these provisions. GEN. LAWS OF RI § 23-20.6-1 et seq. (1994). Bingo games held in nonsmoking facilities are permitted to award a higher amount of total prizes in any one night than games held in smoking facilities. Prizes may total a maximum of \$6,050 in cash and merchandise in nonsmoking facilities and \$4,250 in smoking facilities. GEN. LAWS OF RI §11-19-32 (1995).

Government Buildings

Smoking is declared a public nuisance and a public health danger and is restricted to areas separated from those used by the general public and identified by signs in the state house. GEN. LAWS OF RI § 23-20.6-2 (1995). Employers are required to adopt, implement, post and maintain a written smoking policy designed to protect the health of non-smoking employees and ensure a comfortable environment for all workers. The definition of workplace includes office spaces in all state and municipal office buildings. Employers may attempt to achieve this goal using existing sources of ventilation or separation of work-space. If such an accommodation cannot be made, employers must ban smoking entirely from workplace areas where nonsmoking employees may be affected by passive smoke. Enclosed private offices occupied exclusively by smokers are not subject to this law. An employer who violates this law shall be liable for a civil penalty between \$50 and \$500. GEN. LAWS OF RI § 23-20.7-1 et seq. (1994).

Private Workplaces

Employers are required to adopt, implement, post and maintain a written smoking policy designed to protect the health of non-smoking employees and ensure a comfortable environment for all workers. Employers may attempt to achieve this goal using existing sources of ventilation or separation of work-space. If such an accommodation cannot be made, employers must ban smoking entirely from workplace areas where nonsmoking employees may be affected by passive smoke. Enclosed private offices occupied exclusively by smokers are not subject to this law. An employer who violates this law shall be liable for a civil penalty between \$50 and \$500. GEN. LAWS OF RI § 23-20.7-1 et seq. (1994).

RHODE ISLAND**Schools**

Smoking is prohibited in all primary and secondary schools, indoor athletic facilities, school administration buildings, playgrounds, school buses and outdoor areas within 25 feet of any school building. GEN. LAWS OF RI § 23-20.9 (1993).

Day Care

NONE

Health Facilities

Smoking is restricted to designated areas in medical offices and hospitals. GEN. LAWS OF RI § 23-20.6-1 et seq. (1993). Smoking in nursing homes is restricted to separately ventilated designated smoking rooms, private resident rooms, or semi-private resident rooms where all occupants smoke. Individuals who are not residents of the nursing home are prohibited from smoking. Persons or facility managers who violate this law are liable for a civil penalty of no less than \$50 and no more than 500 dollars. GEN. LAWS OF RI § 23-17.5-26 (1993).

Restaurants

Eating facilities seating 50 or more persons are required to have separate seating arrangements for smokers and non-smokers. GEN. LAWS OF RI § 23-20.6-1 et seq. (1993).

Enforcement

No-smoking signs must be conspicuously posted and the person in control of a public area must make reasonable efforts to prevent smoking. Any person who violates any of the provisions of GEN. LAWS OF RI § 23-20.6-1 et seq. shall be deemed to be contributing to the maintenance of a public nuisance in a public place and subject to a fine between 50 and 500 dollars. The fine shall be assessed and recovered in a civil action brought by the attorney general in any court of competent jurisdiction. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. GEN. LAWS OF RI § 23-20.6-2 (1995).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 61 cents

Date last changed: July 1, 1995 – 56 cents to 61 cents

Year first enacted: 1939

Other Tobacco Products

Chewing tobacco and snuff: 20% of wholesale price

RHODE ISLAND

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: No person shall sell or deliver any tobacco product to a person under 18 years of age. Violation is punishable by a fine of \$100 for a first offense within a 36 month period, \$200 for a second offense within any 36 month period, and \$300 and 14 day suspension of license for a third offense within any 36 month period. A place of business that commits more than 3 violations within any 36 month period will be fined \$500 and receive a 90 day suspension of the license. GEN. LAWS OF RI § 11-9-13 (1996).

Sign posting requirement: Signs provided by the Department of Health shall be posted at each cash register, vending machine or any other place where tobacco products are sold and shall contain in bold lettering a minimum of 3/8 inch high on a white background the following wording: THE SALE OF CIGARETTES AND OTHER TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS AGAINST RHODE ISLAND LAW (Section 11-9-13.8 (a) (1), Rhode Island Statutes) PHOTO ID FOR PROOF OF AGE IS REQUIRED FOR PURCHASE. Violation is punishable by a fine of \$35-\$500 per violation. A place of business that commits a third violation within 60 days of the first may be ordered not to sell tobacco products for up to 90 days. GEN. LAWS OF RI § 11-9-13 (1996).

Penalties to minors: No person under 18 years of age shall purchase tobacco in any form. Violation is punishable by a fine of \$100 for a first offense, \$200 for a second offense within 30 days of the first offense, and \$300 for a third offense within 60 days of the first offense. GEN. LAWS OF RI § 11-9-13 (1988). No person under 16 shall use tobacco in any form in or on any public street, place or resort. Violators shall be fined not more than \$5 for each offense. GEN. LAWS OF RI § 11-9-14 (1956).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Distributing or delivering tobacco products or coupons or vouchers redeemable for free tobacco products to any person under the age of 18 is prohibited. Sale, distribution or delivery of tobacco products in any other form than an original factory-wrapped package or as a single cigarette is prohibited. The distribution of free tobacco products or coupons or vouchers redeemable for free tobacco products is prohibited within 500 feet of any school. Violators are subject to a \$500 fine for each violation. GEN LAWS OF RI § 11-9-13 (1996).

RHODE ISLAND**E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES**

Placement restriction: No cigarettes or any other tobacco product shall be sold from any device or vending machine which is in an area not continuously supervised and in direct line of sight of an authorized person employed by the person, firm, or corporation that owns the business occupying the premises in which the vending machine is located. The vending machine shall also be equipped with an electronic locking device which will not allow the machine to dispense the product unless it is unlocked from a secured position inaccessible to the public and under the supervision of an authorized person employed by the business owner. Locking devices are not required on machines located in an establishment licensed to sell alcoholic beverages which limits access to persons over the age of 21 years. Tobacco products shall not be sold from vending machines containing non-tobacco products. The owner of a business where a tobacco vending machine in violation of these provisions is located shall be subject to a fine of \$75 for the first offense, \$150 for the second offense, and \$500 for subsequent offenses. In the event that there are no offenses in three successive years from the date of the last offense, then the next offense shall be treated as the first offense. GEN LAWS OF RI § 11-9-13.1 (1995).

Sign posting requirement: Notice of the law regarding sales to minors shall be conspicuously posted in each place of business, including cigarette vending machines. Violation is punishable by a fine of \$100 for a first offense, \$200 for a second offense within 30 days of the first offense, and \$300 for a third offense within 60 days of the first offense. A place of business that commits a third violation within 60 days of the first may be ordered not to sell tobacco products for up to 90 days. GEN. LAWS OF RI § 11-9-13 (1988).

F. LICENSING REQUIREMENTS

Retailers, wholesalers, and vending machine operators must obtain a license from the Tax Administrator to sell cigarettes. GEN. LAWS OF RI § 44-20-2.

Licensing fee: \$25 for each place of business vending machine for retail licenses, or \$100 if a distributor maintains more than 25 vending machines.

Penalty for sales to minors: Violation is punishable by a fine of \$100 for a first offense within a 36 month period, \$200 for a second offense within any 36 month period, and \$300 and 14 day suspension of license for a third offense within any 36 month period. A place of business that commits more than 3 violations within any 36 month period will be fined \$500 and receive a 90 day suspension of the license. GEN. LAWS OF RI § 11-9-13 (1996).

RHODE ISLAND

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

SOUTH CAROLINA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Minimal

Public Places

Smoking is prohibited in elevators and public conveyances, except for taxis. Smoking is restricted in arenas, auditoriums of public theaters or public performing arts centers to designated areas in foyers, lobbies or other common areas. CODE OF LAWS OF SC § 44-95-10, et seq. **Any laws, ordinances, or rules enacted pertaining to tobacco products may not supersede state law or regulation.*** (1996).

Government Buildings

Smoking is restricted to designated areas in buildings leased or operated by the state or any of its political subdivisions, but is permitted in private enclosed offices. Smoking policies in the state capitol and legislative office buildings shall be determined by the office of government having control over such buildings. CODE OF LAWS OF SC § 44-95-10, et seq. **See above preemption*** (1996).

Private Workplaces

NONE

Schools

Smoking is restricted in public schools to enclosed private offices or lounges. CODE OF LAWS OF SC § 44-95-10 et seq. **See above preemption***(1996). Smoking on school buses is prohibited while the bus is in operation. CODE OF LAWS OF SC § 59-67-150 (1962).

Day Care

Smoking is prohibited in licensed day care facilities. CODE OF LAWS OF SC § 44-95-10, et seq. **See above preemption***(1996).

Health Facilities

Smoking in health care facilities is restricted to designated employee break areas. CODE OF LAWS OF SC § 44-95-10, et seq. **See above preemption***(1996).

Restaurants

NONE

Enforcement

The owner, manager or agent in charge of the premises shall make reasonable efforts

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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to prevent designated smoking areas from impinging upon designated smoke-free areas by the use of existing physical barriers and ventilation systems and by conspicuously posting the appropriate signs. A person who smokes in a smoke-free area or a person in charge who fails to meet these requirements, is guilty of a misdemeanor and, upon conviction, must be fined between \$10 and 25 dollars. CODE OF LAWS OF SC § 44-95-10, et seq. (1990).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 7 cents

Date last changed: July 1, 1977 – 6 cents to 7 cents

Year first enacted: 1923

Other Tobacco Products

Chewing tobacco and snuff: 5% of manufacturer's list price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: No person shall sell or furnish tobacco products to any minor. Violation of this law is a misdemeanor, punishable by a fine of \$25 for the first offense, \$50 for a second offense and not less than \$100, or imprisonment for two months to one year, or both for a third or subsequent offense.. CODE OF LAWS OF SC § 16-17-500 **Any laws, ordinances, or rules enacted pertaining to tobacco products may not supersede state law or regulation.*** (1996).

Sign posting requirement: NONE

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall give or furnish tobacco products to any minor. Violation of this law is a misdemeanor, punishable by a fine of \$25 for the first offense, \$50 for a second offense and not less than \$100, or imprisonment for two months to one year, or both for a third or subsequent offense.. CODE OF LAWS OF SC § 16-17-500 **See above preemption*** (1996).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

NONE

F. LICENSING REQUIREMENTS

Every person engaged in the business of purchasing, selling or distributing tobacco at wholesale or through vending machines shall file with the Department of Revenue and Taxation for a license to do so. CODE OF LAWS OF SC § 12-21-660 (1993).

License fee: NONE

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

SOUTH DAKOTA**A. CLEAN INDOOR AIR**

Clean Indoor Air Rating: Moderate

Public Places

Smoking is restricted to designated areas in elevators, jury rooms, indoor theaters, public libraries, museums, concert halls, and public conveyances. SD COD. LAWS § 22-36-2 (1987).

Government Buildings

By Executive Order, smoking is prohibited in all buildings owned, leased, or occupied by the executive branch and in all vehicles owned by the state. Outdoor smoking areas may be established. Exec. Order 92-10 (1992).

Private Workplaces

NONE

Schools

Smoking is restricted to designated areas in elementary or secondary school buildings. SD COD. LAWS § 22-36-2 (1987).

Day Care

Smoking is restricted to designated areas during the time in which children who are not family members of the day care provider are receiving care. This law applies to registered or unregistered day care programs, day care centers, day care cooperative, or family day care homes. SD COD. LAWS § 22-36-2 (1994).

Health Facilities

Smoking is restricted to designated areas in medical and dental clinics, nursing homes, and hospitals. SD COD. LAWS § 22-36-2 (1987).

Restaurants

NONE

Enforcement

Violation is a petty offense. SD COD. LAWS § 22-36-2 (1987).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 33 cents

Date last changed: July 1, 1995 – 23 cents to 33 cents
 Year first enacted: 1923

The Legislature is the exclusive regulator of all matters relating to the use of tobacco products. Nothing prohibits a person or a public entity from voluntarily regulating the use of tobacco products on the person's or entity's property.* SD COD. LAWS § 10-50-64 (1995).

Other Tobacco Products

Chewing tobacco, cigars and snuff: 10% of the manufacturer's price.

C. YOUTH ACCESS

Age Restrictions on Sales of Tobacco Products

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: Each county state's attorney or the local law enforcement officer they designate shall annually conduct unannounced, random inspections at various locations where tobacco products are sold or distributed to ensure compliance with this law. Minors may be enlisted to test compliance if the testing is conducted under the supervision of the designated authority and written parental consent has been provided. Any other use of minors to test compliance with this act is unlawful and the responsible party shall be guilty of a Class 2 misdemeanor. **The Legislature through this Act is the exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products.* SD COD. LAWS § 34-46-1 et seq. (1994).**

Penalty: It is unlawful for a person to distribute a tobacco product to a person under the age of 18. Violation is a Class 2 misdemeanor. **The Legislature through this Act is the exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products.* SD COD. LAWS § 34-46-1 et seq. (1994).**

Sign posting requirement: NONE

Penalties to minors: Minors who purchase or attempt to purchase or receive or attempt to receive are guilty of a Class 2 misdemeanor. **The Legislature through this Act is the exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products.* SD COD. LAWS § 34-46-1 et seq. (1994).** It is a petty offense for any minor to consume any tobacco product or to

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

SOUTH DAKOTA

misrepresent their age for the purpose of purchasing such product. SD COD. LAWS § 26-10-20 (1986) and § 26-10-23 (1989).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Distributing tobacco samples in or on a public street, sidewalk, or park that is within 500 feet of a playground, school or other facility when it is being used primarily by persons under the age of 18 is a Class 2 misdemeanor. **The Legislature through this Act is the exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products.*** SD COD. LAWS § 34-46-1 (1994).

It is also a Class 2 misdemeanor to sell cigarettes other than in an unopened package originating with the manufacturer and depicting the warning labels required by federal law. **The Legislature through this Act is the exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products.*** SD COD. LAWS § 34-46-1 et seq. (1994).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines containing tobacco products shall be located in the following areas: a factory, business, office, or other place not open to the general public; a place that is open to the public but to which persons under the age of 18 are denied access; a place that is located within the immediate vicinity, plain view, and control of a responsible employee so that they may observe all tobacco purchases and may not be accessible to the public when the establishment is closed; or, an licensed establishment that sells alcoholic beverages for on-site consumption. Violation is a Class 2 misdemeanor. **The Legislature through this Act is the exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products.*** SD COD. LAWS § 34-46-1 et seq. (1994).

Sign posting requirement: Each cigarette vending machine shall have posted in a conspicuous place a warning to persons under 18 stating that they are forbidden by law to purchase cigarettes from the machine. Violation constitutes a petty offense. SD COD. LAWS § 26-10-24 (1989).

F. LICENSING REQUIREMENTS

Each person engaging in the business of selling cigarettes or tobacco products, including any distributor or wholesaler, shall secure a license from the secretary of revenue. A separate application and license is required for each wholesale outlet when

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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a person owns or controls more than one place of business. Retailers are specifically exempted from the licensing requirement. No renewal frequency is specified. SD COD. LAWS § 10-50-9 (1995).

License fee: \$150 for each application.

Penalty for sales to minors: NONE

G. SMOKING PROTECTIONS LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

TENNESSEE**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Moderate****Public Places**

Smoking shall not be permitted in any room or area in a community center while such room is being used for children's activities. Smoking is also restricted in museums, youth group-care homes, children's residential treatment facilities, youth development centers and facilities, and zoos. The adult staff members of these facilities may be permitted to smoke in enclosed designated smoking areas to which children are not allowed access. TN CODE ANN. § 39-17-1601 et seq. (1995).

Government Buildings

A smoking policy may be established in buildings controlled by the administrative head of each state department, agency, board, commission, or other entity of the state and in buildings under control of the administrative head of each public institution of higher education. Each smoking policy must allow for at least one indoor smoking area. If a policy is established that permits smoking in the workplace, such a policy shall also provide a non-smoking area in the workplace. TN CODE ANN. § 4-4-121 (1990).

Private Workplaces

NONE

Schools

Smoking is restricted in all public and private kindergartens, elementary and secondary schools. Adult staff members may be permitted to smoke outdoors, but not within 50 feet of any entrance to any building, and in any fully enclosed adult staff residential quarters, but not in the presence of children attending such school. Adults shall be allowed to smoke on the property surrounding the institution, but not blocking any entrance to the building and not in any public seating areas, including, but not limited to, bleachers used for sporting events, or public restrooms. TN CODE ANN. § 39-17-1601 et seq. (1995).

Day Care

Adult staff members of child day-care centers may be permitted to smoke in enclosed designated smoking areas to which children are not allowed access; provided, however, that written notification shall be given to the parent or legal guardian upon enrollment if the day-care center has an indoor designated smoking area. TN CODE ANN. § 39-17-1601 et seq. (1995).

TENNESSEE

Health Facilities

Smoking is restricted in health care facilities, excluding nursing homes. Adult staff members may be permitted to smoke in enclosed designated smoking areas to which children are not allowed access and adults may be permitted to smoke outside the facility. TN CODE ANN. § 39-17-1601 et seq. (1995).

Restaurants

NONE

Enforcement

"No Smoking" signs shall be prominently posted and properly maintained on each main building entrance and prominently displayed throughout each building where smoking is regulated by TN Code Ann. § 39-17-1601 et seq. Notice shall also be prominently posted, including at each ticket booth, for elementary or secondary school sporting events. An institution violating any provisions of this act or failing to take reasonable measures to enforce this act commits a Class B misdemeanor, punishable only by a fine not to exceed \$500. TN CODE ANN. § 39-17-1601 et seq. (1995).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 13 cents

Date last changed: June 1, 1969 -- 8 cents to 13 cents

Year first enacted: 1925

Other Tobacco Products

Chewing tobacco and snuff: 6% of the manufacturer's wholesale price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The Department of Agriculture shall conduct random, unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance with this law. Law enforcement efforts may involve the use of individuals under the age of 18 if a parent has consented to this action. **This Act and other provisions of Tennessee Code Annotated preempt the entire field of legislation concerning the regulation of tobacco products. Any law or regulation enacted or**

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

TENNESSEE

promulgated after March 15, 1994 by any agency or political subdivision of the state is void; except for regulations concerning smoking in local government buildings.* TN CODE ANN. § 39-17-1501 et seq. and § 39-17-1551 (1994).

Penalty: A person who sells or distributes any tobacco product to a minor or purchases a tobacco product on behalf of such person is guilty of a Class A misdemeanor, punishable only by a fine not to exceed 2,500 dollars. A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that they may be under the age of 18. In the case of distribution by mail the distributor shall obtain from the addressee an affirmative statement that he or she is 18 or older, and shall inform the recipient that they are strictly prohibited from distributing any tobacco product to any person under 18. Distributors who violate these provisions are also guilty of a Class A misdemeanor, punishable only by a fine not to exceed \$2,500. Any person who is convicted on 3 separate occasions is prohibited from selling tobacco products and possession of such products for resale for a period of 5 years from the date of the last conviction. **See above preemption.*** TN CODE ANN. § 39-17-1501 et seq. (1995).

Sign posting requirement: Retailers who do not keep posted at each point of sale a notice citing state law, shall be guilty of a Class C misdemeanor punishable only by a fine of \$25 for the first offense and \$50 for each succeeding offense within a two year period. **See above preemption.*** TN CODE ANN. § 39-17-1501 et seq. (1994).

Penalties to minors: Minors who purchase or accept receipt of tobacco products or present fraudulent proof of age to obtain such products shall be guilty of a Class C misdemeanor, punishable only by a fine of \$50 or 25 hours of community service work for a first offense and a fine of \$50 and 50 hours of community service work for subsequent offenses within a one year period. **See above preemption.*** TN CODE ANN. § 39-17-1501 et seq. (1994).

Other provisions: If an employee sells or distributes tobacco products or samples to minors they shall be guilty of the violation and be subject to the fine. If an owner or proprietor knowingly permits an employee to violate this law, they shall also be deemed guilty of the violation. **See above preemption.*** TN CODE ANN. § 39-17-1501 et seq. (1994).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall distribute tobacco product samples in or on any public street, sidewalk, or park that is within 500 feet of any playground, school, or other facility when the facility

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

TENNESSEE

is being used primarily by persons under the age of 18. Violators are guilty of a Class A misdemeanor punishable only by a fine not to exceed \$2,500. If a tobacco product is distributed to a minor, the employee engaged in the business of sampling shall be deemed guilty of the violation and be subject to the fine. **See above preemption.*** TN CODE ANN. § 39-17-1501 et seq. (1994).

It is unlawful for any person to sell cigarettes or smokeless tobacco products except in the original, sealed package in which they were placed by the manufacturer that bears the health warning required by federal law. Violators of this section commit a Class C misdemeanor. **See above preemption.*** TN CODE ANN. § 39-17-1501 et seq. (1994).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines shall be located in the following areas: in areas of factories, businesses, offices, or other places that are not open to the public; in places that are open to the public but to which persons under the age of 18 are denied access; in places where alcoholic beverages are sold for consumption on the premises, only if the machine is under the constant supervision of the owner or their employee and is inaccessible when the establishment is closed; and, in other places if the machine is under the continuous supervision of an employee, or the machine can only be operated by the use of a token purchased from the proprietor prior to each purchase, and is inaccessible to the public when the establishment is closed. The person who maintains a vending machine in violation of this law or fails to demand proof of age as required commits a Class C misdemeanor. If a sale is made through a vending machine to a minor, the proprietor shall be deemed guilty of the violation and subject to the fine, unless the proprietor made an employee responsible for supervising the machine, then the employee shall be guilty and subject to the fine. **See above preemption.*** TN CODE ANN. § 39-17-1501 et seq. (1994).

F. LICENSING REQUIREMENTS

Every person engaged in the business of selling, distributing, or handling tobacco products must obtain a license. Retailers are not specifically mentioned. TN CODE ANN. § 67-4-1015 (1988).

License fee: \$25 for each wholesale warehouse; \$10 for each distributor.

Penalty for sales to minors: NONE

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

TENNESSEE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

TEXAS

TEXAS

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Minimal

Public Places

Smoking is restricted to designated areas in elevators, enclosed theaters or movie houses, libraries, museums, transit system or intrastate buses, planes, and trains. TX PENAL CODE ANN. § 48.01 (1975).

Government Buildings

NONE

Private Workplaces

NONE

Schools

Students are prohibited from smoking or using tobacco products on school property or at any off-campus school-sanctioned activity. TX EDUC. CODE § 21.927 (1987). Smoking, or possession of a burning tobacco product, is restricted to designated areas in public primary and secondary schools. TX PENAL CODE ANN. § 48.01 (1975).

Day Care

NONE

Health Facilities

Smoking is restricted to designated areas in hospitals. TX PENAL CODE ANN. § 48.01 (1975).

Restaurants

NONE

Enforcement

Signs must be posted stating that smoking is prohibited. Failure to post such signs is a defense to prosecution, and is punishable by a fine not to exceed 500 dollars. It is also a defense to prosecution to fail to provide facilities to extinguish smoking materials, and is punishable by a fine not to exceed \$200. A person who smokes in a nonsmoking area is punishable as a Class C misdemeanor. TX PENAL CODE ANN. § 48.01 (1991).

B. TOBACCO EXCISE TAXES

Cigarettes

TEXAS

Tax rate per pack of 20: 41 cents
Date last changed: July 1, 1990 -- 26 cents to 41 cents
Year first enacted: 1931

Other Tobacco Products

Chewing tobacco and snuff: 35.21% of manufacturer's price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: A person commits an offense if the person, as a commercial enterprise sells or causes to be sold a tobacco product to someone the person knows to be younger than 18, or to someone they know intends to deliver it to someone who is younger than 18. Violation is a Class C misdemeanor. TX HLTH. CODE ANN. § 161.081 (1991).

Sign posting requirement: Each person who sells tobacco at retail or by vending machine shall post a sign in a location that is conspicuous to all employees and customers and that is close to the place at which the tobacco products may be purchased. The sign must mention the prohibition of the sale of tobacco products to minors and penalties for a violation. If a person intentionally fails to display such sign, they shall be guilty of a Class C misdemeanor. TX HLTH. CODE ANN. § 161.082 (1991).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

NONE

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Sign posting requirement: Each person who sells tobacco at retail or by vending machine shall post a sign in a location that is conspicuous to all employees and customers and that is close to the place at which the tobacco products may be purchased. The sign must mention the prohibition of the sale of tobacco products to minors and penalties for a violation. If a person intentionally fails to display such sign, they shall be guilty of a Class C misdemeanor. TX HLTH. CODE ANN. § 161.082 (1991).

TEXAS**F. LICENSING REQUIREMENTS**

A person may not engage in business as a distributor, wholesale or retail dealer of cigarettes, including vending machine owners, unless they have received a permit from the treasurer. TX TAX CODE ANN. §§ 154.001 and 154.101 (1991).

License fee: NONE

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

A sign containing an advertisement for cigarettes or tobacco products may not be closer than 500 feet to a church or public or private school. A "sign" is defined as an outdoor medium, including a structure, display, light device, figure, painting, drawing, message, plaque, poster, or billboard that is used to advertise or inform and visible from the main-traveled way of a street or highway. This section does not apply to a sign located on or in a facility owned or leased by a professional sports franchise; a sign in a facility where professional sports events are held at least 10 times during a 12 month period; or, a contract for a tobacco product advertisement entered into before August 26, 1991. TX HLTH & SAFETY CODE § 161.121 et seq.

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

UTAH

UTAH

A. CLEAN INDOOR AIRClean Indoor Air Rating: Comprehensive**Public Places**

Smoking is prohibited in the following enclosed indoor places of public access: buildings, offices, shops, elevators, or restrooms; means of transportation or common carrier waiting rooms; shopping malls, retail stores, grocery stores, or arcades; libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas; barber shops, hair salons, or laundromats; sports or fitness facilities; or, any area where the proprietor or manager of the area has posted a conspicuous sign stating there is no smoking. This prohibition does not apply to: buildings owned or operated by a social, fraternal, or religious organization when used solely by their members, guests and families; any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor; private clubs; separately ventilated smoking areas in Salt Lake City International Airport; or, guest rooms in hotels, motels, and other similar lodging facilities, except for the common areas where smoking is prohibited, including lobbies and dining areas. In addition, smoking tobacco as part of a traditional religious ceremony of an American Indian Tribe is exempt from the prohibition. This law shall be enforced by the state Department of Health and local health departments. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. **This law supersedes any ordinance enacted by a governing body of a political subdivision that restricts smoking and that is not essentially identical to the provisions of this chapter.*** UT CODE ANN. § 26-38-1 et seq. (1995). Smoking on any bus, except a chartered bus, constitutes a Class C misdemeanor. The passenger who is in violation may be ejected by the bus driver and other passengers from whom the driver requests assistance. UT CODE ANN. § 76-10-1506 (1991).

Government Buildings

Smoking is prohibited in all publicly owned buildings and offices. These buildings include any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or any agency supported by appropriation of, or by contracts or grants from funds derived from the collection of federal, state, county or municipal taxes. This law shall be enforced by the state Department of Health and local health departments. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. **See above preemption.*** UT CODE ANN. § 26-38-1 et seq. (1994).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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Private Workplaces

An employer who operates a workplace that is not a place of public access or a publicly owned building shall establish or negotiate through collective bargaining a written smoking policy before February 1, 1995, or within 30 days after becoming an employer subject to this section. If the employer has less than 10 full-time employees, the policy need not be in writing. The policy shall; prohibit smoking in the workplace; restrict smoking to designated enclosed areas; or, permit smoking in designated unenclosed areas if the layout of the workplace prevents smoke in the work areas of all nonsmoking employees and $\frac{3}{4}$ of the employees in the workplace agree. If the local health department determines the smoking areas do not effectively prevent smoke in the work areas of nonsmoking employees, the department may require the employer to ban smoking entirely through a hearing process. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. **See above preemption.*** UT CODE ANN. § 26-38-1 et seq. (1994).

Schools

The use of tobacco products is prohibited in public elementary and secondary school buildings and on school property during school hours. Adult faculty and staff members of private schools may smoke in designated areas or on the grounds of private schools during non-school hours. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. **See above preemption.*** UT CODE ANN. § 26-28-1 et seq. (1994).

Day Care

The use of tobacco products is prohibited in any licensed child care facilities, including those in private homes, when children being cared for are present. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. **See above preemption.*** UT CODE ANN. § 26-28-1 et seq. (1994).

Health Facilities

Smoking is prohibited in all common areas of nursing homes and hospitals including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas and restrooms. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. **See above preemption.*** UT CODE ANN. § 26-28-1 et seq. (1994).

Restaurants

Smoking is prohibited in restaurants, cafes, and cafeterias. This law shall be enforced by the state Department of Health and local health departments. Violators may be fined up to \$100 for a first violation and \$100-\$500 for subsequent violations. **See above preemption.*** UT CODE ANN. § 26-38-1 et seq. (1994).

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 26.5 cents

Date last changed: July 1, 1991 – 23 cents to 26.5 cents

Year first enacted: 1923

Other Tobacco Products

Chewing tobacco and snuff: 35% of manufacturer's selling price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 19

Enforcement: A peace officer may investigate possible violations of retail establishments that sell tobacco products by requesting a person under the legal age to attempt to purchase tobacco products from the establishment. Written parental consent must be obtained prior to any attempt and the minor must be under the supervision and direction of the peace officer. This person may not misrepresent their age by false or misleading identification documentation during the attempt. Immediately following the attempted purchase, the supervising peace officer shall inform the cashier and the proprietor or manager that the attempted purchaser was under age. Citations must be issued within seven days of the purchase. The peace officer shall make a report of the attempted purchase, whether or not a purchase was made, including information on all the parties involved and a picture of the person who attempted the purchase showing how that person appeared at the time of the attempt. The person requested by the peace officer to attempt the purchase may be a trained volunteer or receive payment but may not be paid based on the number of successful purchases of tobacco. UT CODE ANN. § 77-39-101 (1994).

Penalty: Violation of this law is a Class C misdemeanor for the first offense, punishable by a fine up to \$1,000, a Class B misdemeanor for the second offense, and a Class A misdemeanor for subsequent offenses, punishable by a maximum fine of 10,000 dollars. UT CODE ANN. § 76-10-104 (1989).

Sign posting requirement: NONE

Penalties to minors: Any person under the age of 19 who buys, accepts or possesses any tobacco product shall be guilty of a class C misdemeanor, or may be subject to the jurisdiction of the juvenile court. UT CODE ANN. § 76-10-105 (1989).

Other provisions: It is a class C misdemeanor for the proprietor of any place of

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business to knowingly permit persons under 19 to frequent their place of business while they are using tobacco. UT CODE ANN. § 76-10-103 (1973).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

It is unlawful for a manufacturer, wholesaler, or retailer to give or distribute tobacco products without charge, except to adults at professional conventions where the general public is excluded and to persons of legal age upon their purchase of tobacco products. Violation is a Class C misdemeanor for the first offense and a Class B misdemeanor for subsequent offenses. UT CODE ANN. § 76-10-112 (1989).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Selling tobacco in any form through vending machines or tobacco product machines is prohibited, except in bars, privately owned and operated clubs or associations that have a private club liquor license or charge membership fees. A workplace may also maintain these machines for adult employees if the machines are in areas not available to the general public. Violation is a class C misdemeanor for the first offense, a class B misdemeanor for the second offense, and a class A misdemeanor for subsequent offenses. UT CODE ANN. § 76-10-105.1 (1989).

F. LICENSING REQUIREMENTS

Retailers, including cigarette vending machine owners or operators, and distributors and wholesalers must obtain a license from the state Tax Commission to sell cigarettes and other tobacco products. A separate license is required for each place of business. No renewal needed. UT CODE ANN. § 59-14-101 et seq. (1994).

Licensing fee: Cigarette license fees are to be determined by the commission, there is no fee for a license for other tobacco products if a fee was already paid for a cigarette license.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

UTAH

H. ADVERTISING AND PROMOTION

It is a class B misdemeanor for any person to display on any billboard, streetcar sign, streetcar, bus, placard or on any other object or place of display, any advertisement of any tobacco product, except that a dealer in tobacco products may have a sign on the front of his place of business stating that he deals in the articles. This law does not prohibit advertisements of tobacco products in any newspaper, magazine, or other periodical in the state. UT CODE ANN. § 76-10-102 (1986). This section also required warnings on newspaper, magazine or periodical advertisements for smokeless tobacco products. However, the language of this provision deferred to any subsequently enacted federal law for the specific warning language required to be placed in smokeless tobacco advertisements. Shortly thereafter, the federal Comprehensive Smokeless Tobacco Health Education Act of 1986 was enacted and said that no other statement relating to the use of smokeless tobacco products and health shall be required by any state or local statute or regulation to be included on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product. 15 U.S.C. 4406 (b).

VERMONT

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Comprehensive

Public Places

The possession of lighted tobacco products in any form is prohibited entirely in the common areas of any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned, to which the general public has access. These places include buildings, offices, means of transportation, common carrier waiting rooms, arcades, retail stores, grocery stores, libraries, theaters, concert halls, auditoria, arenas, barber shops, hair salons, laundromats, shopping malls, museums, art galleries, sports and fitness facilities, planetariums, and historical sites. Also included are the common areas of nursing homes, hospitals, resorts, hotels and motels. Common areas are defined as lobbies, hallways, elevators, restaurants, restrooms and cafeterias. Smoking is permitted in bars, hotels, and motels until July 1, 1995. After this date, smoking areas will be allowed only in places licensed as cabarets. These restrictions do not apply to buildings owned and operated by social, fraternal, or religious organizations, when used by the membership of these organizations. VT STAT. ANN. Title 18, § 1741 et seq. (1993).

Government Buildings

Smoking is banned entirely in the common areas of buildings and offices owned, leased, or rented by state, county, or municipal governments, or by agencies supported by appropriation of, or by contracts or grants from, funds derived from federal, state, county, or municipal taxes. VT STAT. ANN. Title 18, § 1741 et seq. (1993).

Private Workplaces

Public and private sector employers are required to establish, or shall negotiate through the collective bargaining process, a written smoking policy. The policy must prohibit smoking throughout the workplace or restrict it to designated enclosed areas. Smoking is forbidden in areas used or visited regularly by non-smoking employees, such as elevators, hallways, conference rooms, or rest rooms. Employers may designate up to 30% of an employee cafeteria or lounge as a smoking area and may permit smoking in designated unenclosed areas only if the layout of the workplace is such that smoking will not be a physical irritant to any non-smoking employee, and 75% of the employees in the designated areas agree to allow smoking. Failure to comply voluntarily with a written request to establish or post a smoking policy is punishable with a \$100 fine. VT STAT. ANN. Title 18, § 1421 et seq. (1987).

Schools

No person shall be permitted to use tobacco on public school grounds and no student

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shall be permitted to use tobacco at public school sponsored functions. VT STAT. ANN. Title 16, § 140 (1995).

Day Care

Smoking is banned entirely in the common areas of buildings supported by appropriation of, or by contracts or grants from, funds derived from federal, state, county, or municipal taxes. VT STAT. ANN. Title 18, § 1742 (1993).

Health Facilities

Smoking is prohibited in the common areas of nursing homes and hospitals. VT STAT. ANN. Title 18, § 1742 (1993).

Restaurants

Effective July 1, 1995 smoking is banned entirely in restaurants. VT STAT. ANN. Title 18, § 1744 (1993).

Enforcement

A proprietor, or the agent or employee of the proprietor, who observes a person violating this law must ask that person to extinguish all lighted tobacco products. If the person refuses, he/she will be asked to leave the premises. VT STAT. ANN. Title 18, § 1745 (1993)

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 44 cents
Date last changed: July 1, 1995 -- 20 cents to 44 cents
Year first enacted: 1937

Other Tobacco Products

Chewing tobacco and snuff: 41% of the gross sale wholesale price

The net revenue generated by the additional 24 cents of tax per pack on cigarettes and the additional 21% of the rate of tax on other tobacco products, shall be transferred monthly to the Vermont health access fund. This fund finances health care coverage for uninsured or underinsured low income Vermonters. VT STAT. ANN. Title 32, § 7823 (1995).

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: A person who sells or furnishes tobacco products to a person under 18 years of age shall be fined not more than 100 dollars. VT STAT. ANN. Title 7, § 1007 (1991).

Sign posting requirement: A person licensed under this chapter shall post in a conspicuous place on the premises a printed copy of the provisions of sections requiring proof of age and penalties to minors for purchasing tobacco products or misrepresenting their age to do so. Persons failing to post such signs shall be guilty of a misdemeanor and fined not more than \$100. VT STAT. ANN. Title 7, § 1006 (1991).

Penalties to minors: A person less than 18 years of age shall not purchase tobacco products or misrepresent his or her age to do so. A minor who misrepresents his or her age shall be fined not more than \$50 or provide up to 10 hours of community service, or both. VT STAT. ANN. Title 7, § 1005 (1991).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

A person who furnishes tobacco products to a person under 18 years of age shall be fined not more than 100 dollars. VT STAT. ANN. Title 7, § 1007 (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines selling tobacco products may only be located in establishments where alcoholic beverages are offered for sale under third class licenses, or where overnight lodging is available. These machines must be in plain view and under the control of a responsible employee. Vending machines may also be located in factories, businesses, offices, or other places not generally open to the public, or where minors are not permitted access. VT STAT. ANN. Title 40, § 1003 (1991).

Sign posting requirement: A person licensed under this chapter shall post in a conspicuous place on any vending machine a printed copy of the provisions of sections requiring proof of age and penalties to minors for purchasing tobacco products or misrepresenting their age to do so. Persons failing to post such signs shall be guilty of a misdemeanor and fined not more than \$100. VT STAT. ANN. Title 7, § 1006 (1991).

F. LICENSING REQUIREMENTS

Wholesalers must obtain a license from the Commissioner of Taxes to sell tobacco products. VT STAT. ANN. Title 32, § 7731 (1959). Cigarette and other tobacco product retailers, including those who provide a vending machine for their sale, must obtain a license from the legislative body of the municipality where the products are to be sold. VT STAT. ANN. Title 7, § 1002 (1991).

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Licensing fee: \$10 annually for each retail site.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA and ACS oppose laws that elevate smokers to a protected class.

VIRGINIA

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Moderate

Public Places

Smoking is prohibited in elevators, polling rooms, and indoor service and cashier lines. Retail establishments of 15,000 square feet or more serving the general public shall designate reasonable no-smoking areas. These establishments include: department stores; grocery stores; drug stores; clothing stores; shoe stores; and, recreational facilities such as stadiums, arenas, skating rinks, arcades, or senior citizen recreational facilities. The proprietor or person in charge shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking". Any person failing to post signs will be fined not more than \$25. CODE OF VA § 15.1-291.1 et seq. (1996).

Government Buildings

Buildings owned by the Commonwealth of Virginia, or any agency thereof, and every county, city, or town shall provide reasonable no-smoking areas. This shall not apply to office, work or other areas of the Department of Corrections which are not entered by the general public. Smoking is prohibited in public restrooms in any building owned or leased by the Commonwealth or any agency thereof. Smoking is prohibited in local/district health departments. CODE OF VA § 15.1-291.1 et seq. (1996).

Private Workplaces

NONE

Schools

Smoking is prohibited on public school buses and in the interior of any public elementary, intermediate, and secondary school; provided that smoking may be allowed in a designated area which is not a common area, including but not limited to, classrooms, libraries, hallways, restrooms, cafeteria, gymnasium, or auditoriums after regular school hours so long as all student activities in the building have been concluded. CODE OF VA § 15.1-291.1 et seq. (1996).

Day Care

Smoking is prohibited in any child day care center that is not also used for residential purposes. This does not apply to any portion of a building not used by a child day CODE OF VA § 15.1-291.2 (1996).

Health Facilities

Smoking is prohibited in hospital emergency rooms and public restrooms of health care facilities. Reasonable no-smoking areas must be designated in health care facilities including hospitals and nursing homes. CODE OF VA § 15.1-291.1 et seq. (1996).

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Restaurants

Non-smoking areas must be provided in restaurants seating 50 or more persons. Signs conspicuous to ordinary public view at or near each entrance stating "No Smoking Section Available" shall be posted. Any person failing to post signs will be fined not more than \$25. CODE OF VA § 15.1-291.1 et seq. (1996).

Enforcement

Localities may not enact further restrictions, unless they contain the provisions of the "model" ordinance. All local ordinances in effect prior to July 1, 1989, remain in effect. Smoking and no-smoking signs must be posted. Proprietors who fail to post signs may pay a civil penalty of not more than 25 dollars. Persons who continue to smoke in a no smoking area after being asked to refrain may be subject to a civil penalty of not more than \$25. **Local ordinances adopted after January 1, 1990 shall not contain provisions or standards which exceed those established in this chapter.*** CODE OF VA § 15.1-291.1 et seq. (1990).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 2.5 cents

Date last changed: September 1, 1966 – 3 cents to 2.5 cents

Year first enacted: 1960

Other Tobacco Products

Chewing tobacco and snuff: NONE

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: No person shall sell to, distribute to, purchase for or knowingly permit the purchase of any tobacco product by any person less than 18. No person shall sell a tobacco product to any individual who does not demonstrate, by producing a driver's license or similar government issued photo identification, that the person is at least 18. Violation by an individual or a separate retail establishment shall be punishable by a civil penalty not to exceed \$50 for the first violation, up to \$100 for a second violation and up to \$250 for subsequent violations. CODE OF VA § 18.2-371.2 (1996).

Sign posting requirement: Retail establishments that sell tobacco products shall post

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

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signs indicating that the sale of tobacco products to any person under the age of 18 is prohibited by law. Proprietors in violation of this requirement may be charged with a civil penalty not to exceed \$50. CODE OF VA § 18.2-371.2 (1996).

Penalties to minors: No person under the age of 18 shall purchase or possess any tobacco product. Violators shall be punishable by a civil penalty not to exceed \$50 for the first violation, \$100 for subsequent violations. The judge may enter an order for a third or subsequent violation. CODE OF VA § 18.2-371.2 (1996).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Cigarettes shall be sold only in sealed packages provided by the manufacturer, with the required health warning. Civil action may be brought by any attorney for the county, city or town in which the alleged violation occurred to recover a civil penalty not to exceed \$50. CODE OF VA § 18.2-371.2 (1996).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement Restrictions: Vending machines must be placed inside establishments at least ten feet from any public entrance; or the sale of a token is required to operate the machine with the machine within the line of sight of the proprietor or his employees. CODE OF VA § 18.2-371.2 (1996).

Sign posting requirement: Where any tobacco product is sold from a vending machine notice shall also be posted on the machine in a conspicuous manner and place indicating that the purchase or possession of tobacco products by minors is unlawful. Violation by an individual or a separate retail establishment shall be punishable by a civil penalty not to exceed \$100. CODE OF VA § 18.2-371.2 (1996).

F. LICENSING REQUIREMENTS

NONE

G. SMOKING PROTECTION LAWS**

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

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H. ADVERTISING AND PROMOTION

NONE

WASHINGTON

A. CLEAN INDOOR AIR

Clean Indoor Air Rating: Extensive

Public Places

Smoking is restricted to designated areas in enclosed public places including, but not limited to, shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public rest rooms, libraries, waiting areas, lobbies, and reception areas. Smoking is prohibited in elevators, museums, public buses, streetcars, taxis – except those clearly marked as permitting smoking – public areas of retail stores and lobbies of financial institutions, public meetings or hearings, and aisle ways which are contiguous to seating areas of concert halls, theaters, auditoriums, exhibition halls, and indoor sports arenas. REV. CODE OF WA ANN. § 70.160.010 et seq. (1985).

Government Buildings

The state Department of Labor and Industries issued a regulation to prohibit smoking entirely in indoor office areas or provide designated enclosed smoking rooms that satisfy the following requirements: shall be ventilated at a fixed rate; shall maintain sufficient negative pressure to prevent smoke migration to other areas; shall have a mechanical exhaust system that exhausts directly outside without recirculation to nonsmoking areas; no employee shall be required to enter the area while smoking is occurring; and, shall be clearly designated. The regulation became effective October 8, 1994. (Enactment was initially slated for September 1, 1994, but was delayed by a court injunction granted to the tobacco industry and other plaintiffs. A state court rejected the preliminary challenge deciding regulators had the authority to create the ban.) WAC 296-62-12000 et seq. (1994).

Private Workplaces

The state Department of Labor and Industries issued a regulation to prohibit smoking entirely in indoor office areas or provide designated enclosed smoking rooms that satisfy the following requirements: shall be ventilated at a fixed rate; shall maintain sufficient negative pressure to prevent smoke migration to other areas; shall have a mechanical exhaust system that exhausts directly outside without recirculation to nonsmoking areas; no employee shall be required to enter the area while smoking is occurring; and, shall be clearly designated. The regulation became effective October 8, 1994. (Enactment was initially slated for September 1, 1994, but was delayed by a court injunction granted to the tobacco industry and other plaintiffs. A state court rejected the preliminary challenge deciding regulators had the authority to create the ban.) WAC 296-62-12000 et seq. (1994).

WASHINGTON**Schools**

Each school district board of directors must adopt a written policy prohibiting the use of all tobacco products on public school property. A total ban on the use of all tobacco products on school property shall be enforced as of September 1, 1991. The policy may allow for exemptions with regard to alternative education programs. WA REV. CODE § 28A.21.310 (1989). Smoking is prohibited in classrooms and lecture halls in schools, colleges, and universities. REV. CODE OF WA ANN. § 70.160.010 et seq. (1985).

Day Care

Please see workplace regulation as it pertains to administrative office areas. WAC 296-62-12000 et seq. (1994).

Health Facilities

Smoking is restricted to designated areas in hospitals, nursing homes, health care facilities and clinics. Smoking is forbidden in the hallways of health care facilities – with the exception of nursing homes. REV. CODE OF WA ANN. § 70.160.010 et seq. (1985). Please see workplace regulation as it pertains to administrative office areas. WAC 296-62-12000 et seq. (1994).

Restaurants

Managers of restaurants who choose to provide smoking areas shall designate an adequate amount of seating to meet the demands of restaurant patrons who wish to smoke. REV. CODE OF WA ANN. § 70.160.010 et seq. (1985). Please see workplace regulation as it pertains to administrative office areas. WAC 296-62-12000 et seq. (1994).

Enforcement

Owners must post signs prohibiting or permitting smoking. Intentional violations of this law are punishable by fines up to 100 dollars. REV. CODE OF WA ANN. § 70.160.010 et seq. (1985).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 81.5 cents

Date last changed: July 1, 1995 -- 56.5 cents to 81.5 cents

Year first enacted: 1935

Other Tobacco Products

Chewing tobacco and snuff: 74.9% of wholesale price

The cigarette excise tax is scheduled to increase by an additional 1 cent on July 1, 1996.

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products****Minimum age for sales of cigarettes and smokeless tobacco: 18**

Enforcement: The liquor control board and the board's authorized agents or employees shall have the full power to conduct random, unannounced, inspections with local county health departments or districts and local law enforcement agents to assure compliance with these laws. Persons under eighteen may be used with parental authorization for participation in controlled purchases for enforcement purposes. **This chapter preempts political subdivisions from adopting or enforcing requirements for the licensure and regulation of tobacco product promotions and sales within retail stores.*** REV. CODE OF WA ANN. § 70.155.005 et seq. (1993).

Penalty: Every person who shall sell or give, or permit to be sold or given to any person under the age of 18 years any tobacco product or cigarette wrapper shall be guilty of a gross misdemeanor. The liquor control board may fine a licensed person who violates this provision \$100 for the first violation within any two-year period, \$300 for the second violation within this period, \$1000 and suspension of license for a period of six months for the third violation within this period, \$1,500 and suspension of license for one-year for the fourth violation within this period, and revoke a license with no chance of reinstatement for five years for the fifth or subsequent violation during this period. Any person who is not licensed who commits an offense may be fined \$50 for the first violation and \$100 for any subsequent violation. **See above preemption.*** REV. CODE OF WA ANN. § 26.28.080 (1987) and § 70.155.005 et seq. (1993).

Sign posting requirement: A person who is licensed to sell tobacco products shall display a sign concerning the prohibition of tobacco sales to minors and possible penalties to minors for purchase. Such sign shall be posted so that it is clearly visible to any person purchasing tobacco products from the licensee. The liquor control board may fine a licensed person who violates this provision \$100 for the first violation within any two-year period, \$300 for the second violation within this period, \$1000 and suspension of license for a period of six months for the third violation within this period, \$1,500 and suspension of license for one-year for the fourth violation within this period, and revoke a license with no chance of reinstatement for five years for the fifth or subsequent violation during this period. **See above preemption.*** REV. CODE OF WA ANN. § 70.155.005 et seq. (1993).

Penalties to minors: Individuals under eighteen who purchase, attempt to purchase or obtain any tobacco product are guilty of a class 3 civil infraction, punishable by a fine, participation in a smoking cessation class, or both. **See above preemption.*** REV.

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

WASHINGTON

CODE OF WA ANN. § 70.155.005 et seq. (1993).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

Sampling is prohibited in or on a public street, sidewalk, park that is within 500 feet of a playground, school, or other facility being used primarily by persons under the age of eighteen. Sampling is permitted in areas where minors are not permitted, in stores that have a retailer's license, and at or adjacent to outdoor construction sites. No person shall engage in the business of sampling without receiving a license from the state Liquor Control Board. Violation is a fine of \$300 for each violation. No person shall give or distribute coupons for tobacco products if such coupon is redeemed in any manner that does not require an in-person transaction in a retail store. Violation is a fine of \$1,000 for each violation. **See above preemption.*** REV. CODE OF WA ANN. § 70.155.005 et seq. (1993).

No person shall sell or permit to be sold cigarettes not in the original unopened package to which the required stamp has been affixed. The liquor control board may fine a licensed person who violates this provision \$100 for the first violation within any two-year period, \$300 for the second violation within this period, \$1000 and suspension of license for a period of six months for the third violation within this period, \$1,500 and suspension of license for one-year for the fourth violation within this period, and revoke a license with no chance of reinstatement for five years for the fifth or subsequent violation during this period. Any person who is not licensed who commits a violation may be fined \$100 for each offense. **See above preemption.*** REV. CODE OF WA ANN. § 70.155.005 et seq. (1993).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Sales of tobacco products from vending machines are prohibited unless the machines are located at industrial work sites where minors are not employed or fully within premises where minors are not permitted. Vending machines must not be less than ten feet from all entrances or exits on the premises. The board shall adopt rules that allow an exception to the 10 foot requirement if it is architecturally impractical for the device to be located not less than 10 feet from all entrance and exit ways. Violations of this provision are punishable by a fine of \$100 for each day the violation occurs. **See above preemption.*** REV. CODE OF WA ANN. § 70.155.005 et seq. (1993).

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WASHINGTON**F. LICENSING REQUIREMENTS**

Wholesalers and retailers must obtain a license from the department of revenue. REV. CODE OF WA ANN. § 82.24.500 et seq. (1993). Licenses must be obtained to distribute tobacco product samples at no or nominal cost. REV. CODE OF WA ANN. § 70.155.050 (1993).

Licensing fee: \$650 for each wholesaler, \$93 annually for each retail site, and an additional \$30 for each vending machine, \$500 annually for manufacturers whose employees distributes samples, \$50 annually for all other samplers.

Penalty for sales to minors: The state Liquor Control Board may revoke a license if the licensee violates state laws concerning sale of tobacco products to minors, sampling, vending machine placement, or distribution of cigarettes outside of their original packages. REV. CODE OF WA ANN. § 70.155.005 (1993).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

WEST VIRGINIA**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Minimal****Public Places**
NONE**Government Buildings**
NONE**Private Workplaces**
NONE**Schools**

The use of tobacco products while the school is occupied for school purposes is restricted to faculty or staff lounges or offices that students do not have access to. Violation is punishable by a fine of \$1 to \$5 for each offense. WV CODE § 16-9A-4 (1987).

Day Care
NONE**Health Facilities**
NONE**Restaurants**
NONE**B. TOBACCO EXCISE TAXES****Cigarettes**

Tax rate per pack of 20: 17 cents
Date last changed: June 1, 1978 – 12 cents to 17 cents
Year first enacted: 1947

Other Tobacco Products

Chewing tobacco and snuff: NONE

C. YOUTH ACCESS

Age Restrictions on Sales of Tobacco Products

Minimum age for sales of cigarettes and smokeless tobacco: 18

Enforcement: The division of public safety, acting with and through the sheriffs of the counties of this state and the chiefs of police of municipalities of the state, shall annually conduct random unannounced inspections at locations where tobacco products are sold or distributed. Persons under 18 years of age may be enlisted to test compliance with these sections if the tests are conducted under the direct supervision of the acting authority and written parental consent is first obtained. Any other use of a minor is a misdemeanor, punishable by the same fine listed below. WV CODE § 16-9A-7 (1994).

Penalty: No person, firm or corporation may sell, furnish, or cause to be sold or furnished any tobacco product or cigarette paper to a minor. Violators are guilty of a misdemeanor and shall be fined between \$10 and \$25 for the first offense and \$25 to \$300 for each subsequent offense. WV CODE § 16-9A-2 (1987).

Sign posting requirement: NONE

Penalties to minors: No person under the age of eighteen shall use, or have on or about his or her person or premises for use, any tobacco product or paraphernalia. Violators will be fined \$5 and the magistrate court shall have concurrent jurisdiction. WV CODE § 16-9A-3 (1987).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person, firm or corporation may give or furnish, or cause to be given or furnished any tobacco product or cigarette paper to a minor. Violators are guilty of a misdemeanor and shall be fined between \$10 and \$25 for the first offense and \$25 to \$300 for each subsequent offense. WV CODE § 16-9A-2 (1987).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

NONE

F. LICENSING REQUIREMENTS

NONE

WEST VIRGINIA**G. SMOKING PROTECTIONS LAWS****

NONE

H. ADVERTISING AND PROMOTION

Any outdoor billboard advertisement for smokeless tobacco products must conspicuously display one of the following statements: "Warning: This product may cause mouth cancer. Warning: This product may cause gum disease and tooth loss. Warning: This product is not a safe alternative to cigarettes." The warnings shall be rotated every four months by the manufacturer, package, or importer of such products in an alternating sequence. Any outdoor billboard advertisement that does not conform to the provisions of this section shall be deemed a nuisance affecting public health. **No other warning, format or type style in any billboard advertisement shall be required by any state or local statute or regulation.* WV CODE § 16-9A-5 (1987).**

WISCONSIN**A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Extensive****Public Places**

Smoking is restricted to designated areas in public conveyances, indoor theaters, offices, public passenger elevators, retail stores, and public waiting rooms. Exceptions to this law include rooms used for private functions under the sponsor's control, manufacturing plants, correctional facilities, and offices occupied exclusively by smokers. WI STAT. ANN. § 101.123 (1992).

Government Buildings

Smoking is restricted to designated areas in any enclosed indoor area of a state, county, city, village, or town building. WI STAT. ANN. § 101.123 (1992).

Private Workplaces

Smoking is restricted to designated areas in any space that serves as a place of work. WI STAT. ANN. § 101.123 (1992).

Schools

The use of all tobacco products is prohibited on premises controlled by a school board, except that the school board may allow the use of tobacco products on premises owned by the school district and rented to another person for noneducational purposes. WI STAT. ANN. § 120.12(20) (1989).

Day Care

Smoking is prohibited on the premises, indoors or outdoors, of a day care center, when children who are receiving day care services are present. WI STAT. ANN. § 101.123 (1994).

Health Facilities

Smoking is restricted to designated areas in inpatient health care facilities. Designated areas may not be established in hospitals or physician's offices except in hospitals that have as a primary purpose the care and treatment of mental illness, alcoholism, or drug abuse. WI STAT. ANN. § 101.123 (1992).

Restaurants

Smoking is restricted to designated areas in restaurants, unless the restaurant's liquor sales account for more than 50% of the receipts, or the seating capacity is less than 50 persons. WI STAT. ANN. § 101.123 (1992).

WISCONSIN**Enforcement**

The person in charge or his or her agent shall post notice of the designation of a smoking area in or near the area designated. If an entire room is designated a smoking area, he/she shall post notice of the designation conspicuously on or near all entrances to the room normally used by the public. Individuals who willfully violate this law will be fined not more than 10 dollars. State or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this Act. WI STAT. ANN. § 101.123 (1992).

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 44 cents

Date last changed: September 1, 1995 – 38 cents to 44 cents

Year first enacted: 1939

Other Tobacco Products

Chewing tobacco and snuff: 20% of manufacturer's list price

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless: 18

Penalty: No retailer, manufacturer or distributor may sell cigarettes or tobacco products to any person under the age of 18. Vending machine operators are not liable for this provision if they were unaware of the purchase. Violation is punishable by a fine up to \$500 for first offense, between \$200 and \$500 and a three day suspension of license for the second violation within 12 months, and progressive suspensions for subsequent offenses within that period. **A county, town, village or city may adopt an ordinance regulating the conduct regulated by this section only if it strictly conforms to this section.*** WI STAT. ANN. § 134.66 (1993).

Sign posting requirement: Retailers shall post signs in areas within their premises where tobacco products are sold to consumers stating that the sale of tobacco products to minors is unlawful. Failure to post such notice is punishable by a fine of 25 dollars. **See above preemption.*** WI STAT. ANN. § 134.66 (1989).

Penalties to minors: It is illegal for minors to possess, purchase or falsely represent

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

WISCONSIN

his or her age in attempt to purchase tobacco products. For violations, the juvenile court may require counseling of the child or their parents, forfeiture of up to \$25, or participation in a supervised work program. If a child fails to pay any fine imposed, the court may suspend the child's motor vehicle operating privileges for between 30 and 90 days. See above **preemption**.* WI STAT. ANN. § 48.983 (1992).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person except within the place of business of the manufacturer, distributor, jobber, subjobber or retailer. See above **preemption**.* WI STAT. ANN. § 134.66 (1988).

No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed. See above **preemption**.* WI STAT. ANN. § 134.66 (1994).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: No person may place a vending machine within 500 feet of a school. No retailer may keep a vending machine in any public place that is open to persons under 18 unless the vending machine is in a place where it is ordinarily in the immediate vicinity, plain view, and control of an employee and is in a place that is inaccessible to the public when the premises are closed. Violation is punishable by a fine up to \$500 for first offense, between \$200 and \$500 and a three day suspension of license for the second violation within 12 months, and progressive suspensions for subsequent offenses within that period. See above **preemption**.* WI STAT. ANN. § 134.66 (1993).

Sign posting requirement: A vending machine operator shall attach a notice in a conspicuous place on the front of their machine stating that the purchase of tobacco products by persons under 18 years of age is unlawful and violators may be fined up to \$25. Failure to post such notice is punishable by a fine of \$25. See above **preemption**.* WI STAT. ANN. § 134.66 (1989).

F. LICENSING REQUIREMENTS

Multiple retailers, wholesalers, and vending machine operators must obtain a state license from the Department of Revenue to sell cigarettes. Retailers who are not

* The ALA, AHA and ACS oppose preemption of local tobacco control authority.

WISCONSIN

multiple retailers must obtain a local license to sell tobacco products. WI STAT. ANN. § 139.34 (1993).

Licensing fee: \$5 annually for a retail license; \$50 annually for multiple retail, wholesale, or vending machine licenses.

Penalty for sales to minors: Punishment for violations include a three day suspension of license for the second violation within 12 months and progressive suspensions for subsequent offenses within that period. The maximum suspension provided is 15 to 30 days for four or more violations within twelve months. **See above preemption.*** WI STAT. ANN. § 134.66 (1993).

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING & PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

WYOMING**WYOMING****A. CLEAN INDOOR AIR****Clean Indoor Air Rating: Minimal****Public Places**

NONE

Government Buildings

Smoking is not permitted in any building under control of the Capitol Building Commission except in specially ventilated designated smoking areas. WY State Govt. Non-Smoking Policy 1989.

Private Workplaces

NONE

Schools

NONE

Day Care

NONE

Health Facilities

NONE

Restaurants

NONE

B. TOBACCO EXCISE TAXES**Cigarettes**

Tax rate per pack of 20: 12 cents

Date last changed: July 1, 1989 -- 8 cents to 12 cents

Year first enacted: 1951

Other Tobacco Products

Chewing tobacco and snuff: NONE

C. YOUTH ACCESS**Age Restrictions on Sales of Tobacco Products**

Minimum age for sales of cigarettes and smokeless tobacco: 18

Penalty: No person shall sell, offer for sale, or deliver tobacco products to any person under the age of 18. Violators are guilty of a misdemeanor punishable by a fine of not more than 50 dollars. WY STAT. ANN. § 14-3-301 et seq. (1991).

Sign posting requirement: Signs must be posted at or near every display of tobacco products and on or upon every vending machine. The signs shall be plainly visible and inform the public that the sale of tobacco products to persons under 18 is prohibited by law. Failure to post such notice is a misdemeanor punishable by a fine of not more than \$50 for each day the violation continues. WY STAT. ANN. § 14-3-301 et seq. (1991).

Penalties to minors: It is unlawful for a minor to purchase, use, possess or misrepresent their age or identity to purchase tobacco products. Violation is a misdemeanor punishable by a fine not more than \$25 or community service at the rate of \$5 for each hour of work performed. It is an affirmative defense to prosecution for use or possession of tobacco products that the defendant was in the home of or under the direct supervision of his parent or guardian. WY STAT. ANN. § 14-3-301 et seq. (1991).

D. RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCT SAMPLES OR SALES OF SINGLE CIGARETTES

No person shall give away or deliver tobacco products to any person under the age of 18. Violators are guilty of a misdemeanor punishable by a fine of not more than 50 dollars. WY STAT. ANN. § 14-3-301 et seq. (1991).

E. RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

Placement restriction: Vending machines are restricted to locations in a business, factory, office, or other place not generally open to the public, and in places where persons under 18 are not permitted, including areas where alcoholic beverages are sold or dispensed. Violation is a misdemeanor punishable by a fine of not more than 50 dollars. WY STAT. ANN. § 14-3-301 et seq. (1991).

Sign posting requirement: Signs must be posted at or near every display of tobacco products and on or upon every vending machine. The signs shall be plainly visible and inform the public that the sale of tobacco products to persons under 18 is prohibited by law. Failure to post such notice is a misdemeanor punishable by a fine of not more than \$50 for each day the violation continues. WY STAT. ANN. § 14-3-301 et seq. (1991).

WYOMING**F. LICENSING REQUIREMENTS**

Wholesalers must obtain a license to sell tobacco products. WY STAT. ANN. § 39-6-101 et seq. (1991).

Licensing fee: \$10 annually.

Penalty for sales to minors: NONE

G. SMOKING PROTECTION LAWS**

NONE

H. ADVERTISING AND PROMOTION

NONE

** The ALA, AHA, and ACS oppose laws that elevate smokers to a protected class.

APPENDIX A

STATE LAWS RESTRICTING SMOKING IN PUBLIC PLACES (42)

ALASKA	LOUISIANA	OHIO
ARIZONA	MAINE	OKLAHOMA
CALIFORNIA	MARYLAND	OREGON
COLORADO	MASSACHUSETTS	PENNSYLVANIA
CONNECTICUT	MICHIGAN	RHODE ISLAND
DELAWARE	MINNESOTA	SOUTH CAROLINA
DISTRICT OF COLUMBIA	MISSOURI	SOUTH DAKOTA
FLORIDA	MONTANA	TENNESSEE
GEORGIA	NEBRASKA	TEXAS
HAWAII	NEVADA	UTAH
IDAHO	NEW HAMPSHIRE	VERMONT
ILLINOIS	NEW JERSEY	VIRGINIA
IOWA	NEW YORK	WASHINGTON
KANSAS	NORTH DAKOTA	WISCONSIN

STATE LAWS RESTRICTING SMOKING IN GOVERNMENT BUILDINGS (43)

ALASKA	KENTUCKY	NORTH DAKOTA
ARIZONA	MAINE	OHIO
ARKANSAS	MARYLAND	OKLAHOMA
CALIFORNIA	MASSACHUSETTS	OREGON
COLORADO	MICHIGAN	PENNSYLVANIA
CONNECTICUT	MINNESOTA	RHODE ISLAND
DELAWARE	MISSOURI	SOUTH CAROLINA
DISTRICT OF COLUMBIA	MONTANA	SOUTH DAKOTA
FLORIDA	NEVADA	UTAH
HAWAII	NEW HAMPSHIRE	VERMONT
IDAHO	NEW JERSEY	VIRGINIA
ILLINOIS	NEW MEXICO	WASHINGTON
INDIANA	NEW YORK	WISCONSIN
IOWA	NORTH CAROLINA	WYOMING
KANSAS		

STATE LAWS RESTRICTING SMOKING IN PRIVATE WORKPLACES (23)

ALASKA	MAINE	NEW YORK
CALIFORNIA	MARYLAND	PENNSYLVANIA
CONNECTICUT	MINNESOTA	RHODE ISLAND
DELAWARE	MISSOURI	UTAH
DISTRICT OF COLUMBIA	MONTANA	VERMONT
FLORIDA	NEBRASKA	WASHINGTON
ILLINOIS	NEW HAMPSHIRE	WISCONSIN
IOWA	NEW JERSEY	

APPENDIX B
STATE LAWS RESTRICTING SMOKING IN PUBLIC PLACES

E = Restriction encouraged
 X = Restriction required
 ● = Smoking prohibited
 V = Enclosed, separately ventilated areas required, or smoking is banned entirely.

	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO
Arts/Cultural Facilities		X	X		V	●		X		X		●		X		X	X		X	X		X	X			X
Child Care Centers		●		●	●	●	X	●	X	●	●	●		●			●		X	X	V	X	●	●		●
Elevators		●			●	●	X	●	●	●	●	●	●			●	●		●		●	●	●			X
Government Buildings		X	X	X	●	X	X	X	X	X		X	●	X	X	X	X	X	E	X	●	X	X	●		X
Gymnasium/Arenas		X			X	X		X		X		X	X	X		X	X		X	X			X	X		X
Health Facilities		X	X	X	V	X	X	X	X	X		X	X	X	X	X	X		X	X	V	X	X	X		X
Jury/Courtrooms		X						X		X							X			X		X				
Public Meetings					●			●	●	X		●	X	X		X			X	X		●	X	X		X
Public Transit					●	X	X	●	●	●	●		X	X		●	●		●		●	●	X	X	●	X
Restaurants		X			V	E	X	X	X	X		X	X	X		X	X		X	X	X	X	X	X		X
Restrooms										●		X					X			●						X
Retail/Grocery Stores		X			V		X	X		X		X	X	X		X	X			X	X	●	X	X		X
Schools		● ¹	X	X	V	●	●	X	X ²	●		●	X	●	X	X	●	X	●	X	●	X	●	●		●
Shopping Centers																X				X						X
Workplace-Private Sector		X			V	E	X	X	X	X				X		X			E	X	V			X		X

¹ Does not apply to areas designated through collective bargaining agreements made prior to 8/14/90.

² Designated smoking areas are permitted only in private schools, smoking is banned entirely in public schools.

**APPENDIX B
STATE LAWS RESTRICTING SMOKING IN PUBLIC PLACES**

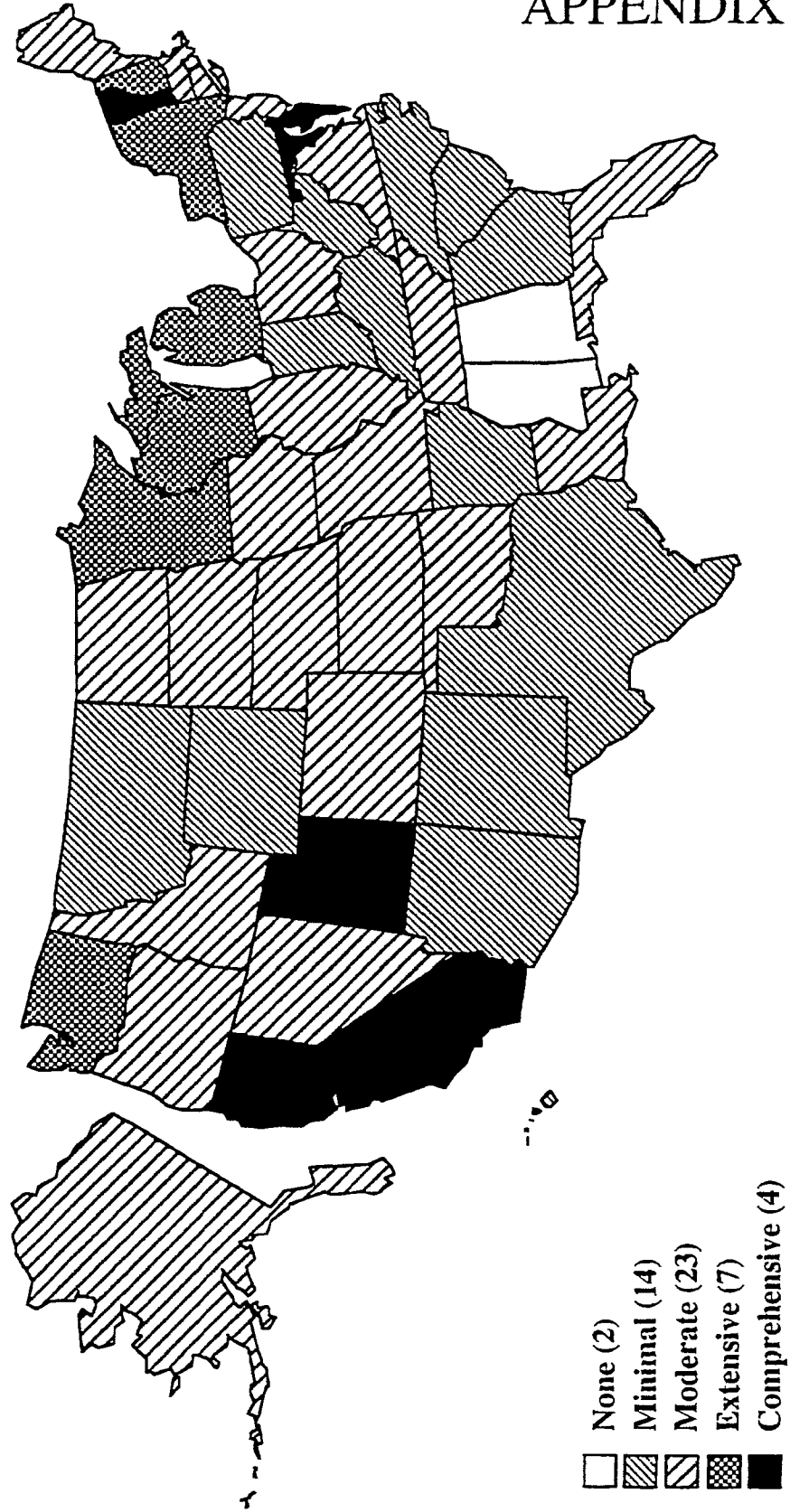
E = Restriction encouraged
 X = Restriction required
 ● = Smoking prohibited
 V = Enclosed, separately ventilated areas required
 or smoking is banned entirely.

	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Arts/Cultural Facilities	●			X	X		X		X	X	X	●		X	●	X	X	X	●	●		X	X	X	
Child Care Centers	●		X	●			●		●	V	●				●	X	X		●	●	X	V	●	●	
Elevators	●		●	●	●		●		X	X	●	●		●	●	X	E	X	●	●	●	●	●	●	
Government Buildings	X		X	X	X		X		X	X	X	X	X	X	X	X		X	●	●	X	V	X	X	X
Gymnasium/Arenas	X	X		X			X		X	X	X	X	X	X	X	X		X	●	●	X	X	X	X	
Health Facilities	X	X	X	X	X		X		X	X	X	X	X	X	X	X		X	●	●	X	X	X	X	X
Jury/Courtrooms												X				X			●						
Public Meetings	X	X		X	●	X						●		X	●	X		X	●	●		●	●	●	
Public Transit	●	X	X	●	●		●		X	X	X	●	●	X	●	X		X	●	●		X	X	X	X
Restaurants	X	X	X	X	E		X		X		E	X	X	X					●	●		X	X	X	X
Restrooms							X												●	●		X	X	X	X
Retail/Grocery Stores	X	X	X	X	●		X					X	X	X					●	●	X	X	X	X	X
Schools	X	X	X	●	X ²	●	●		X	X	X	X	X	●	X	X	●	X	X ²	●	●	X	●	●	●
Shopping Centers				X															●	●		X	X	X	X
Workplace-Private Sector	X	X		X	X		X						X	X					●	●		V	●	●	X

² Designated smoking areas are permitted only in private schools, smoking is banned entirely in public schools.

Restrictions on Smoking in Public Places

APPENDIX C



APPENDIX D

STATE CIGARETTE EXCISE TAX CONTINUUM AND NET REVENUE COLLECTED IN FISCAL YEAR 1996

State	Tax Rate* (cents per pack of 20)	Revenue Collected
Virginia	2.5	15,677,000
Kentucky	3	19,035,451
North Carolina	5	46,500,000
South Carolina	7	26,281,679
Georgia	12	94,878,990 ²
Wyoming	12	5,891,976
Tennessee	13	83,897,869
Indiana	15.5	116,131,190
Alabama	16.5	71,168,246
Missouri	17	109,134,604
West Virginia	17	33,651,705
Mississippi	18	47,695,321
Montana	18	13,344,644
Colorado	20	59,261,805
Louisiana	20	87,992,446
New Mexico	21	22,860,465
Oklahoma	23	59,330,737
Delaware	24	21,900,000
Kansas	24	52,359,188
Ohio	24	294,460,240
New Hampshire	25	45,420,240 ¹
Utah	26.5	25,631,780
Idaho	28	25,228,034 ²
Alaska	29	15,278,000 ³
Pennsylvania	31	297,660,000
Arkansas	31.5	83,226,450

State	Tax Rate* (cents per pack of 20)	Revenue Collected
South Dakota	33	20,384,000
Florida	33.9	438,376,726
Nebraska	34	39,570,929
Nevada	35	51,059,766 ²
Iowa	36	99,483,000
Maryland	36	131,853,396
California	37	639,030,000
Maine	37	44,989,294
New Jersey	40	245,700,000
Texas	41	505,200,000
Illinois	44	415,503,997
North Dakota	44	22,668,014
Vermont	44	13,877,014
Wisconsin	44	197,960,000
Minnesota	48	176,296,000
Connecticut	50	123,588,353
New York	56	677,347,081
Arizona	58	168,112,602
Hawaii	60	34,683,674
Rhode Island	61	52,457,531
D.C.	65	Not available
Oregon	68	109,175,658 ⁴
Michigan	75	569,100,100
Massachusetts	76	232,845,000 ⁴
Washington	82.5	254,043,015 ⁴

* As of December 31, 1996.

¹New Hampshire revenue total is an unaudited figure, but it is not expected to change. It also includes other tobacco product revenue.

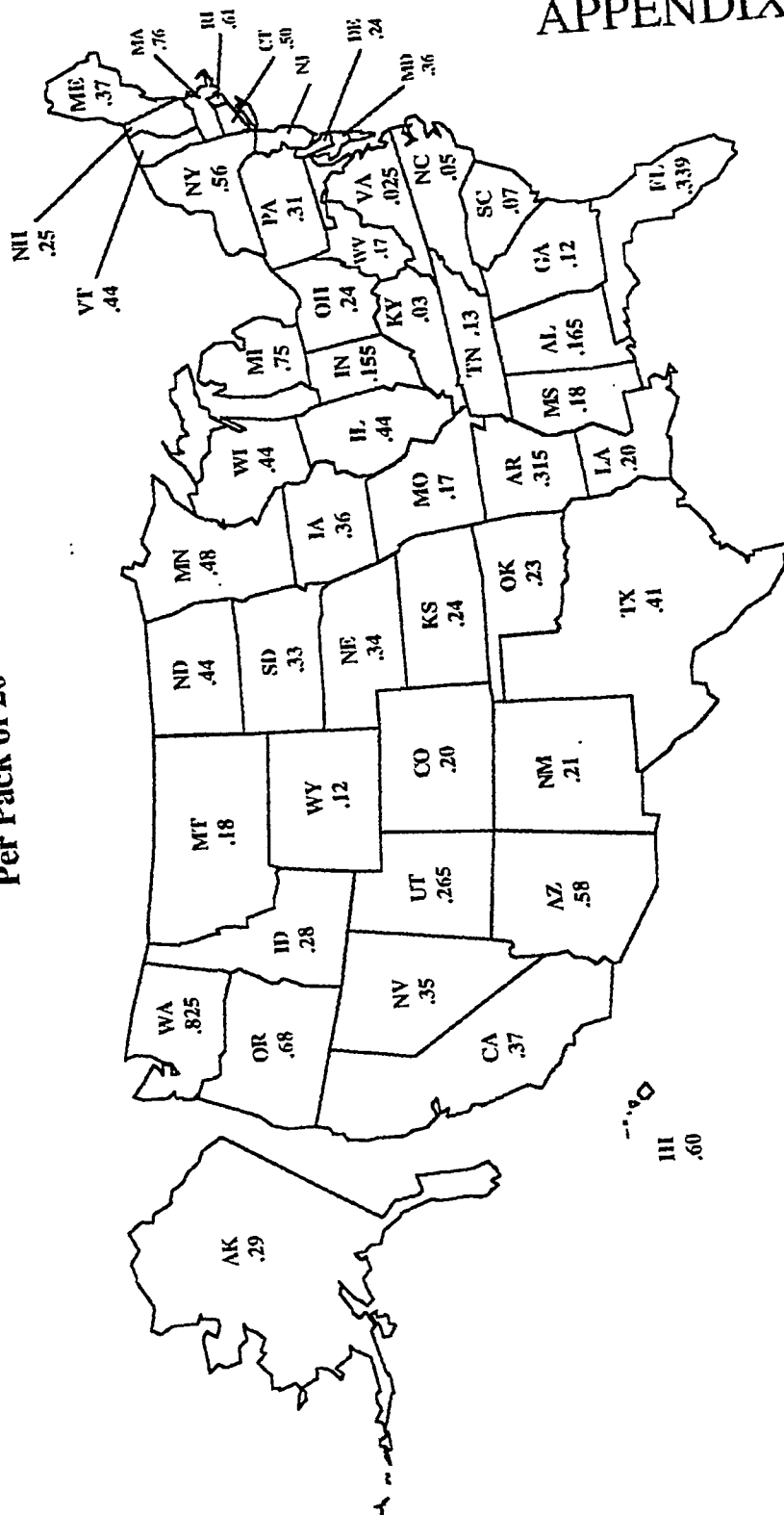
²Gross revenue total.

³Revenue total includes revenue from other tobacco products as well.

⁴The latest tax increase became effective in FY 1997, thus revenue total does not reflect the current tax rate listed at left.

State Excise Taxes on Cigarettes

Per Pack of 20



APPENDIX E

APPENDIX F

REQUIREMENTS ON SALE OF TOBACCO PRODUCTS IN VENDING MACHINES

<u>STATE</u>	AK	AR	CA	CO	CT	DC	DE	FL	GA	HI	ID	IL
<u>SIGN POSTING</u>		X		X	X				X	X		X ¹
<u>RESTRICTIONS ON PLACEMENT</u>	X	X	X	X	X	X	X ³	X	X	X	X ²	X

<u>STATE</u>	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO
<u>SIGN POSTING</u>	X				X ³	X	X	X		X		X
<u>RESTRICTIONS ON PLACEMENT</u>	X ⁴	X ^{3,4}	X ⁴	X ³		X ^{3,4}	X ²	X ²	X	X ⁴	X ³	X ²

<u>STATE</u>	MT	NE	NV	NH	NJ	NM	NY	OH	OK	OR	RI
<u>SIGN POSTING</u>				X	X	X ³	X				X
<u>RESTRICTIONS ON PLACEMENT</u>	X ³	X	X ³	X	X ²	X ³	X	X	X ^{3,4}	X ³	X

<u>STATE</u>	SD	TN	TX	UT	VT	VA	WA	WI	WY
<u>SIGN POSTING</u>	X		X		X	X		X ³	X
<u>RESTRICTIONS ON PLACEMENT</u>	X ³	X ^{3,4}		X	X	X ⁵	X ³	X ³	X

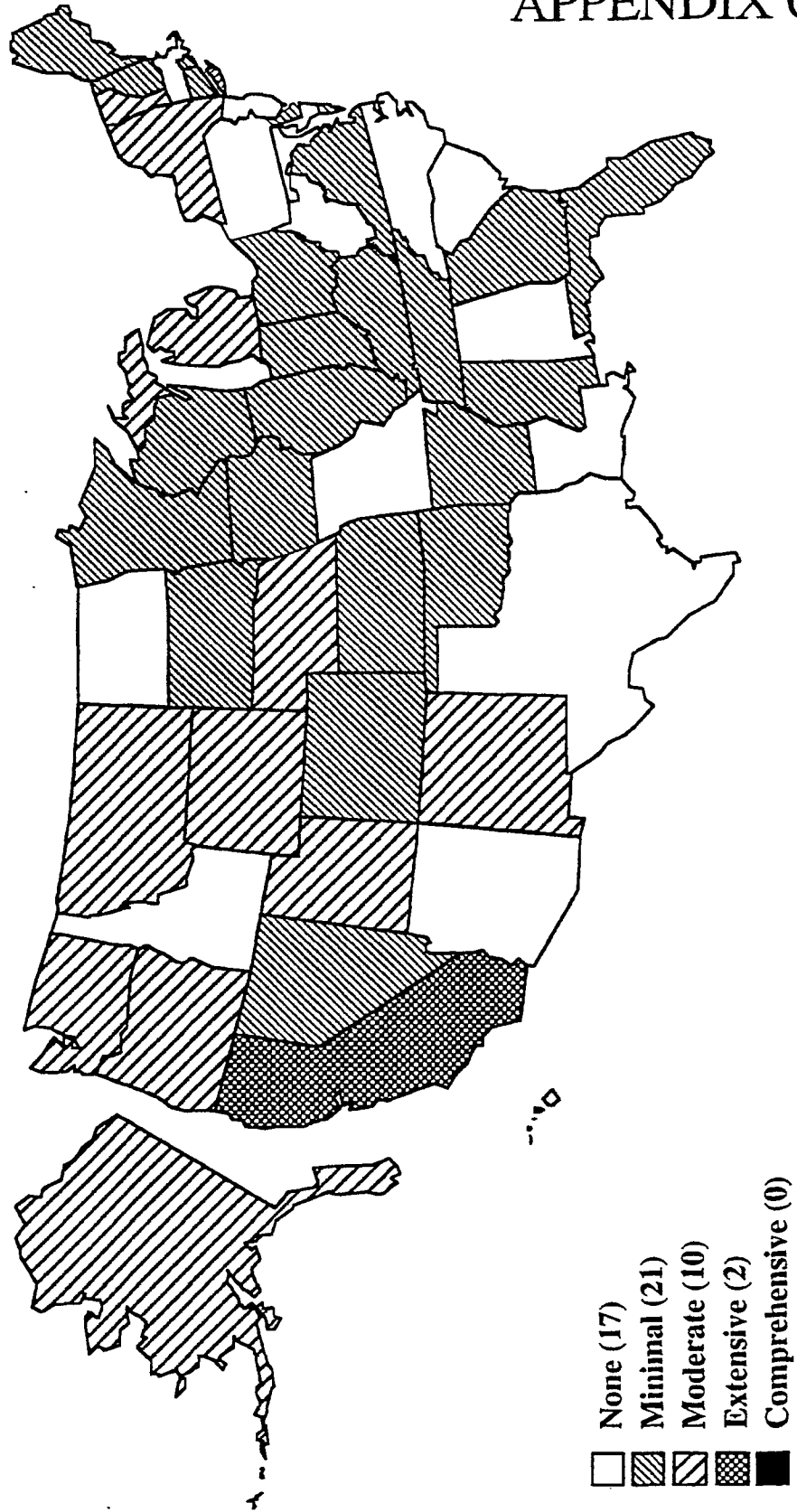
- ¹ Mandates signs warning of the dangers of cigarette smoking during pregnancy.
- ² No restriction on placement, but owners or operators are made specifically liable for sales to minors, except Maryland and Missouri absolve owners of any liability if they have the required warning sign posted on the machine.
- ³ Preempts power of localities to pass stronger ordinances.
- ⁴ Lock-out devices are required on machines in areas accessible to youth. In Tennessee, a device is only required if the machine is not under continuous supervision.
- ⁵ Vending Machines must be placed inside establishments at least ten feet from any public entrance; or the sale of a token is required to operate the machine within the line of sight of the proprietor or his employees.

**STATE LEGISLATED ACTIONS ON TOBACCO ISSUES
AT-A-GLANCE**

State	Restrictions on Smoking in Public Places	As of 12/31/96 Cigarette Excise Tax (cents/pack)	Smokeless Tobacco Excise Tax (% of wholesale sales price)	Sales to Minors (age)	Sample Distribution (restrictions)	Vending Machines (restrictions)
Alabama	none	16.5	¾¢/oz.	19	none	none
Alaska	moderate	29	25	19	none	moderate
Arizona	minimal	58	6.5¢/oz.	18	none	none
Arkansas	minimal	31.5	23 ¹	18	restr.	minimal
California	comp.	37	31.2	18*	restr.	extensive
Colorado	moderate	20	20 ¹	18	none	minimal
Connecticut	moderate*	50	20	18	minors	minimal
Delaware	minimal*	24	15	18	minors*	minimal
D.C.	moderate	65	none	18	restr.	extensive
Florida	moderate*	33.9	25	18	minors	minimal
Georgia	minimal	12	none	18	restr.	minimal
Hawaii	extensive	60	40	18	minors	minimal
Idaho	moderate	28	35	18	none	none
Illinois	moderate*	44	18	18	minors	minimal
Indiana	minimal	15.5	15 ¹	18	minors	minimal
Iowa	moderate*	36	22 ¹	18	restr.*	minimal*
Kansas	moderate	24	10 ¹	18	restr.	minimal
Kentucky	minimal*	3	none	18	minors*	minimal*
Louisiana	moderate*	20	none	18	minors	none*
Maine	moderate	37	62	18	minors*	minimal*
Maryland	comp.	36	none	18	minors	none
Massachusetts	moderate	76	50	18	none	none
Michigan	extensive	75	16	18	minors	moderate
Minnesota	extensive	48	35	18	ban	minimal
Mississippi	none	18	15 ¹	18	minors*	minimal*
Missouri	moderate	17	10 ¹	18	minors	none
Montana	minimal	18	12.5	18*	minors*	minimal*
Nebraska	moderate	34	15	18	ban ²	moderate
Nevada	moderate*	35	30 ¹	18	minors*	minimal*
N.H.	extensive	25	24.7	18	minors	minimal
New Jersey	moderate*	40	24	18	minors	none
New Mexico	minimal	21	25	18*	minors*	moderate*
New York	extensive	56	20	18	restr.*	moderate

Restrictions on Cigarette Vending Machine Placement

APPENDIX G



State	Restrictions on Smoking in Public Places	As of 12/31/96 Cigarette Excise Tax (cents/pack)	Smokeless Tobacco Excise Tax (%of wholesale sales price)	Sales to Minors (age)	Sample Distribution (restrictions)	Vending Machines (restrictions)
N. Carolina	minimal*	5	2	18	minors*	none
N. Dakota	moderate*	44	28	18	minors	none
Ohio	moderate	24	17	18	restr.*	moderate
Oklahoma	moderate*	23	30	18	restr.*	minimal*
Oregon	moderate	68	65	18	minors	moderate*
Pennsylvania	minimal*	31	none	21 ³	minors	none
Rhode Island	moderate	61	20	18	restr.	minimal
S. Carolina	minimal	7	5 ¹	18	minors	none
S. Dakota	moderate*	33	10 ¹	18	restr.*	minimal*
Tennessee	moderate	13	6	18	restr.*	minimal*
Texas	minimal	41	35.21 ¹	18	none	none
Utah	comp.	26.5	35 ¹	19	restr.	moderate
Vermont	comp.	44	41 ¹	18	minors	moderate
Virginia	moderate*	2.5	none	18	none	minimal
Washington	extensive	82.5	74.9	18	restr.*	mod.*
West Virginia	minimal	17	none	18	minors	none
Wisconsin	extensive	44	20 ¹	18	restr.*	minimal
Wyoming	minimal	12	none	18	minors	moderate

1. % of manufacturer's sales, list or wholesale price

2. Smokeless tobacco only

3. 21 for cigarettes and cigarette papers; 18 for other tobacco products

"comp." = comprehensive

* preempts powers of localities to pass stronger ordinances

APPENDIX H

PREEMPTIVE STATE CLEAN INDOOR AIR & YOUTH ACCESS LAWS AND AFFECTED PROVISIONS

STATE	PART OF CODE WHERE PREEMPTION EXISTS	SPECIFIC PROVISIONS PREEMPTED
California	Youth Access	Only preempts the amount of fines localities may impose for violations of youth access provisions.
Connecticut	Clean Indoor Air	Any existing local ordinances relative to smoking.
Delaware	Clean Indoor Air; Youth Access	Any related provisions of local ordinances enacted after the effective date of this law; youth access covers enforcement, sign posting, penalties to minors, sampling and vending machine restrictions.
Florida	Clean Indoor Air	Supersedes any municipal or county ordinance on the subject of the regulation of smoking.
Illinois	Clean Indoor Air	Smoking in public places after October 1, 1989.
Iowa	Clean Indoor Air; Youth Access	Any local law or regulation which is inconsistent with or conflicts with the clean indoor air and youth access laws.
Kentucky	Youth Access	Covers penalties to minors, use, sale and distribution of tobacco products.
Louisiana	Clean Indoor Air; Youth Access	Ordinances or regulations relating to smoking in an office workplace which are more restrictive or stringent than this law after September 1, 1993; relating to sale, promotion and distribution of tobacco.
Maine	Youth Access	Regarding tobacco displays, product placement and the time of tobacco sales.
0 Massachusetts	Youth Access	The sale of cigarette rolling papers.
1 Michigan	Tobacco Tax	Covers sale or licensure of tobacco products for distribution purposes.
2 Mississippi	Youth Access	Covers use, sale, promotion, and distribution of tobacco.
3 Montana	Youth Access	Enactment of stricter youth access provisions.
4 Nevada	Clean Indoor Air	The smoking, use, sale, distribution, marketing, display, or promotion of tobacco products.
5 New Jersey	Clean Indoor Air	Enactment of ordinances more stringent than the state clean indoor air provisions.
6 New Mexico	Youth Access	All ordinances pertaining to the sale of tobacco products shall be consistent with state law.
7 New York	Youth Access	Sampling only.
8 North Carolina	Clean Indoor Air; Youth Access	Local ordinances enacted after 10/1/93 shall not exceed the state clean indoor air provisions; youth access covers the sale, distribution, display or promotion of tobacco products, except vending machines.
9 Oklahoma	Clean Indoor Air; Youth Access	Prohibits local governing bodies from enacting more stringent clean indoor air ordinances; youth access covers sale, purchase, distribution, advertising, sampling, promotion, display, possession, licensing, or taxation.
0 Oregon	Youth Access	Regulation of vending machines accessible to minors only.
1 Pennsylvania	Clean Indoor Air	All ordinances or rules concerning the provisions in the state clean indoor air law.
2 South Carolina	Clean Indoor Air; Youth Access	All laws, ordinances or rules pertaining to tobacco products may not supersede state law or regulation.
3 South Dakota	Tobacco Tax; Youth Access	Covers all matters relating to the use of tobacco products, except a person or public entity may voluntarily regulate its use on their property; youth access covers distribution, marketing, promotion and sale of tobacco.
4 Tennessee	Youth Access	Covers everything concerning regulation of tobacco products enacted or promulgated after 3/15/95, except those concerning smoking in local government buildings.
5 Utah	Clean Indoor Air	Clean indoor air provisions that are not essentially identical to state law.
6 Virginia	Clean Indoor Air	Local ordinances shall not contain provisions that exceed state clean indoor air law.
7 Washington	Youth Access	Localities from adopting or enforcing requirements for the licensure and regulation of tobacco product promotions and sales within retail stores.
8 Wisconsin	Youth Access	Youth access provisions must strictly conform to state law - covers sales to minors, sign posting, penalties to minors, sampling, sales of single cigarettes and vending machine restrictions.

APPENDIX I

SMOKING PROTECTION LAWS

ARIZONA (state employees only)	1991	AZ Rev. Stat. Ann. § 36.601.02
COLORADO	1990	CO Rev. Stat. Ann. § 24-34-402.5
CONNECTICUT	1991	CT Gen. Stat. Ann. § 31-40s
DISTRICT OF COLUMBIA	1993	DC Code § 6-913.3
ILLINOIS	1990	410 ILCS 80/9
INDIANA	1991	IN Stat. Ann. § 22-5-4-1 et seq.
KENTUCKY	1994	KY Rev. Stat. § 344.040
LOUISIANA	1991	LA Rev. Stat. § 23:966
MAINE	1991	26 ME Rev. Stat. Ann. c. 7, § 597
MINNESOTA	1992	MN Stat. Ann. § 181.938
MISSISSIPPI	1994	MS Code Ann. § 71-7-33
MISSOURI	1992	Ann. MO Stat. § 290.145
MONTANA	1993	MT Code Ann. § 39-2-313 and § 39-2-314
NEVADA	1991	NV Rev. Stat. Ann. § 613.333
NEW HAMPSHIRE	1991	NH Rev. Stat. Ann. § 275:37-a
NEW JERSEY	1991	NJSA § 34:6B-1 et seq.
NEW MEXICO	1991	NM Stat. Ann. § 50-11-1 et seq.
NEW YORK	1992	NY Labor Law § 201-d
NORTH CAROLINA	1991	Gen. Stat. of NC § 95-28.2
NORTH DAKOTA	1993	ND Cent. Code § 14-02.4-01 et seq.
OKLAHOMA	1991	40 OK Stat. Ann. § 500 et seq.
OREGON	1989	OR Rev. Stat. § 659.380
RHODE ISLAND	1990	Gen. Laws of RI § 23-20.7.1-1
SOUTH CAROLINA	1990	Code of Laws of SC § 41-1-85
SOUTH DAKOTA (firing only)	1991	SD Cod. Laws § 60-4-11
TENNESSEE (firing only)	1990	TN Code Ann. § 50-1-304
VIRGINIA (govt. only)	1989	Code of VA § 15.1-29.18
WEST VIRGINIA	1992	WV Code § 21-3-19
WISCONSIN	1991	WI Stat. Ann. § 111.31 et seq.
WYOMING	1992	WY Stat. Ann. § 27-9-101 et seq.

APPENDIX J

STATES WHO HAVE FILED SUIT AGAINST TOBACCO COMPANIES*

ALASKA
ARIZONA
CONNECTICUT
FLORIDA
HAWAII
ILLINOIS
IOWA
KANSAS
LOUISIANA
MASSACHUSETTS

MARYLAND
MICHIGAN
MINNESOTA
MISSISSIPPI
NEW JERSEY
NEW YORK
OKLAHOMA
TEXAS
UTAH
WASHINGTON
WEST VIRGINIA

INDEPENDENT CITIES OR COUNTIES

NEW YORK CITY, NY
COUNTY OF LOS ANGELES, CA
CITY OF SAN FRANCISCO, CA
ERIE COUNTY, NY
CAYAHOGA, OH
BROOK PARK, OH

* As of 2/6/97