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Lester

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**PROFILE**  
**OF**  
**STATE TOBACCO LAWS**  
**AS OF**  
**DECEMBER 31, 1997**

51826 1552

# THE TOBACCO INSTITUTE

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## MEMORANDUM

April 9, 1998

TO: Distribution

FROM: Ben D. Kelahan

SUBJECT: **1997 PROFILE OF STATE TOBACCO LAWS**

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Enclosed are the state tobacco laws on smoking, sales, and advertising restrictions, in addition to tax laws and other miscellaneous issues, as of December 31, 1997.

If there are any questions and/or comments with regard to the state profile book, please contact me at (800) 898-4433, ext. 827.

Attachments

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STATE	Age to Purchase	Preemption	Unannounced Inspections	Purchase/Use by Minors Prohibited	Possession by Minors Prohibited	License, Law or Sign Posting Required	Retailer License	Suspension/Revocation of License	Supervision of Vending Machines	Restricts Location of Vending Machines	Loose Sales of Cigarettes Prohibited
ALABAMA	19		•	•	•		•				
ALASKA	19				•	•	•	•	•	•	
ARIZONA	18			•	•						
ARKANSAS	18					•	•	•	•	•	
CALIFORNIA	18	•	•	•		•				•	•
COLORADO	18			•		•			•	•	
CONNECTICUT	18		•	•		•	•	•	•	•	•
DELAWARE	18	•	•	•		•	•	•	•	•	•
FLORIDA	18		•	•	•	•	•	•	•	•	•
GEORGIA	18		•	•		•	•		•	•	
HAWAII	18					•	•			•	•
IDAHO	18		•	•	•		•			•	•
ILLINOIS	18		•	•		•			•	•	•
INDIANA	18		•	•	•	•				•	
IOWA	18	•		•	•			•	•	•	
KANSAS	18		•	•	•	•	•	•		•	
KENTUCKY	18	•	•	•	•	•			•		
LOUISIANA	18	•	•	•	•	•	•	•	•		
MAINE	18		•	•	•	•	•	•	•	•	•
MARYLAND	18	•			•	•	•			•	•
MASSACHUSETTS	18					•	•				
MICHIGAN	18	•		•	•	•				•	•
MINNESOTA	18		•	•		•	•	•	•	•	
MISSISSIPPI	18	•	•			•	•	•	•	•	•
MISSOURI	18					•					
MONTANA	18	•	•	•	•	•	•	•	•	•	•
NEBRASKA	18			•			•	•		•	
NEVADA	18	•	•				•			•	•
NEW HAMPSHIRE	18			•	•	•	•	•	•	•	•
NEW JERSEY	18		•				•	•		•	
NEW MEXICO	18	•	•	•		•				•	•
NEW YORK	18	•				•	•	•	•	•	•
NORTH CAROLINA	18	•	•	•	•	•			•	•	
NORTH DAKOTA	18			•			•				•
OHIO	18					•	•		•		
OKLAHOMA	18	•	•	•	•	•	•	•	•	•	•
OREGON	18	•	•		•	•	•			•	•
PENNSYLVANIA	18			•		•	•				
RHODE ISLAND	18		•	•		•	•		•	•	•
SOUTH CAROLINA	18	•	•			•					
SOUTH DAKOTA	18	•	•	•	•	•				•	•
TENNESSEE	18	•	•	•		•			•	•	•
TEXAS	18		•	•	•	•	•	•		•	•
UTAH	19		•	•	•		•			•	
VERMONT	18		•	•	•	•	•	•	•	•	
VIRGINIA	18		•	•	•	•	•		•	•	•
WASHINGTON	18	•	•	•		•	•	•		•	•
WEST VIRGINIA	18		•		•		•			•	
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WYOMING	18			•	•	•	•			•	
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**STATE PROFILE**  
**OF**  
**SALES RESTRICTIONS**

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## STATE SALES RESTRICTIONS PROFILE

### ALABAMA

#### ADAMHA COMPLIANCE:

State law authorizes the Alabama Beverage Control Board, in conjunction with federal, state and local law enforcement agencies, to enforce state and federal laws that prohibit the distribution of tobacco products to minors [Ala.S.3 § 3 (1997).] State law authorizes the use of minors to assist in enforcing laws prohibiting the distribution of tobacco products to minors [1997 Ala.S. 300, s 3]

#### MINORS--19:

Prohibits the sale or distribution of tobacco products (cigarettes, cigarette paper, cigarette tobacco, or substitutes for them) to a person under age 19. [Ala. Code Sections 13A-12-3, 26-1-1, 26, -101(a)(1996).] A violation is punishable by a fine of up to \$200 for the first violation, or at the discretion of the Alabama Alcoholic Beverage Control Board, a training session administered by the Responsible Vendor Program. A second violation at the same location within 2 years is punishable by a fine of up to \$400. A third violation at the same location within 2 years is punishable by a fine of up to \$750. A fourth violation at the same location within 2 years of the first violation is punishable by a fine of up to \$1,000, as well as suspension or revocation of the retail tobacco permit for the location. The maximum suspension is for one year. Fines may be assessed against the retailer, the employee, or both. Failure of a permit holder to pay a fine within 7 calendar days results in the automatic permit suspension until the fine is paid. [1997 Ala. S. 300, s 9 (c) - (e).] State law prohibits minors from purchasing, using, possessing, or transporting tobacco or tobacco products within the state. Violation is punishable by a fine of \$10-50. Minor employees are, however, authorized to handle, transport, or sell tobacco products in the scope of their employment, if they are in the presence of a store owner or another employee who is 21 years of age or older. [1997 Ala. S. 300, s 13.]

#### SIGN REQUIREMENTS:

State law does not require signs to be posted, but permits obtained from the Alabama Alcoholic Beverage Control Board must be displayed in a conspicuous place at the retail location, or if permit is for a vending machine, on the machine.

## Alabama con't

### LICENSE REQUIREMENTS:

Requires any person distributing tobacco products in the state to obtain a permit from the Alabama Alcoholic Beverage Control Board for each location where tobacco products will be distributed. There is no fee for the permit. Permits must be renewed annually. After January 1, 1998, failing to display or obtain a valid permit is a misdemeanor, punishable by a fine of \$100-\$500 for the first violation, and \$500-\$1,500 for each subsequent violation. The Alcoholic Beverage Control Board also has the authority to suspend or revoke any permit. [1997 Ala. S. 300, ss & 9 (a).] State law requires retail tobacco dealers to pay a "privilege license tax" to the state. No separate county license is required. The tax is based on the number of inhabitants in the geographical area. Vending machine operators also are required to pay the state a "privilege license tax," which is based on the total sales of each vending company. [Ala. Code Sections 11-51-98, 40-12-72., 40-12-176(a)&(b), 40-25-2(a)(1996).]

### VENDING MACHINE RESTRICTIONS:

No state law restricts the location of tobacco vending machines. [Code section 11-51-98] State law requires any person maintaining a tobacco product vending machine to obtain a permit from the Alabama Alcoholic Beverage Control Board for each machine and each machine location. The permit must be displayed in a conspicuous place on the machine. [Alabama S. 300, s 7(b).]

### PREEMPTION:

State law authorizes localities to levy a "license tax" on vending machines except those in industrial plants or on private property for use by employees. Cities and towns are authorized to levy a license tax on most cigarette vending machines within their police jurisdictions. [Ala. Code Section 11-51-98.]

### OTHER:

The Alabama Alcoholic Beverage Control Board has the authority to issue regulations preventing the distribution of tobacco products to minors, and governing the conduct of annual random compliance tests.



## ALASKA

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement and reporting of federal reporting requirements.

### MINORS--19:

Prohibits selling and giving tobacco to persons under the age of 19. Criminally negligent violators will be subject to a fine of not less than \$300, and possible suspension or revocation of license. [Alaska Stat. Sections 11.76.100(a) 43.50.070 (1995)] Prohibits the knowing possession of tobacco products by persons under the age of 19. [Alaska Stat. Sections 11.76.105(1995)] Exemption for possession by, or selling or giving to a minor if the minor is a prisoner in an adult correctional facility. [Alaska Stat. Sections 11.76.100(f), 11.76.105(a)(1995).]

### SIGN REQUIREMENTS:

Requires holders of license endorsements to conspicuously post on their premises a sign at least 6 x 18 inches with lettering at least 1.25 inches in height that states: "The sale of tobacco products to persons under age 19 is illegal." Violation of this sign requirement is punishable by a fine of \$20 to \$300. [Sections 4.21.065(f)(1995)] Signs are issued by the Department of Revenue. [Alaska Stat. Sections 43.70.075(f), 43.99.950(1995)] Persons holding licenses authorizing consumption of alcoholic beverages are required to post a sign, furnished by the state alcoholic beverage control board, at least 11 x 14 inches that states: "WARNING: Drinking alcoholic beverages such as beer, wine, wine coolers, and distilled spirits or smoking cigarettes during pregnancy can cause birth defects." [Alaska Stat. Sections 4.21.065(b)&(f), 4.21.080(b)(2)(1995).]

### LICENSE REQUIREMENTS:

State law requires a manufacturers, distributors, direct-buying retailers, vending machine operators, and buyers of cigarettes to acquire a license from the Department of Revenue for a fee. State law allows for the suspension or revocation of license for selling to a minor, failing to supervise a vending machine, or violating state licensing provisions. [Alaska Stat. Sections 43.50.010(a), 43.50.030, 43.50.070 (1995).]

### VENDING MACHINE RESTRICTIONS:

A person is subject to a criminal penalty of at least \$300 for selling tobacco products by vending machine to a person under the age of 19. Vending machines are permitted (1) on premises licensed as beverage dispensaries, clubs, or package stores if the machine is both located as far as practicable from the facility's primary entrance, and directly and continually supervised by an employee; and (2) in employee break rooms or other controlled areas of private work places. [Alaska Stat. Sections 11.76.100(1995).]

**Alaska con't**

PREEMPTION:

No state law exists.

OTHER:

None.

## ARKANSAS

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement and reporting to comply with federal ADAMHA requirements.

### MINORS--18

State law makes it unlawful to give, barter, or sell tobacco in any form or cigarette papers to a person under the age of 18, except for the parent or guardian. Violators are guilty of a misdemeanor; and subject to a fine of \$100 for first offense, \$250 and suspension of license for seven days for second offense within two years, \$500 and suspension of license for 1-6 months for third violation within two years, and \$1,000 and suspension of license for 9-18 months for fourth and subsequent violations within two years. [Ark. Stat. Ann. Sections 5-27-227(a)&(e)(1995).] Also prohibition on distribution of free samples or coupons to minors or within 500 feet of any facility when the facility is being used primarily by minors. [Ark. Stat. Ann. Sections 5-27-227(c)(1995).] In addition, a person who commits four or more violations during a two year period shall have all his or her tobacco product licenses suspended for 9-18 months, unless the person demonstrates that he or she has an effective system in place to prevent unlawful sales to minors. [Ark. Stat. Ann. Sections 5-27-227(f)(1995).]

### SIGN REQUIREMENTS:

State law requires a sign to be prominently displayed at each sales counter and vending machine. Each sign must include a depiction of a pack of cigarettes at least 2 inches high defaced by a red diagonal diameter of a surrounding red circle and contain in red lettering at least one-half inch high on a white background: "IT IS A VIOLATION OF THE LAW FOR CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD TO A PERSON UNDER THE AGE OF 18." Violators are guilty of a misdemeanor, subject to fines outlined above. [Ark. Stat. Ann. Sections 5-27-227(b), (e) & (f) (1995).]

### LICENSE REQUIREMENTS:

State law requires anyone dealing with or otherwise doing business in tobacco products to obtain a license from the Department of Finance & Administration. [Ark. Stat. Ann. Sections 26-57-203(3), 26-57-214(1995).] Sale and delivery of tobacco products without a license is punishable as a class C misdemeanor for the first offense and as a Class B misdemeanor for subsequent offenses. [Ark. Stat. Ann. Sections 26-57-226(1995).]

## Arkansas con't

### Fees:

Retail Cigarette Permit	\$10.00 annually
Retail Tobacco Permit	\$1.00 annually
General Tobacco Products Vending Permit	\$100.00 annually
Restricted Tobacco Products Vending Permit	\$50.00 annually (1-2 machines)
Tobacco Products Vending Machine License (machine)	\$10.00 annually (for each machine)

[Sections 26-57-219(1995).]

### VENDING MACHINE RESTRICTIONS:

State law prohibits vending machines in public places, except (1) in restricted areas within a factory, business, office, or other structures to which members of the general public are not given access; (2) in permitted premises having a permit for the sale or dispensing of alcoholic beverages for on-premise consumption and restricting entry to persons age 21 or older; and (3) in places where the vending machine is under the supervision of the owner or an employee of the owner. Violators are guilty of a misdemeanor, and subject to fines above. [Ark. Stat. Ann. Sections 5-27-227(1995).] Vending machines operated without a license are subject to seizure and sale. [Ark. Stat. Ann. Section 26-57-227(1995).]

### PREEMPTION:

State law authorizes municipal corporations to license and tax the privilege of operating vending machines on one's own premises or on the premises of others so long as the license tax does not exceed 50% of the total amounts levied on such vendor's licenses under state law. [Ark. Stat. Ann. Sections 26-57-203(9)(17), 26-57-215(6)(A)(1995).]

### OTHER:

None.

## ARIZONA

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement or reporting for federal ADAMHA requirements.

### MINORS--18

State law makes it a criminal offense to knowingly sell, give, or furnish cigars, cigarettes, cigarette papers, or smoking or chewing tobacco to a person under 18 years of age.

Violation by an individual is subject to a fine of not more than \$300. A violation committed by a corporation, association, labor union, or other legal entity, including the legal entity's employees, is subject to a fine of not more than \$1000. Prohibits the purchase and possession of tobacco products by minors. Violators are punishable as criminal offenses, subject to a fine of up to \$300. [Ariz. Rev. Stat. Sections 1-215(19)(definition of a minor), 13-105(15)&(27)(definitions of enterprise and petty offense), 13-305(A)(3)(a)(criminal enterprise liability), 13-803(a)(5)(fines against enterprises); 13-3622(distribution to and possession by a minor), 13-802 (fines)(1996).

### SIGN REQUIREMENTS:

No state law exists.

### LICENSE REQUIREMENTS:

State law does not require a retail tobacco license or vending machine operator license.

### VENDING MACHINES RESTRICTIONS:

No state law exists.

### PREEMPTION:

No state law exists.

### OTHER:

None.

## CALIFORNIA

### SAMHSA:

The Stop Tobacco Access to Kids Enforcement "STAKE" Act authorizes the State Department of Health Services ("DHS") to establish programs to meet federal SAMHSA requirements. DHS has primary responsibility for enforcing these requirements, and may delegate this authority to local law enforcement agencies. DHS and authorized local law enforcement agencies must conduct random sting inspections at retail sites and enlist the assistance of persons who are 15 and 16 years of age in conducting these enforcement activities. [Cal. Bus. & Prof. Code 4809.F (1995); ss.22950-60 (Deering 1996).]

### MINORS--18:

Prohibits the sale, giving, or furnishing of tobacco products or paraphernalia to minors. [Cal. Bus. & Prof. Code s.22958; Cal. Penal Code s.308.] State law requires "persons engaging in the retail sale of tobacco products" to check identification of purchaser if person reasonably appears to be under 18 years of age. [Cal. Bus. & Prof. Code s.22956.] Imposes civil penalty on employer, not employee. [Cal. Bus & Prof. Code s.22952(f).] Proof that defendant, or his or her employee or agent, demanded, was shown, and reasonably relied on evidence of majority shall be a defense to any action. [Cal. Bus. & Prof. Code s. 22952(d)(4); Cal. Penal Code s. 308.] A violation is punishable as a misdemeanor, and also is subject to civil penalties within a 5-year period of \$200-300 for the first offense, \$600-\$900 for the second offense, and \$1,200-1,800 for the third offense, \$3,000-4,000 for the fourth offense, and \$5,000-6,000 for the fifth and subsequent violation. [s308; 22958 (a) (c)]. [Cal. Bus. & Prof. Code s.22958(a); see also Cal. Penal Code s. 308(a).] Alternatively, the California Department of Health and Human Services has the authority to assess civil penalties of \$200-300 for a first offense, \$600-900 for the second violation within 5 years, \$1,200-1,800 for the third violation within 5 years, \$3,000-4,000 for the fourth violation within five years. Prohibits minors from purchasing or receiving of tobacco products or paraphernalia. [Cal. Penal Code s. 308(b).] Violators will be fined \$75 or required to perform 30 hours of community service. [Cal. Pen. s.308(b).] The Director of Corrections may sell or supply tobacco or tobacco products to any person confined in an institution or facility under his jurisdiction who is 16 or older and has parental consent. [Cal. Penal Code s. 308(f).]

## California con't

### SIGN REQUIREMENTS:

DHS is authorized to establish requirements for signs to be posted at each point of purchase. The sign required by the STAKE Act, must include a statement of the prohibition on sales to minors and a toll-free telephone number for the reporting violations. [Cal. Bus. & Prof. Code s 22952 (b), as amended by 1997 Cal. S.B. '98.] Every person or corporation that sells or deals in tobacco is required to post conspicuously at the place of business the sign required by the STAKE Act.

Violations are subject to a fine of \$10 for the first offense and \$50 for each succeeding offense, or by imprisonment for not more than 30 days.

### LICENSE REQUIREMENTS:

State law does not require a retail tobacco license or vending operator license; distributors and wholesalers, however, are subject to licensing requirements. [Cal. Rev. & Tax. Code ss30140, 30155.] (Note: Cigarette vending machine operators separately may be required to obtain a seller's permit under the Sales and Use Tax Law.) [Cal. Bus. & Prof. Code s.22954 (citing Cal. Rev. & Tax. Code ss6001 et seq.).]

### VENDING MACHINE RESTRICTIONS:

State law restricts tobacco vending machines to certain premises licensed by the Department of Alcoholic Beverage Control. Machines must be located at least 15 feet away from the entrance and inside such premises. [Cal. Bus. & Prof. Code s.22960(b).] DHS shall assess civil penalties against any person, firm, or corporation that sells, offers for sale, or distributes tobacco products from a tobacco vending machine, not in compliance with state law or any person, firm, or corporation that leases, furnishes, or services these machines. [Cal. Bus. & Prof. Code s.22958(b). Separate civil and criminal penalties may be applied to the person authorizing the installation or placement of the vending machine on premises he manages or otherwise controls when he knows, or has grounds to know, the machine will be utilized by minors. [Cal. Penal Code s.308(a).]

### PREEMPTION:

The provisions of the penal code outlawing under-age sales provide that "[i]t is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section." [Cal. Penal Code s.308(e). With respect to vending machine sales, the STAKE Act provides that it sets forth minimum state restrictions on the sale of cigarettes or tobacco products from vending machines...and [does] not preempt or otherwise prohibit the adoption of a local standard that further restricts access to and reduces the availability of cigarette or tobacco products from vending machines or devices or that imposes a complete ban..." [Cal. Bus. & Prof. Code s.22960(c).]

**California con't**

**OTHER:**

State law prohibits the sale of cigarettes outside of the importer's or the manufacturer's original packaging or sanitary wrapping which conforms to federal labeling requirements.

[Cal. Penal Code s. 308.z.]



## COLORADO

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement or reporting for federal ADAMHA requirements.

### MINORS--18:

Prohibits the furnishing of cigarettes or tobacco products to persons under 18 years of age. Violation is a Class 2 petty offense and "shall be punished" by a fine of \$200. It shall be a defense to prosecution if the person receiving the tobacco product presented proof of age, and the person furnishing the product reasonably relied on the proof of age. Prohibits the purchase of tobacco products by persons under 18 years of age. Violation is a Class 2 petty offense and "shall be punished" by a fine of \$50 or community service. [Colo. Rev. Stat. Sections 18-13-121(1)(2)(1996).]

### SIGN REQUIREMENTS:

State law requires signs to be prominently displayed in the building and on vending machines. Signs must have minimum height of three inches and a width of six inches and must state: "WARNING: IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE CIGARETTES AND TOBACCO PRODUCTS AND, UPON CONVICTION, A \$50.00 FINE MAY BE IMPOSED" [Colo. Rev. Stat. Sections 18-13-121(4)(b)(1996).]

### LICENSE REQUIREMENTS:

State law does not require a retail tobacco license or vending operator license. [Colo. Rev. Stat. Sections 39-28-101(3)(4), 39-28-102, 39-28-114(1996).]

### VENDING MACHINE RESTRICTIONS:

Sale of cigarettes or tobacco products by vending machine is a Class 2 petty offense punished by a \$200 fine, except that cigarettes may be sold at retail through vending machines in (1) factories, businesses, offices, or other places not open to the general public; (2) places to which persons under the age of 18 are not permitted access; and (3) establishments where the vending machine dispenses cigarettes through the operation of a device that enables an adult employee to prevent the dispensing of cigarettes to minors. [Colo. Rev. Stat. Sections 18-13-121(1996), as amended by 1997 Colo. H.B. 1088.]

**Colorado con't**

**PREEMPTION**

State law authorizes statutory and home-rule municipalities to enact ordinances prohibiting persons under 18 years of age from purchasing cigarettes or tobacco products and to impose more stringent requirements than provided under section 18-13-121. [Colo. Rev. Stat. Sections 18-13-121(3)(1996).]

**OTHER:**

None.

## CONNECTICUT

### ADAMHA COMPLIANCE:

The Commissioner of Revenue Services shall prepare a report on enforcement efforts undertaken pursuant to section 12-286a, 12-289a and 12-314 of the general statutes, as amended, and section 5. Such report shall include the number of unannounced inspections conducted, a summary of enforcement actions taken, and an assessment of the progress made in the previous fiscal year in reducing the availability of tobacco products to minors. The report shall be transmitted on or before January 1, 1998, and annually thereafter.

### MINORS--18:

Any person who sells, gives, or delivers tobacco in any form to a person under the age of 18 is subject to a fine of up to \$200 for the first offense. A second offense within an 18-month period is subject to a \$350 fine, and subsequent offenses within an 18-month period are subject to a fine of up to \$500. [Conn. Gen. Stat. Section 53-344(a)(amended by 1996 Ct. ALS 240, Section 8(1994)] A "dealer" who sells or delivers tobacco in any form to a person under 18 years of age may have its license suspended or revoked for seven days or longer, and may have a penalty of \$1000 or more assessed, for a first offense. Second and subsequent offenses within a five year period require the commissioner of revenue services [Conn. Gen. Stat. Section 12-1(1994) amended by 1995 Ct. ALS 79, 22] to suspend the dealer's license for at least 30 days and to assess a penalty of at least \$5000. The commissioner is also required to order such a dealer to conspicuously post a notice in a public place stating that cigarettes cannot be sold during the period of the suspension and the reason for the suspension. The commissioner may not issue a new license unless the commissioner is satisfied that the license will comply with the provisions of the cigarette tax chapter in the tax code. [Conn. Gen. Stat. Section 12-2, 12-295 (1994)(amended by 1996 Ct. ALS 240 Section 1) State law requires retailers and their employees to require a person attempting to purchase cigarettes or tobacco products whose age is in question to exhibit proper proof of age. "Proper proof" means a motor vehicle operator's license, a valid passport, or an identity card issued under the provisions of Conn. Gen. Stat. Section 1-1h. [Conn. Gen. Stat. Section 53-344a(1994).] A person under the age of 18 who purchases or misrepresents his age to purchase tobacco in any form is subject to a fine of up to \$50 for the first offense and \$50-100 for each subsequent offense. [Conn. Gen. Stat. Section 53-344 (1994).] Beginning July 1, 1997, the Commissioner of Revenue Services must assess civil penalties of up to \$100 on any person under the age of 18 who has purchased cigarettes or tobacco products. [1996 Ct. ALS 240, Section 6]

## Connecticut con't

### SIGN REQUIREMENTS:

State law requires a sign to be posted at each point of sale and on the front of each vending machine. The sign must state that (1) the sale, giving or delivering of tobacco products, including cigarettes, to any person under 18 years of age is prohibited by section 53-344, as amended by section 8 of Public Act 96-240, (2) the purchase or misrepresentation of age by a person under 18 to purchase cigarettes or tobacco products is prohibited section 53-344, and (3) the penalties and fines for violating section 53-344 and section 6 of Public Act 96-240. [Conn. Gen. Stat. Section 12-286a (amended by 1996 Ct. ALS 240, section 2).]

### LICENSE REQUIREMENTS:

State law requires retailers to obtain a dealers' license from the Commissioner of Revenue Services at a cost of \$25 per year. Vending machine operators servicing less than 25 machines are included in definition of dealer. [1996 Ct. ALS 240, Section 1] Vending machine operators with 25 or more machines are required to have a distributor's license from the Commissioner at a cost of \$1000 annually. [12-285 (amended by 1996 Ct. ALS 240, Section 1), 12-287, 12-288 (1994).] A person who knowingly sells, offers for sale, or possesses with intent to sell, any cigarettes, without a properly issued license, is subject to a fine of up to \$500 or imprisonment for up to 3 months. Each day of unauthorized operation can be treated as a separate offense. [Conn. Gen. Stat. Section 12-286 (1994)]

### VENDING MACHINE RESTRICTIONS:

Effective immediately, vending machines are prohibited in areas, facilities, and businesses that are frequented primarily by minors. Cigarettes may not be dispensed by any machine other than vending machines as defined in Conn. Gen. Stat. Section 12-285, as amended by 1996 Ct. ALS 240, Section 1. Vending machines are permitted only (1) in an area, facility, or business that is accessible only to adults; and (2) in an area, facility, or business holding a liquor license so long as there is a separate area accessible only to adults and the machine is placed in that area. Until July 1, 1998, vending machines are permitted in areas, facilities, and businesses that permits to sell alcoholic beverages and that do not have separate area accessible only to adults so long as the machine is not located in a vestibule, lobby, entryway, exit, or restroom and the machine is under the direct supervision, and in the direct line of sight of, and adult employee. Until May 1, 1996, vending machines are permitted in areas, facilities, and businesses, whether or not they hold alcoholic beverage permits, so long as the machines are not placed in vestibules, lobbies, entryways, exits, and restrooms, the machine is under the direct supervision and in the direct line of sight of, and adult employee.

## **Connecticut con't**

Violations are subject to civil penalties of \$250 for a first violation and \$500 for a second violation within 18 months. A third violation is subject to a \$500 civil penalty and the removal of the machine for a year following the removal. Conn. Gen. Stat. Section 12-289a (1994), as amended by 1996 Ct. ALS 240, Section 3.

### **SINGLE CIGARETTES AND SAMPLES:**

State law prohibits the sale of single cigarettes other than in an unopened package originating with the manufacturer and bearing the health warning required by law. State law authorized the Commissioner of Revenue Services to permit sampling of cigarettes or tobacco products so long as (1) sampling is on the premises of a licensed "dealer" or at an event or establishment with an area the access to which is limited to adults provided such distribution is restricted to such area; (2) the sample, if cigarettes, contains no less than 2 cigarettes; and (3) the taxes on such cigarettes have been paid. The section does not apply to the gift or delivery of a package of cigarettes in connection with a sale of similar package of cigarettes. Dealers are liable for samples unlawfully distributed to minors on their premises. [Conn. Gen. Stat. Section 12-314 (1994)(amended 1996 Ct. ALS 240, Section 4); 1996 Ct. ALS 240, Section 5.]

### **PREEMPTION:**

State law authorizes localities to impose more restrictive conditions on cigarette vending machines. [Gen. Stat. Ann. Section 12-289(h), Conn. Gen. Stat. Section 12-289a(h), as amended by 1996 Ct. ALS 240, Section 3.]

### **OTHER:**

Effective July 1, 1996, state law requires the Commissioner of Revenue Services to prepare a report on enforcement efforts under taken pursuant to sections 12-286a(signage), 12-289a (vending machine restrictions), and 12-314 (sale of single cigarettes) of the general statutes, and 5 of Public Act 96-240 (sampling), and to submit that report annually to two designated legislative committees and to the state agency designated by the governor to reduce the rate at which tobacco products are sold to persons under 18 years of age. [1996 Ct. ALS 240, Section 7] This report "shall include the member of unannounced inspections conducted by [the] commissioner," and other information related to enforcement efforts.

## DELAWARE

### ADAMHA COMPLIANCE:

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 and ensure compliance with and enforcement of applicable laws prohibiting underage tobacco sales. Persons under the age of 18 may be enlisted to test compliance, provided, however, that such persons may be used only under the direct supervision of the Department of Public Safety, its employees or delegates and only where written parental consent has been provided. [Del. Code Ann. tit. 11, s.1125 (1996).]

### MINORS--18:

It is unlawful for any person to sell or distribute any tobacco product to another person who has not attained the age of 18 years or to purchase any tobacco product on behalf of another such person, except that this requirement shall not apply to the parent or guardian of another such person. A person engaged in the sale or distribution of tobacco products shall have the right to demand proof of age from a prospective purchaser or recipient of such products. [Del. Code Ann. tit. 11, s.1116.] It shall be unlawful for any person who has not attained the age of 18 years to purchase a tobacco product, to accept receipt of a sample, to exchange a coupon for a tobacco product, or to present or offer to 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 or redeeming a coupon for a tobacco product. Violators are subject to a fine of \$50 or 25 hour of community service work for a first offense; a fine of \$50 and 50 hours of community service work for the second and each subsequent offense. [Del. Code Ann. tit.11, s. 1124.] Any person who sells or distributes tobacco products to minors, distributes samples to minors, distributes cigarettes through impermissible vending machines, or distributes tobacco products in unsealed and improperly labeled packages is subject to a fine of \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and subsequent offenses. Additionally, the court may order the Department of Finance to suspend the person's license for the sale of tobacco products for a period not to exceed six months.

## **Delaware con't**

### **SIGN REQUIREMENTS:**

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 years of age is illegal, that the purchase of tobacco products by anyone under 18 years of age is illegal, and that a violator is subject to fines. The notice shall also state that all persons selling tobacco products have the right, under law, to check the proof of age of any purchaser of tobacco products. The owner of an establishment who fails to post a notice in compliance with this section shall be subject to a fine of \$100. [Del. Code Ann. tit. 11, s.1117.]

### **LICENSE REQUIREMENTS:**

All persons engaged in or conducting the business of manufacturing, purchasing, selling, consigning or distributing tobacco products--including retailers--must obtain an appropriate license. [Del. Code Ann. tit. 30, s.5307.] Vending machine operators are required to obtain identification stamps from the state Tax Department at a cost of \$3 per machine. Identification stamps must be affixed to the machine. [Del. Code Ann. tit. 30, s. 5308.]

### **VENDING MACHINE RESTRICTIONS:**

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, tavern, 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. [Del. Code Ann. tit. 11, s.1119.]

### **PREEMPTION:**

State youth-access restrictions preempt and supersede any provisions of any municipal or county ordinance or regulation enacted after June 30, 1996. [Del. Code Ann. tit. 11, s.1127.]

### **OTHER:**

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. [Del. Code Ann. tit. 11, s. 1120.]

## DISTRICT OF COLUMBIA

### SALE TO MINORS

In the District of Columbia, no person shall sell, give, or furnish any cigarette or other tobacco product to any person under 18 years of age. District law further requires that "[a]ny 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 years of age shall require that the purchaser present identification that indicates his or her age." [D.C. Code §22-1120 (1995)] Violation is a misdemeanor, subject to a fine of at least \$100 but not more than \$500, imprisonment of up to 30 days, or both, for a first offense. For a subsequent violation, the fine is at least \$500 but not more than \$1,000, imprisonment up to 90 days, or both. Suspension of the seller's cigarette sales license is possible for a first or second violation; the license shall be revoked for a third or subsequent violation. [D.C. Code §22-1120 (1995)] In any place where cigarettes or tobacco products are sold, a sign must be posted that includes the following: "No person under 18 years of age shall purchase any cigarette or other tobacco product. The United States Surgeon General has issued a warning that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy." [D.C. Code §22-1120 (1995)] The sign must also "clearly state the maximum fine for a violation" of the sales provisions. The signs must be "visible to the public at the entrance to the area and on the interior of the area in sufficient number to give notice of the law to the public." NOTE: The sign prohibits "purchase" by minors, but the law itself bans "sale" to minors. [D.C. Code §22-1120 (1996)]

### VENDING

Vending machines selling cigarettes are prohibited except in taverns or nightclubs, establishments that restrict admittance to persons 18 years of age or older, or in restaurants with certain alcohol licensing. In such places, the machine must be in immediate vicinity, plain view, and control of a responsible employee, and not in an unmonitored area. Annual fee for vending license is \$15 for each vending machine; it may be suspended as retailer's license above. [D.C. Code §47-2404 (1996)]

### SAMPLING

Distribution of free cigarettes or other tobacco products is prohibited on "any public street, public sidewalk, public park, playground, in a public building, other public property, or private property open to the public, except...at a tobacco store, a convention, or a conference catering to adults." Violation subject to fine of at least \$250 per violation. [D.C. Code §6-920.1 (1996)]

### LICENSES

Retailers license costs \$15 for each retail establishment. [D.C. Code §47-2404 (b)(2) (1996)]



## FLORIDA

### ADAMHA COMPLIANCE:

State law does not specifically refer to federal ADAMHA requirement provisions. But, under license requirements, state law says by accepting permit retailer is agreeing that the place or premises covered by the permit is subject to inspection and search without a search warrant by Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation and law enforcement officials to determine compliance with permitting provisions, signage requirements, and prohibition on sales to persons under the age of 18. [Fla. Stat. §569.004 (1995).] Provides for mitigation of penalties for unlawful sale to a person under the age of 18 by the dealer's employee if the dealer has established certain procedures. Those procedures include a training program for the employees that addresses the use and sale of tobacco products and addresses certain topics. [Fla. Stat. §569.005 & §569.008 (1995).]

A county or municipality may designate certain employees or agents as tobacco product enforcement officers. The training and qualifications of the employees or agents for such designation shall be determined by the county or municipality. A tobacco product enforcement officer is authorized to issue a citation to a person under the age of 18 when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction. A correctional probation officer is authorized to issue a citation to a person under the age of 18 when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction. [Florida H.B. 845 of 1997]

### MINORS--18:

State law makes it a second degree misdemeanor to sell, deliver, barter, furnish, or give, directly or indirectly, tobacco products (including cigarettes and cigarette wrappers), clove cigarettes, or tobacco substitutes to any person under 18 years of age. [Fla.Stat. §859.06(1)(1995).] Violation is punishable by a definite term of imprisonment of up to 60 days, or a fine not exceeding \$500. [Fla.Stat. §859.06(2), 775.083(1)(e), 775.082(4)(b)(1995).] State law authorizes counties to adopt ordinance imposing fines in addition to fines, penalties, and costs imposed by state law. [Fla. Stat. §775.083 (2)(1995), as amended by 1996 Fl. ALS 408, §.1(1996).]

## Florida con't

Any dealer that sells tobacco products shall provide at the checkout counter in a location clearly visible to the dealer, the dealer's agency or employee, instructional material in a calendar format or similar format to assist in determining whether a person is of legal age to purchase tobacco products. This point of sale material must contain substantially the following language: "IF YOU WERE NOT BORN BEFORE THIS DATE (insert date and applicable year here) YOU CANNOT BUY TOBACCO PRODUCTS." [Florida H.B. 845 of 1997]

In order to prevent persons under 18 years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco products is prohibited, except: 1) when under the direct control or line of sight of the dealer or the dealer's agent or employee; or 2) sales from a vending machine (except in establishments that prohibit persons under the age of 18 years from entering) are prohibited and only permissible from a machine that is equipped with an operational lockout device which is under the control of the dealer or the dealer's agent or employee who directly regulates the sale of items through the machine by triggering the lockout device to allow the dispensing of one tobacco product. [Florida H.B. 845 of 1997]

State law authorizes the Division of Alcoholic Beverages and Tobacco to suspend or revoke a retailer's permit upon sufficient cause appearing of the violation of the provisions governing retailers permits, vending machine sales, signage, and minimum sales age. The Division also is authorized to assess fines of up to \$1000 for each violation. [Fla.Stat. §569.006 (1995).] Retailers can defend a violation of the prohibition against underage sales if, when the sale occurred, the buyer or recipient falsely evidenced that he was 18 years of age or older, the appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 18 years of age or older, and the retailer carefully checked a driver's license or state identification card, a passport or a military identification card and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient. [Fla. Stat. § 859.06(3) (1995).]

Fines for violation of the minimum sales age provision may be mitigated by the Division of Alcoholic Beverages and Tobacco if four conditions are met: (1) the retailer qualifies as a "responsible retail tobacco products dealer" under §569.008(2); (2) the retailer trained the employee who made the illegal sale in accordance with the training program described in S.569.008(2); (3) the retailer had no knowledge of the employee's illegal sale at the time of the violation and did not direct, approve, or participate in the violation; and (4) if the sale was through a vending machine, the machine was equipped with an operational lockout device. [Fla.Stat. §569.008(3)(1995).]

## Florida con't

It is unlawful for any person under 18 years of age to knowingly possess any tobacco product. Violators subject to a noncriminal violation. For the first violation, minors are required to perform 16 hours community service or a \$25.00 fine. In addition, the person must attend a school-approved anti-tobacco program, if locally available. For the second violation within 12 weeks of the first violation, a \$25.00 fine. For a third or subsequent violation within 12 weeks of the first violation, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver's license or driving privilege. Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation. [Florida H.B. 845 of 1997]

It is unlawful for and person under 18 years of age to misrepresent his or her age or military service for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product, or to purchase any tobacco product from a person or a vending machine. Violators subject to a noncriminal violation. 16 hours community service for the first violation or a \$25.00 fine. In addition, the person must attend a school-approved anti-tobacco program, if locally available. For the second violation within 12 weeks of the first violation, a \$25.00 fine. For a third or subsequent violation within 12 weeks of the first violation, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver's license or driving privilege. Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation. [Florida H.B. 845 of 1997]

Any person under 18 years of age cited for committing a noncriminal violation must sign and accept a civil citation indicating a promise to appear before the county court or comply with the requirement for paying the fine and must attend a school-approved anti-tobacco program, if locally available. [Florida H.B. 845 of 1997]

A person charged with a noncriminal violation must appear before the county court or comply with the requirement for paying the fine. The court, after a hearing, shall make a determination as to whether the noncriminal violation was committed. If the court finds the violation was committed, it shall impose an appropriate penalty. A person who participates in community service shall be considered a employee of the state for the duration of such service. [Florida H.B. 845 of 1997]

## **Florida con't**

If a person under 18 years of age is found by the court to have committed a noncriminal violation and that person has failed to complete community service, pay the fine as required, or attend a school-approved anti-tobacco program, if locally available, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend the driver's license or driving privilege of that person for a period of 30 consecutive days. [Florida H.B. 845 of 1997]

If a person under 18 years of age is found by the court to have committed a noncriminal violation and that person has failed to pay the applicable fine as required, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver's license or driving privilege of that person for a period of 45 consecutive days. [Florida H.B. 845 of 1997]

### SIGN REQUIREMENTS:

Retailers must post a clear and conspicuous sign in each place of business where cigarettes or other tobacco products are sold. Each sign must state: "THE SALE OF CIGARETTES AND OTHER TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW (SECTION 859.06, FLORIDA STATUTES). PROOF OF AGE REQUIRED FOR PURCHASE." The Division of Alcoholic Beverages and Tobacco is required to make conforming signs available to retailers. Failure to properly post the required sign is a second degree misdemeanor, subject to imprisonment up to 60 days or a fine not exceeding \$500. [Fla.Stat. §859.061, 775.083(1)(e), 775.082(4)(b)(1995).] Retailers and vending machine operators must post permits in conspicuous places (for vending machines, state law requires post in a conspicuous place on or near the machine). [Fla.Stat. §569.003(1)(2)(3)(1995).]

### LICENSE REQUIREMENTS:

State law requires retailers, including those who merely allow a tobacco products vending machine to be located on its premises, to obtain a retail tobacco products dealer permit for each place of business or the premises where tobacco products are sold. Vending machine owners and operators must obtain permits for each vending machine; where the retailer has more than one machine at a single location, or where tobacco products are sold both over the counter and through a vending machine at one location, the retailer must only obtain a single permit for that location. Permits are issued annually, with fees not to exceed \$50 as determined by the Division of Alcoholic Beverages and Tobacco. [Fla.Stat. 569.003(1)(2)-(c)(1995).]

## Florida con't

### VENDING MACHINE RESTRICTIONS:

In order to prevent persons under 18 years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco products is prohibited, except: 1) when under the direct control or line of sight of the dealer or the dealer's agent or employee; or 2) sales from a vending machine (except in establishments that prohibit persons under the age of 18 years from entering) are prohibited and only permissible from a machine that is equipped with an operational lockout device which is under the control of the dealer or the dealer's agent or employee who directly regulates the sale of items through the machine by triggering the lockout device to allow the dispensing of one tobacco product. [Florida H.B. 845 of 1997]

### PREEMPTION:

No preemption for sales. Applies to taxes only. After July 1, 1972, no municipality shall levy or collect any excise tax on cigarettes. [Section 210.03] [Fla.Stat. §210.03 (1995).]

### OTHER:

State law prohibits the sale of single or loose unpacked cigarettes. State law authorizes the Division of Alcoholic Beverages and Tobacco to authorize the giving away of sample packages of cigarettes if the sample package contains at least two cigarettes. [Fla.Stat. §210.04(6)(1995).]

## GEORGIA

### ADAMHA COMPLIANCE:

The Department of Public Safety, acting through local law enforcement officials, shall conduct annual random, unannounced inspections. Persons under 18 years of age may be enlisted to test compliance, provided that such persons are under direct supervision of law enforcement officials and with written parental consent. [Ga. Code Ann. s.16-12-175(b)(1996)].

### MINORS--18:

It is unlawful to "knowingly" sell or barter, directly or indirectly, cigarettes or tobacco-related objects to minors. [Ga. Code Ann. s.16-12-171(a)(1)(A)]. This prohibition shall not apply if the person has been furnished with "proper identification" showing that the purchaser is 18 years of age or older. In any case where reasonable doubt exists that the purchaser is 18 years or older, it is the duty of the person selling or otherwise furnishing to request and to be furnished with proper identification; failure to make such request and verification may be considered by court in determining whether the seller "knowingly" sold or furnished cigarettes or tobacco-related objects to a person under age 18. [Ga. Code Ann. s.16-12-171(a)(2)]. Violators are guilty of a misdemeanor. [Ga. Code Ann. s. 16-12-171(a)(3).] Prohibits the purchase of cigarettes or tobacco-related objects by a minor, misrepresentation of a minor's identity or age, or the use of any false identification for the purpose of purchasing or procuring cigarettes or tobacco-related objects. Minors who violate these provisions may be required to perform a maximum of 20 hours of community service, attend lectures on smoking health hazards, or both. Prohibits the knowing purchase of cigarettes or tobacco-related objects on behalf of a minor, unless the minor is the child of the purchaser; and prohibits any person from knowingly advising, counseling, or compelling any minor to smoke, inhale, chew, or use cigarettes or tobacco-related objects. Violators would be subject to penalties for sale to minors. [Ga. Code Ann. s.16-12-171(d).]

### SIGN REQUIREMENTS:

Any person owning or operating a place of business in which cigarettes, tobacco products, or tobacco-related objects are sold or offered for sale is required to conspicuously post a sign within the store. The letters on the sign must be at least 1/2 inch in height and state: "SALE OF CIGARETTES, TOBACCO PRODUCTS, OR TOBACCO RELATED OBJECTS FROM THIS VENDING MACHINE BY ANY PERSON UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW." [Ga. Code Ann. s.16-12-172]. Any person who maintains in his place of business a vending machine which dispenses cigarettes, tobacco products, or tobacco-related objects is required to post a sign on each vending machine that states:

## Georgia con't

"THE PURCHASE OF CIGARETTES, TOBACCO PRODUCTS, OR TOBACCO RELATED OBJECTS FROM THIS VENDING MACHINE BY ANY PERSON UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW." [Ga. Code Ann. 2.16-12-173].

### LICENSE REQUIREMENTS:

Each person engaged in or conducting the business of manufacturing, purchasing, selling, consigning, vending, dealing in, or distributing cigars or cigarettes--including distributors and "dealers" is required to obtain a license from the Commissioner of Revenue.

Vending machine operators are required to obtain a special registration for each machine which sells cigars, cigarettes and other tobacco products, which includes a \$1.00 registration fee for each machine. [Ga. Code Ann. s.48-11-4].

### VENDING MACHINE RESTRICTIONS:

Tobacco vending machines are restricted to locations which are not readily accessible to minors, such as factories, businesses, offices and other places not open to the general public; locations open to the general public that do not admit minors; locations where alcoholic beverages are offered for sale; locations where the vending machine is in the immediate vicinity, plain view and under the constant supervision of the proprietor of the establishment or an employee; and rest areas adjacent to roads and highways. Violators are guilty of a misdemeanor; provided, however, for a first offense, the sentence shall be a fine not to exceed \$300. [Ga. Code Ann. s. 16-12-173(e)].

### OTHER:

None.

## HAWAII

### SAMHSA:

State law does not designate an agency to fulfill SAMHSA enforcement or reporting.

### MINORS--18:

Prohibits the sale or furnishing of tobacco in any shape or form to minors. Violators are subject to a fine of up to \$100 for the first offense, and \$100-1,000 for subsequent offenses. [Haw. Rev. Stat. s.709-908 (1996).] Prohibits the purchase of tobacco products by minors, except that a minor, with parental consent, is authorized to participate in the controlled purchase as a part of a law enforcement activity or Department of Health study of the incidence of tobacco sales to minors. [1997 Hi. S.B. 1286.] Violators will be subject to a fine of \$10 for the first offense; each subsequent offenses is subject to a fine of \$50 or 48-72 hours of community service. [Haw. Rev. Stat. s.709-908.]

### SIGN REQUIREMENTS:

State law requires signs to be posted at or near each point of sale and on or near each vending machine. Signs must have lettering at least 1/2 inch in height which state: "THE SALE OF TOBACCO PRODUCTS TO PERSON UNDER EIGHTEEN IS PROHIBITED." [Haw. Rev. Stat. S.709-908(z).]

### LICENSE REQUIREMENTS:

State law requires a "dealer" license for "any person coming into the possession of cigarettes or tobacco products." The license is issued annually by the Department of Taxation for a fee of \$2.50. [Haw. Rev. Stat. ss245-1, 245-2.]

### VENDING MACHINE RESTRICTIONS:

State law restricts the location of cigarette vending machines to bars, cabarets, or other establishments where the minimum age for admission is 18 years. Violators are subject to fines up to \$1,000 per day. [Haw. Rev. Stat. s.328K-7.]

### PREEMPTION:

No state law exists.

### OTHER:

It is unlawful to sell single cigarettes or packs of cigarettes containing less than twenty cigarettes. It is also unlawful to sell cigarettes other than in sealed packages originating with the manufacturer and bearing the health warning required by law. [Haw. Rev. Stat. s.712-1257.] It is unlawful to sell cigarettes from lunch wagons within 1,000 feet of any public or private elementary or secondary school ground. [Haw. Rev. Stat. s.328K-7(a)(2).]



## IDAHO

### SAMHSA:

State law authorizes the Governor to designate a state agency to fulfill SAMHSA enforcement or reporting. [1997 Id. H.B. 185.]

### MINORS-18:

State law makes it a misdemeanor, which is punishable by imprisonment in the county jail for up to six months, and/or a fine of up to \$300, for a person under the age of 18 to purchase, attempt to purchase, receive or attempt to receive or possess tobacco products or cigarette papers, except that a minor may possess tobacco products in the course of employment for a person engaged in the lawful sale or distribution of tobacco products. [1997 Id. H.B. 185.] State law authorizes a minor to possess tobacco products in the course of employment, or when assisting a law enforcement agency in an enforcement action. State law further makes it a misdemeanor to give, sell, or furnish, directly or indirectly, any of these items to persons under the age of 18. It is also a misdemeanor for any person to permit persons under the age of 18 to frequent any premises owned, held, or managed by him for the purpose of indulging in the use of cigarettes, cigars, or tobacco. [Idaho Code § 18-1502A (1996).] It is an affirmative defense to a charge that the person sold or distributed tobacco products to a minor, that the defendant demanded, was shown, and reasonably relied upon proof of age. [1997 Id. H.B. 185.]

### SIGN REQUIREMENTS:

None.

### LICENSE REQUIREMENTS:

State law requires retailers to apply for and receive a seller's permit. [Idaho Code § 63-2503(1996).] Failure to do so is punishable by a civil penalty of \$25 per day, per violation. [Idaho Code § 63-2512 (1996).]

### VENDING MACHINE RESTRICTIONS:

State law restricts the location of tobacco vending machines to places inaccessible to minors. Violation is a misdemeanor. [1997 Id. H.B. 185.]

### PREEMPTION:

State law provides that local governments are not prohibited from enacting more stringent ordinances. [1997 Id. H.B. 185.]

**Idaho con't**

**OTHER:**

State law prohibits the sale of cigarettes or smokeless tobacco other than in an unopened package originating with the manufacturer and bearing any health warning required by federal law. [1997 Id. H.B. 185.]

## ILLINOIS

### ADAMHA COMPLIANCE:

State law requires the Liquor Control Commission to conduct random, unannounced inspections in order to comply with section 1926 of the Federal ADAMHA Reorganization Act of 1992. [235 Ill. Comp. Stat. 5/3 - 12 (3) (West 1996), as amended by 1996 Ill. ALS 507, s 906-23]. The statute neither prohibits nor authorizes the use of minors to conduct sting operations. State law also authorizes the corporate authorities for each municipality to provide for and regulate the inspection of tobacco. 65 Ill.Comp.Stat. 5/11 - 20 - 3 (West 1996)].

### MINORS - 18:

The Sale of Tobacco to Minors Act makes it unlawful to sell, buy for, or distribute cigars, cigarettes, smokeless tobacco, or tobacco in any form (including samples) to a person under 18 years of age. [720 Ill.Comp.Stat. 675/1 (West 1996)]. Violation is a petty offense punishable first by a fine of \$200. A second offense is subject to a \$400 fine. A third offense and subsequent offenses within 12 months are punishable by a fine of \$600. [720 Ill.Comp.Stat. 675/2 (West 1996)]. The Act makes it a petty offense, subject to the same penalties, for a minor to purchase tobacco products. [720 Ill. Comp.Stat. 675/1 (West 1996)]. The Smokeless Tobacco Limitation Act provides for additional fines for the sale or distribution (including sampling) of smokeless tobacco products to persons under the age of 18. Fines range from \$50 to \$600. [720 Ill.Comp.Stat. 680/1-4 (West 1996)].

### SIGN REQUIREMENTS:

Retailers and vending machine operators are required to post a sign in a conspicuous place and on the vending machine that states: "SURGEON GENERAL'S WARNING: SMOKING BY PREGNANT WOMEN MAY RESULT IN FETAL INJURY, PREMATURE BIRTH, AND LOW BIRTH WEIGHT." Signs shall be printed on white cards in red letters at least 1/2 inch in height. Failure to post sign will result in a penalty not to exceed \$1,000 for each day not posted. [410 Ill. Comp. Stat. 85/4-6 (West 1996)]

### LICENSE REQUIREMENTS:

State law does not require retail tobacco license or vending operator license. [35 Ill. Comp. Stat. 130/2(a) (West 1996)]

**Illinois con't**

**VENDING MACHINE RESTRICTIONS:**

State law allows the sale of tobacco products through vending machines only in (1) places not open to the general public, such as factories, businesses, offices, and private clubs; (2) places to which persons under the age of 18 are not permitted access; (3) places where alcoholic beverages are sold and consumed on the premises; (4) places where the vending machine is under the unimpeded line of sight of the owner or of an employee over the age of 18; (5) places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers. [720 Ill.Comp.Stat. 675/1 (West 1996)].

**PREEMPTION:**

State law does not preempt local restrictions.

**OTHER:**

State law requires "package(s) of cigarettes" for retail sale to contain no less than 20 cigarettes and packaged in increments of five. [Code Section 63-5202.]

## INDIANA

### SAMHSA:

State law authorizes the Alcoholic Beverage Commission, Indiana law enforcement agencies, county sheriffs offices, and municipal police departments to enforce state laws to ensure the state's compliance with federal SAMSHA requirements. The Division of Mental Health is required to annually prepare for submission to the US Department of Health and Human Services the report required by 42 U.S.C. 300x- 26 designates enforcement or reporting of federal ADAMHA requirements.

Authorizes enforcement officers vested with full police powers and duties to engage a person less than 18 years of age as part of an enforcement action under this article in the initial or contemporaneous receipt or purchases of a tobacco product by a person less than 18 years of age occurs under the direction of an enforcement officer vested with full police powers duties and is part of the enforcement action. Prohibits enforcement officers vested with police powers and duties from the following: 1) recruiting or attempting to recruit a person less than 18 years of age to participate in an enforcement action; or 2) allowing a person less than 18 years of age to participate in an enforcement action without the written permission of the person's parents or legal guardians. [Indiana S.B.106 of 1997.]

### MINORS--18:

State law makes the sale or distribution (including promotional distribution) of tobacco products to persons under 18 years of age a Class C infraction, subject to penalties of up to \$500. It is a defense to prosecution that the accused reasonably believed the buyer or taker was 18 years of age or older or sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco agriculture, processing, transporting, wholesaling, or retailing. [IN Code ss34-4-32-4(c)(penalties), 35-46-1-10(sale or distribution) (1996).]

Prohibits any person from operating a "tobacco business" within 200 feet of a public or private elementary or secondary school, as measured between the nearest point of the premises occupies by the tobacco business and the nearest point of a building used by the school for instructional purposes. Violators commit a Class C Infraction. Defines Class C Infraction as a judgment of up to \$500. [Indiana S.B.106 of 1997.]

## **Indiana con't**

Prohibits persons less than the age of 18 years from possessing tobacco "on his person." Violators commit a Class C Infraction. Exempts accused persons engaging in the following businesses: 1) agriculture; 2) processing; 3) transporting; 4) wholesaling; or 5) retailing. [Indiana S.B.106 of 1997.] State law further provides that a person less than 18 years of age who purchases tobacco or accepts tobacco for personal use commits a Class C infraction subject to a penalty of up to \$500. [IN Code s35-46-1-10.5 (1996).] The sale or distribution of tobacco to persons under the age of 18 in violation of section 35-46-1-10 is also subject to injunction, restraining order, or other appropriate order, and an award of costs and reasonable attorney's fees to the person (including a private citizen) bringing the action. [IN Code ss34-4-38-1 ("person"), 34-4-38-2 (injunction), 34-4-38-3 (order of court, costs, and attorney's fees), 35-41-1-22 ("person") (1996).]

### **SIGN REQUIREMENTS:**

Retailers are required to conspicuously post a sign, printed in letters at least a half inch high, that states: "The sale of tobacco to persons under 18 years of age is forbidden by Indiana law." [IN Code s35-46-1-11(c) (1996).] Failure to post and maintain a sign is a Class C infraction. [IN Code ss34-4-32-4(c)(penalties), 35-46-1-11(d)(2)(failure to post) (1996).] Vending machines, in public places, must bear a conspicuous notice that states "If you are under 18 years of age, YOU ARE FORBIDDEN by Indiana law to buy tobacco from this machine." Failure to post a sign or replace within one month, with the capitalization indicated, a removed or defaced sign will result in a Class C infraction. [IN Code ss34-4-32-4(c)(penalties), 35-46-1-11(d)(2)(failure to post) (1996).]

### **LICENSE REQUIREMENTS:**

State law does not require a retail tobacco license or a vending operator license. [Section 6-7-16.]

### **VENDING MACHINE RESTRICTIONS:**

State law makes it a Class C infraction, subject to a penalty of up to \$500, to distribute or sell tobacco by use of a coin machine. [IN Code s 35-43-5-1(c) (1996) (defining "coin machine")], except for coin machines located in: (1) that part of a premises permitted to keep, manufacture, or sell alcoholic beverages where entry is limited to persons who are at least 18 years of age; (2) private industrial or office locations that are customarily accessible only to persons who are at least 18 years of age; (3) private clubs if the membership is limited to persons who are at least 18 years of age; (4) a location where the vending machine can be operated only by the owner or an employee who is at least 18 years of age; (5) a location where the vending machine can be operated only by the owner or an employee who is at least 18 years of age (including direct operation and remote

## **Indiana con't**

control, if the remote device is inaccessible to all customers. State law further prohibits maintaining or installing a coin machine that is intended to be used to sell or distribute tobacco. [IN Code ss7.1-1-3-20 ("licensed premises"), 35-43-5-1 ("coin machines"), 35-46-1-11.5 (sale or distribution by coin machine) (1996).]

### PREEMPTION:

Establishes that regulation of the sale, distribution, or display of tobacco products may only be authorized by the General Assembly. [Indiana S.B.106 of 1997]

### OTHER:

Prohibits persons from selling cigarettes other than in an unopened package originating with the manufacturer that bears the warning required by federal law. Violators guilty of a Class C Infraction. [Indiana S.B.106 of 1997]

## IOWA

### SAMHSA:

State law does not designate an agency to fulfill SAMHSA enforcement or reporting requirements.

### MINORS--18:

State law makes it a simple misdemeanor, punishable by a fine of \$50-\$100 or imprisonment for up to 30 days, to sell, give or otherwise supply tobacco products to any person under 18 years of age including through a vending machine. [Iowa Code §453A.2(1), 453A.3 (1995).] Retailers are also subject to civil penalties of: (1) \$300 for a first violation; (2) 30-day license suspension for a second violation within 2 years; (3) 60-day suspension for a third violation in 5 years; and (4) license revocation for a fourth violation in 5 years. [Iowa Code §453A.22 (1995).] State law authorizes the Department of Public Health, county and city health departments, and cities to directly enforce the prohibitions on sales to, and purchase by minors. [Iowa Code § 453A.2(3) (1995).] State law also prohibits any person under the age of age of 18 from using, possessing, purchasing, or attempting to purchase tobacco products. Violation is punishable by a civil penalty of \$25 for a first offense, \$50 for a second offense, \$100 for a third or subsequent offense. Fines are doubled for failure to pay. [Iowa Code §§453A.2(2), 453A.3, 805.8(11) (1995).]

### SIGN REQUIREMENTS:

No state law exists.

### LICENSE REQUIREMENTS:

State law requires a retail and/or vending tobacco license from the Department of Revenue & Finance. [Iowa Code §§453A.13, 453A.36(6) (1995).] Retail permit fee varies according to the month issued and size of locality. [Iowa Code §453A.13(2) (1995).] Payment of the retail license fee authorizes a cigarette vending to sell cigarettes or tobacco products through vending machines, in locations and under the conditions provided by state law. [Iowa Code §453A.36(6) (1995).] A separate license is not required for a vending machine owned by a licensee and operated on the premises described in the retail license. [1997 Ia. S.B. 163.]



## **Iowa con't**

### **VENDING MACHINE RESTRICTIONS:**

State law allows retail sales of cigarettes and tobacco products through vending machines only under the following conditions: (1) the machine(s) must be located in places where the machines are under the supervision of a person of legal age who is responsible for prevention of purchase by minors from the machines; (2) the machine(s) must be equipped with (a) a lock-out device which must include a mechanism to prevent the machine from functioning if the power source for the lock-out fails or if the device is otherwise disabled, and (b) a mechanism to ensure that only one pack of cigarettes or one tobacco product is dispensed at one time; (3) the location where the machine is located is covered by a local retail permit. [Iowa Code §453A.36(6) (1995).] Lock-out devices are not required for vending machines in the following locations, so long as the machines are not located in a doorway or other area readily accessible to minors: (1) a commercial establishment holding a Class C liquor license [Iowa Code §123.30 (1995) (defining Class C).] or a Class B beer permit [Iowa Code §123.124 (1995) (defining Class B), so long as the establishment is not licensed as a food service establishment under Chapter 137B; (2) a private facility not open to the public; (3) a workplace not open to the public. [Iowa Code §453A.36(6) (1995).]

### **PREEMPTION:**

State law supersedes any local laws or regulations that are inconsistent with or that conflict with state tax provisions (including youth access provisions). Cities and counties are authorized to issue retail sales permits. [Iowa Code §§453A.13, 453A.56 91995).]

### **OTHER:**

Retailers may not give away free samples of tobacco products to persons under 18 years of age. Sampling is prohibited within 500 feet of any playground, school, high school, or other facility when such facility is being used primarily by person under age 18. Proof of age is required to any prospective recipient that reasonably appears to be under 18 years of age. Stock must be kept in a secure location to ensure that samples are not inadvertently distributed to persons under 18 years of age. [Iowa Code §453A.39 (1995).]

## KANSAS

Note: On May 11, 1996, the Governor signed comprehensive tobacco reform legislation. [1995 KS H.B. 2544]. The legislation, however, takes effect "after its publication in the statute book." Id. s.41. It is unclear whether this publication has occurred.

### ADAMHA COMPLIANCE:

Minors may assist certain officers or other authorized personnel in conducting compliance checks only if written consent has been procured from the parent or guardian. Persons engaging the assistance of a minor must be (a) an officer having authority to enforce the provisions of this act; (b) an authorized representative of the attorney general, a county attorney or a district attorney; or (c) an authorized representative of a business acting pursuant to a self-compliance program designed to increase compliance with the provisions as set forth. [1995 KS H.B. 2544, s.17].

### MINORS--18:

Prohibits the sale, furnishing or distribution of cigarettes or tobacco products to minors. Prohibits the purchase or attempted purchase of cigarettes or tobacco products by minors. [1995 KS H.B. 2544, s.7] Penalties for violations of these provisions include fines and/or jail terms. [1995 KS H.B. 2544, s.8].

### SIGN REQUIREMENTS:

Signs must be posted and maintained in a conspicuous place in the retail dealer's establishment stating: "By law, cigarettes and tobacco products may be sold only to persons 18 years of age and older." [1995 KS H.B. 2544, s.7(R)].

### LICENSE REQUIREMENTS:

State law requires each person engaged in the business of selling cigarettes and each vending machine distributor to obtain an appropriate license. [1995 KS H.B. 2544, s.3].

## Kansas con't

### VENDING MACHINE RESTRICTIONS:

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. A vending machine operator may submit one application for the vending machine operator's master license and all permits for vending machines operated by the operator. [1995 KS H.B. 2544, s.3]. There is no fee for a vending machine operator's license; however a vending machine permit costs \$25 for each permit. [1995 KS H.B. 2544, s.4]. It is unlawful for any person to sell cigarettes or tobacco product by means of a vending machine in any establishment, or portion of an establishment, which is open to minors, unless the vending machine is for the proprietor's use or the use of the proprietor's agents or employees and is behind a counter, or in some place in such establishment, or portion thereof, to which minors are prohibited by law from having access; the vending machine is located in a commercial building or industrial plant, or portions thereof, where the public is not customarily admitted and where machines are intended for the sole use of adult employees employed in the building or plant; or the vending machine has a lock-out device which is inoperable in the continuous standby mode and which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine. [1995 KS H.B. 2544, s.17.]

### PREEMPTION:

No state law exists.

### OTHER:

None.

## KENTUCKY

### ADAMHA COMPLIANCE:

The Department of Agriculture shall conduct annual, random, unannounced inspections. Persons under the age of 18 may be enlisted to test compliance, provided that written parental consent has been given and law enforcement officers provide direct supervision. [Ky. Rev. Stat. Ann. §§438.305(1), 438.330 (Michie 1996)]

### MINORS--18:

State law establishes civil penalties for any person who sells, causes the sale of, or solicits the purchase of tobacco products at retail to a person under the age of 18. The prohibition also applies to vending machine sales. [Ky. Rev. Stat. Ann. §438.315 (Michie 1996)] Violators will be subject to a fine of \$100-500 for first offense, and \$500-1,000 for second and subsequent offenses. [Ky. Rev. Stat. Ann. §438.310 (Michie 1996)] Violators will be subject to a fine of \$100-250 for each offense. Retailers are required to inform employees of state law and have employees sign statement that says "I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products." Statement must be kept accessible in case requested for inspection. Violators will be fined \$100-\$500 for each violation. Retailers are required to demand proof of age from any prospective purchaser or recipient if the seller has reason to believe the prospective purchaser or recipient is under the age of 18. [Ky. Rev. Stat. Ann. §438.310(3) (Michie 1996)] Retailers are further required to inform their employees that proof of age is required from any prospective purchaser or recipient whom the employee has reason to believe is under the age of 18. [Ky. Rev. Stat. Ann. §438.325 (Michie 1996)] State law makes it unlawful for a person under 18 years of age to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, including vending machine sales. State law further prohibits the use of false or fraudulent identification for purposes of purchasing or receiving any tobacco product. Violation is punishable by a fine of \$50 and 20 hours of community service for a first offense, and a fine of \$200 and 40 hours of community service for a second or subsequent violation within one year. State law does not prohibit accepting a tobacco product from a family member or from an employer with required in the performance of the minor's duties. [Ky. Rev. Stat. Ann. §§438.311, 438.315 (Michie 1996)]

### SIGN REQUIREMENTS:

Retailers are required to post in a conspicuous place a sign stating that it is illegal to sell tobacco products to persons under age 18. Violators will be fined \$100-500 for first offense, and \$500-1,000 for second and subsequent offenses. [Ky. Rev. Stat. Ann. §438.310 (Michie 1996)]

## **Kentucky con't**

### LICENSE REQUIREMENTS:

Vending machine operators are required to obtain a license from the Department of Revenue for a fee of \$25. Counties are authorized to impose a license fee of up to \$10/year on retail outlets for tobacco products. [Ky. Rev. Stat. Ann §173.115(1)(d) (Michie 1996)] Failure to procure the necessary license is subject to fine of \$25-200 for each offense. [Ky. Rev. Stat. Ann. §137.990(1)(a) (Michie 1996). Vending machine operators are required to obtain, at a fee of \$25/year, and display retail licenses. [Ky. Rev. Stat. Ann. §§138.130(12), 138.195(1) and (4) (Michie 1996)]

### VENDING MACHINE RESTRICTIONS:

Tobacco vending machines must be located within the line of sight of the cashier. Machines located within factories, or bars/taverns to which minors are not permitted access are exempt from this requirement. Violators will be fined \$100-500 for each offense. [Ky. Rev. Stat. Ann. §438.315 (Michie 1996)]

### PREEMPTION:

State law prohibits the subsequent adoption of any local laws, ordinances or regulations that relate to the use, display, sale, or distribution of tobacco products. [Ky. Rev. Stat. Ann. §438.300 (Michie 1996)]

### OTHER:

State law restricts billboard advertising. [Ky. Stat. Ann. §438.047 (Michie 1996)]

## LOUISIANA

### ADAMHA COMPLIANCE:

The Commissioner of Alcoholic Beverage Control, acting through local law enforcement officials, shall conduct random, unannounced inspections. Persons under the age of 18 may be enlisted to test compliance, provided written parental consent has been given and there is direct supervision by law enforcement officers. [La. Rev. Stat. §26:793(c) (1996).] To ensure compliance with the "Prevention of Youth Access to Tobacco Law," the commissioner, acting through local law enforcement personnel, shall annually conduct random, unannounced inspections at locations where tobacco products are sold or distributed. Persons under 18 years of age may be enlisted by employees of the office of alcoholic beverage control to test compliance, but only if testing is conducted under the direct supervision of local law enforcement or employees thereof and written parental consent has been obtained. Any other use of persons under age 18 to test compliance is unlawful. [Louisiana H.B.76 of 1997.]

### MINORS--18:

State law makes it unlawful to knowingly sell or distribute any tobacco product to a person under the age of 18. A minor employee may accept a tobacco product from an employee when required in the course of the minor's duties. State law further makes it unlawful for any person under the age of 18 to buy any tobacco product. [La. Rev. Stat. §14:91.8 (1996).] First violation is subject to a fine of not more than \$50. A second violation is subject to a fine of not more than \$100. A third violation is subject to a fine of not more than \$250. Subsequent violations are subject to a fine of not more than \$400. [La. Rev. Stat. §14:91.8(F)(1) (1996).]

Establishes the following prohibitions: 1) No person can sell/serve tobacco products over the counter in a retail establishment to anyone under age 18 and must prove, with authentic identification, that the purchaser is indeed 18 years of age; 2) No person can violate the terms/provisions of the "Prevention of Youth Access to Tobacco Law;" 3) No person selling tobacco products can violate the terms/provision of this chapter; and 4) No retail or wholesale dealer may purchase tobacco products for resale except to retailers operating under the conditions of this chapter. [Louisiana H.B.76 of 1997.]

## **Louisiana con't**

Establishes that it is unlawful for any person under age 18 to purchase any tobacco product. Establishes that it is unlawful for any person under age 18 to possess any tobacco product. Allows persons under 18 to possess a tobacco product under the following circumstances: 1) when a person under 18 is accompanied by a parent, spouse, or legal guardian age 21 or older; 2) their possession of tobacco products is in private residences; or, 3) when the tobacco product is handled during the course and scope of employment and required in the performance of such person's duties. [Louisiana H.B.76 of 1997.]

Violators shall be fined not more than \$50 for the first violation. The penalties for subsequent violations shall be not more than \$100 for the second violation; \$250 for the third violation; and a fine of not more than \$400 for any subsequent violation. A person who violates the provisions of this section by possessing tobacco products shall be fined not more than \$50 for each violation. The law enforcement agency issuing the citation, making the arrest, or the clerk of the court in which prosecution is initiated, shall notify the commissioner of the office of alcoholic beverage control of the action and the final disposition of the matter. [Louisiana H.B.76 of 1997.]

### SIGN REQUIREMENTS:

Retailers are required to post signs in type not less than 30-point type at the point of purchase that states: "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO TO PERSONS UNDER AGE 18." Vending machine operators are required to post a sign/sticker stating the above in not less than 22-point type on the front of the machine. Violators will be fined up to \$50 for first offense, up to \$100 for second offense, up to \$250 for third offense, and up to \$500 for subsequent violations. [La. R. S. 14:91.8 (1995).]

### LICENSE REQUIREMENTS:

Authorizes the commissioner to issue the following types of certificates and adopt rules and regulations that specify identifying information required on the face of each certificate or permit: 1) retail dealer registration certificate; 2) retail dealer permit; 3) vending machine operator permit; 4) vending machine permit; and 5) wholesale dealer permit. The fees for each registration certification or permit shall be: 1) retail dealer registration certificate, \$25; 2) retail dealer permit, \$75 or any portion thereof; 3) vending machine operator, \$75 or any portion thereof; 4) vending machine, \$5 per machine or any portion thereof; and, 5) wholesale dealer, \$75 per year or any portion thereof. Each registration certificate shall be valid for only one year. The commissioner may establish a

## Louisiana con't

system by which the expiration dates of certificates are staggered throughout the year and issued varying in length from 6 to 18 months. The fee for these are to be apportioned to comply with the yearly fee established herein. Each permit shall be valid for only one year unless suspended or revoked, and commissioner may establish system similar to that of certificates. [Louisiana S.B.1547 of 1997.]

Requires those holding registration certificates and permits shall annually file an application for renewal. Also provides for sanctions against dealers of both registration certificates and permits. All persons who sell, or are about to engage in selling, at any level, tobacco products need to apply for and obtain a permit for each place of business and each vending machine. The application process and fee structure are set by the commissioner. [Louisiana S.B.1547 of 1997.]

Establishes that that commissioner has the authority to investigate persons and places of business that apply to sell tobacco products and shall issue a probationary certificate until the completion of the investigation. The commissioner has the authority to suspend or refuse to issue a permit or registration certificate after a hearing and based upon a preponderance of the evidence if it is proven that the permittee, employee/agent, or applicant either: 1) is not a bona fide dealer; 2) violated the terms/provisions relative to the unlawful distribution of tobacco products; 3) violated terms of the "Prevention of Youth Access to Tobacco Law;" 4) violated terms of this chapter or any rules/regulations connected therewith; or 5) violated R.S. 47:841. [Louisiana S.B.1547 of 1997.]

The registration certificate/permit must be publicly displayed by retailer/wholesalers and is not transferable. No person can perform any action permitted by a registration certificate/permit without being properly registered. Each day without proper registration is a separate violation of this chapter. [Louisiana S.B.1547 of 1997.]

Any person that is not a dealer coming into possession of tobacco products may sell them, but must also register with the secretary a bond and a fee. The commissioner, secretary, governing authorities of municipalities or parishes, sheriffs, law enforcement authorities, and citizens have the right to have a registration certificate holder show cause why he/she should not be cited and fined. If a dealer violates this chapter, the commissioner may issue a written warning for the first offense. For subsequent offenses, the commissioner may summon the dealer to appear and demonstrate why he/she should not be fined. [Louisiana S.B.1547 of 1997.]



## **Louisiana con't**

The sale of tobacco products to a minor by a retail dealer's agent, association, etc., shall be considered an act of the retail dealer for purposes of suspension, revocation, or civil penalties. The commissioner may impose, in addition to revocation or suspension, the following fines: 1) Not less than \$50, nor more than \$500 for the first offense; 2) A second offense occurring within two years of the first offense, incurs a fine between \$250 and \$1,000; and 3) A third offense occurring within two years of the second offense, incurs a fine between \$500 and \$2,000. [Louisiana S.B.1547 of 1997.]

### **VENDING MACHINE RESTRICTIONS:**

Prohibits vending machine operators from placing in use a machine to vend any tobacco products automatically, unless the machine displays a sign or sticker in not less than 22-point type on the front of the machine stating: "Louisiana law prohibits the sale of tobacco to persons under age 18," or words of similar meaning. A violation of the signage requirement of subsection D is a violation by the owner of the vending machine. For the first violation, the owner will not be fined more than \$50. The penalties for subsequent violations shall be a fine of not more than \$100 for the second violation, a fine of not more than \$250 for the third violation, and a fine of not more than \$500 for any violation thereafter. [Louisiana H.B.76 of 1997.]

The sale or delivery of tobacco products to those under age 18 through a vending machine is prohibited unless either: 1) the machine is located in an establishment that denies access to those under age 18; or, 2) the machine is located in facilities where the dealer ensure that no person under age 18 is present or permitted to enter and is located within the unobstructed sight of a dealer or a dealer's agent responsible for preventing persons under age 18 from purchasing tobacco products. [Louisiana S.B.1547 of 1997.]

### **PREEMPTION:**

State law preempts existing or subsequently adopted local ordinances or regulations that relate to the sale, promotion, and distribution of tobacco products. [La. Rev. Stat. §14:91.8(A)(2) (1996).]

### **OTHER:**

State law imposes a fine of \$100-500 on anyone who distributes, or causes to be distributed, a promotional sample of any tobacco product to a person under 18 years of age. [La. Rev. Stat. §§14:91.6(a) and (c) (1996).]

## **Louisiana con't**

This act does not supersede nor diminish the authority of the Department of Revenue and Taxation relative to tobacco products. This act changes the name of the Office of Alcoholic Beverage Control to the Office of Alcohol and Tobacco control. The act become effective October 1, 1997, with the Office of Alcohol and Tobacco Control promulgating rules to ensure this act is implemented by July 1, 1998. [Louisiana S.B.1547 of 1997.]

## MAINE

### ADAMHA COMPLIANCE:

State law places responsibility for compliance with federal ADAMHA requirements with Office of Substance Abuse. All law enforcement agencies, state departments, including the Department of Public Safety and the Department of Human Services' Bureau of Health, and municipalities shall cooperate with the office in these efforts. Responsibility for enforcement is placed with law enforcement officers and "contract officers" approved by and through the Department of Public Safety. The "contract officers" must have a background in law enforcement. [22 M.R.S. Sections 1556-A.] The Office of Substance Abuse is also authorized to contract with Department of Human Services for enforcement personnel. The Office will also coordinate education programs, including research on tobacco use and retail training materials. [5 M.R.S. Sections 2005.] State law does not specifically mention inspections and/or the use of minors to conduct them. Law enforcement officials must maintain records of citizen complaints of alleged violations. [5 M.R.S. Section 20002(1995); 22 M.R.S. Section 1555.]

### MINORS--18:

Prohibits the knowing sale or distribution of tobacco products to minors. Violators may be fined \$50-\$1500 per offense. Any person who employs someone who violates this section may be fined. It is a defense to prosecution if purchaser presented fraudulent proof of age. Prohibits the purchase, possession or use of tobacco products by minors. Violators will be fined \$100-\$300 and/or community service for first offense, \$200-500 and/or community service for second offense, and a fine of \$500 and/or community service for subsequent offenses. Provisions concerning sales and purchase of tobacco products were specifically amended to include cigarette rolling papers. [22 M.R.S. Section 1551.] Separate provision defines the sale or furnishing of tobacco products to persons under age 16 as "endangering the welfare of a child", subject to imprisonment for one to three years. Affirmative defense if defendant is parent or guardian. [22 M.R.S. Section 1555; 17-A M.R.S. 554.] State law provides that a person under 18 years of age may not offer false identification in an attempt to purchase any tobacco products or to purchase, possess, or use cigarettes, cigarette paper or any other tobacco products. [Maine S.B.133 of 1997.]

Regulates the sale of tobacco as follows: 1) Requires tobacco products to be sold at retail only in a direct, fact-to-face exchange in which the purchaser may be clearly identified and through the mail under procedures or provide reliable verification that the purchaser is not a minor; 2) Prohibits any person from selling, furnishing, giving away or offering to sell, furnish or give away a tobacco product to any person under 18 years of age and prohibits tobacco products from being sold at retail to any person under 27 years of age unless the seller first verifies that person's age by means of reliable photographic

## **Maine con't**

identification containing the person's date of birth; 3) Restricts vending machines to be located only in areas in which minors are allowed only when accompanied by an adult; and, 4) Requires tobacco products to be sold at wholesale without a face-to-face exchange only in the normal course of trade and under procedures approved by the Bureau of Taxation to ensure that tobacco products are not provided to any person 18 years of age. Violators and employers of violators shall be fined between \$50.00 and \$1,500.00, plus court costs. [Maine S.B.133 of 1997.]

### **SIGN REQUIREMENTS:**

State law requires retailers to conspicuously post a sign on prohibition to sell to minors with letters at least 3/8 inches in height. [22 M.R.S. Section 1552-A.] The Department of Human Services provides the signs at cost. Failure to post is subject to a fine of \$50-200. [22 M.R.S. Section 1555.] State law also requires tobacco vending machines to have a sign affixed to the front of the machine with letters at least 1/2 inch in height that states "WARNING: It is unlawful for any person under the age of 18 to purchase cigarettes in this State." [22 M.R.S. Section 1553-A.] License is required to be publicly displayed on the premises and on each vending machine.

### **LICENSE REQUIREMENTS:**

State law requires a retail tobacco license for the retail sale of tobacco, vending machine sales, and free distribution of tobacco. Department of Human Services' Bureau of Health is responsible for issuance and enforcement of license requirements. The Department is required to report annually the number of licenses granted and number of violations and penalties to Office of Substance Abuse. Licenses will be issued for an indefinite period for a fee of up to \$25. [22 M.R.S. Section 1551-A(1995); 22 M.R.S. Section 1552(1995).] Also a license required under the Tobacco Products Tax section, expires yearly. Cost is \$25. [36 M.R.S. Section 4402.]

### **VENDING MACHINE RESTRICTIONS:**

State law requires tobacco vending machines contain no other products, and are under direct adult supervision during hours when the machine is accessible. [Title 22, Section 1628.] Exempts vending machines located in establishments inaccessible to minors by law or owner policy. Sale to minor from vending machine carries a fine of \$100-500 and/or license revocation for six months against person in charge of facility where machine is located. [22 M.R.S. Section 1553-A.]

## **Maine con't**

### **PREEMPTION:**

Municipalities are prohibited from enacting ordinances or regulations regarding tobacco displays, product placement and the time of tobacco product sales. Does not prohibit more stringent local restrictions on other areas covered by this act. [22 M.R.S. Section 1556.] Requires municipalities intending to consider an ordinance or regulation or intention of amending an ordinance or regulation so that the ordinance or regulation would be more restrictive than current law, the municipality must give notice of that intention by mail, at least 30 days prior of the ordinance, regulation or amendment, to the last known address of each retail tobacco licensee doing business within the municipal corporate limits. Such notice must state the time, place and date of a hearing or proposed enactment and the subject matter of the proposed ordinance, regulation or amendment. [Maine S.B.72 of 1997.]

### **OTHER:**

State law prohibits sale of cigarettes not in original, sealed package as placed by manufacturer. Nor in smaller quantities than as placed by manufacturer. [22 M.R.S. Section 1554-A]

## MARYLAND

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement or reporting to meet federal ADAMHA requirements.

### MINORS--18:

Prohibits the sale or distribution of tobacco products (specifically mentions rolling papers) to minors. Penalizes employee, not employer, up to \$300 for first offense, up to \$1,000 for second offense within two years, and up to \$3,000 for third and subsequent offenses within two years. It is a defense to prosecution for "distribution" of tobacco products to minors if "defendant examined the purchaser's or recipient's driver's license or other valid identification issued by an employer, government entity, or institution of higher education that establishes age as 18 years or older. Prohibits the purchase of tobacco products on behalf of a minor or supplying tobacco products to a minor.

Violators subject to fine of up to \$300 for first offense, up to \$1,000 for second offense within two years, and up to \$3,000 for third and subsequent offenses within two years. Prohibits minors from possessing tobacco products, except during the course of employment. May also require participation in smoking cessation classes and/or supervised work program. [Md. Ann. Code Art. 27, Section 404, 405, and 405A; Md. Ann. Code Sections 3-810.]

### SIGN REQUIREMENTS:

State law requires "cigarette license" to be displayed according to the Comptroller. State law does specifically require "cigarette license" to be prominently displayed in businesses where tobacco vending machines are found. Tobacco vending machines are also required to have a label conspicuously posted on the machine that states the age requirement and penalty. [16 Md. Code Ann. Section 209.]

### LICENSE REQUIREMENTS:

State law requires a cigarette retail license and/or a vending machine operator license to be issued by the County clerk. A cigarette retail license is required for each place of business at a cost of \$30, which includes vending machine operators who operate less than 40 machines. A vending machine operator license is issued for an operator controlling 40 or more machines at a fee of \$500. Additionally, there is an initial license fee of \$200 and a renewal fee of \$30. Unless renewed for a 1 year term, licenses expire on the first April 30 after the effective date. [Section 207] Vending machines may be sealed if licenses and signs are not properly displayed. [Section 16-220] Tampering with a seal can result in a penalty not exceeding \$1,000 and imprisonment not exceeding one year in prison. [Section 16-221] [Md. Code Ann Sections 16-202 (1996).]

## **Maryland con't**

Requires a manufacturer licensee, upon approval of the State Comptroller, to act as an agent for a licensed wholesaler for stamping and distribution of cigarettes; authorizing a wholesale licensee, upon approval of the State Comptroller, to designate a licensed manufacturer to act as its agent for the stamping and distribution of cigarettes. [Md. H.B. 1006 OF 1997.]

### VENDING MACHINE RESTRICTIONS:

No state law exists.

### PREEMPTION:

State law preempts the regulation of vending machines. [Attorney General opinion, October 1993; Allied Vending, Inc. vs. City of Bowie, 631 A.2d 77 (Md. 1993).]

### OTHER:

State law prohibits the distribution of coupons to minors. Exempts coupons contained in newspapers, magazines, or other publications or coupons sent through the mail. [Md. Code Ann. Art. 27, Sections 404, 405, 405A.]

## MASSACHUSETTS

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement or reporting to meet federal ADAMHA requirements.

### MINORS--18:

Prohibits the sale or distribution of any tobacco products to minors other than by parent or guardian. Violators will be fined at least \$100 for first offense, at least \$200 for second offense, and at least \$300 for third and subsequent offenses. The sale of rolling papers to minors is also prohibited. Violators are fined at least \$25 for the first offense, \$50 for second offense, and \$100 for third or subsequent offenses. [Gen. Laws Ann. Chapter 270, Section 6; Section 6A.] Prohibits operator or owner of a vending machine from allowing a minor to purchase tobacco from the machine. Violators will be fined not more than \$50. [Gen. Laws Ann. Chapter 64C, Section 10.]

### SIGN REQUIREMENTS:

State law requires state law about sale of tobacco to be posted conspicuously at each point of sale and affixed to vending machines. Violators will be fined \$50. Prohibits person from unlawfully removing posted state law, penalizes violators \$10. [Gen. Laws Ann. Chapter 270, Section 7.] State law also requires that tobacco vending machines be posted with a sign furnished by commission that states "Persons under eighteen are prohibited from using this machine." [Gen. Law Ann. Chapter 64C, Section 10.]

### LICENSE REQUIREMENTS:

State law requires a retail and or vending license issued by the Department of Revenue. Fees for licenses will be determined annually by the Commissioner of Administration. Fine of not more than \$50 for unlicensed use. [Gen. Laws Ann. Chapter 64C, Sections 2 and 10.]

### VENDING MACHINE RESTRICTIONS:

No state law exists.



**Massachusetts con't**

PREEMPTION:

Localities may require an additional retail license, but only the state is authorized to license vending machines. [Gen. Law Ann. Chapter 64C, Sections 2 and 10.] State Supreme Judicial Court found state law does not preempt local regulation of vending machines. [Take Five Vending vs. Town of Provincetown, 4.15 Mass. FAI; 613 N.E. 2d 576; 1993 Mass LEXIS 440 (1993); summ. op. at 21 M.L.W. 3078 (1993)(notwithstanding state's exclusive right to license and tax cigarette vending machines, town's local prohibition or regulation of the citing of such machines for public health concerns was valid and constituted no interference with state licensing power); Kenneth Patton vs. City of Marlborough, 415 Mass. 750; 615 N.E. 2d 582; 1993 Mass. Lexis 436 (1993); summ. op. at 27 M.L.W. 3076 (1993)(see Take Five Vending for more case on print).]

OTHER:

None.

## MICHIGAN

### ADAMHA COMPLIANCE:

No specific law has been adopted mandating inspections or reporting to meet federal ADAMHA requirements.

### MINORS--18:

Prohibits persons from sales or distribution of tobacco products to a minor. Violators will be fined \$50 per offense. Prohibits possession or use of tobacco products by a minor on public property or in public places of business or amusement. Violators will be charged with a misdemeanor punishable by up to \$50 per offense and/or participation in health promotion and risk reduction program and/or community service. Prohibits persons from furnishing tobacco products to minors, except for parents or legal guardians within private premises. [Mich. Stat. Ann. §§25.281 through 25.285 (1996).] No exemption from prohibition of possession of tobacco products by minors is granted for retail sales. Affirmative defense of written policy against sales to minors. [Mich. Stat. Ann. §25.281(5) (1996).] Note: State law does not specifically prohibit the purchase of tobacco products by a minor; however, state law requires a sign that says purchase by a minor is illegal.

### SIGN REQUIREMENTS:

Retailers are required to post a sign near the point of sale. If sign is posted within 6 feet of point of sale and is conspicuous to both employees and customers, then it must be 2 x 4 inches with 20-point boldface type. If sign is posted more than 6 feet from point of sale, then it must be 5-1/2 x 8-1/2 inches with 36-point boldface type. Department of Public Health will provide the signs, which state: "The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties." Vending machines are required to have a "disc or marker" issued by the Department of Treasury, which demonstrates the machine is licensed. [MSA §7.411(33), §25.281 (1996).]

## Michigan con't

### LICENSE REQUIREMENTS:

State law requires a retail tobacco license from the Revenue Division of the Department of Treasury, but with no fee. The state separately licenses manufacturers, wholesalers, secondary wholesalers, vending machine operators, unclassified acquirers, transportation companies and transporters. For example, manufacturers and wholesalers must pay a fee of \$100, and secondary wholesalers pay a fee of \$25. Vending machine operators buying direct from a manufacturer pay a fee of \$100. If a manufacturer, wholesaler, secondary wholesaler, or vending machine operator maintain more than one place of business, the fee for each additional place of business shall be 1/4 of the fee otherwise required.

[MSA §7.411 (32); (33) (1996) ; H 4215 (1997).]

### VENDING MACHINE RESTRICTIONS:

Tobacco vending machine locations are restricted to places open to the public that do not allow minors; establishments with Class C liquor license; and offices, plants, factories, or private membership clubs. In establishments with a Class C liquor license, the vending machine must be located in not more than 20 feet from bar and under constant supervision of an adult. Machines located in factories, offices, etc., must be at least 20 feet from all entrances and exits. Violators will be charged with a misdemeanor punishable by up to \$1,000 and/or imprisonment up to 6 months and/or community service up to 45 days. [M.S.A. §28.738 (1996).]

### PREEMPTION:

State law preempts adoption of local requirements or prohibitions pertaining to the sale or licensure of tobacco products for distribution purposes unless in effect 12/31/93. [MSA §7.411(44).]

### OTHER:

State law prohibits the sale of a cigarette separately from its package, except for tobacco products sold in retail tobacco specialty shops. Violators are fined \$500 for each offense. [MSA §25.282(1).]

## MINNESOTA

### ADAMHA COMPLIANCE:

A licensing authority shall conduct unannounced compliance checks at least once each year; compliance checks must involve minors, with written parental consent. [Minn. Stat. Ann. Section 461.12, 609.685, subdivision 3.]

### MINORS--18:

Prohibits the sale or distribution of tobacco products to a minor. Violators guilty of a gross misdemeanor, and fined up to \$3,000 and/or up to one year imprisonment; separate administrative penalties also may apply. It is a defense to prosecution if "defendant" proves he/she "reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6," which says proof of age may be established from a valid driver's license, military identification card, or a passport. Prohibits the use, purchase, or attempt to purchase tobacco products by a minor. Violators guilty of a petty misdemeanor, and fined up to \$200. The offender's driver's license also may be suspended. Allows the sale or distribution by an Indian to an Indian minor if used for bona fide artistic, spiritual, or cultural purposes and person using tobacco product is an Indian or member of another cultural group that uses tobacco for such purposes. [Minn. Stat. Ann. Sections 461.12, 609.685, 609.03, 609.0331, 171.171 and 297.04(a) (1994).] Please note: Section 609.685 only contained the Indian-Indian circumstance; none other found.

### SIGN REQUIREMENTS:

Retailers are not required to post signs. State law does require vending machines to have a sign posted in a conspicuous place with bold type letters at least 1/2 inches in height that states: "Any person under 18 years of age is forbidden by law to purchase cigarettes from this machine." Failure to do so will result in a misdemeanor. [Minn. State. Ann. Section 325E.07(1)(2).]

### LICENSE REQUIREMENTS:

A town board or similar authority may license and regulate the sales of tobacco; a county board shall license and regulate the sale of tobacco. [Minn. state Ann. Section 461.12, subdivision 1.] If a licensee sells tobacco to a minor, a penalty of \$75 shall be assessed; a penalty of \$200 shall be assessed for a second violation within 24 months; a penalty of \$250 shall be imposed and the license suspended for a third violation within 24 months. [Id., subdivision 2.] However, state law does require a license for vending machines from the Commissioner of Taxation for two-year period with a fee of \$24. [Minn. Stat. Ann. Section 297.01(14) and 297.04.]

## **Minnesota con't**

### VENDING MACHINE RESTRICTIONS:

No person shall sell tobacco products from vending machines, unless the machine is in a facility that cannot be entered at anytime by minors. [Minn. Stat. Ann. Section 461.18, subdivision 2.]

### PREEMPTION:

Local governments are specifically authorized to adopt more stringent restrictions on sales to minors and vending machines. [Minn. Stat. Ann. Section 461.19.)] They are also authorized to impose taxes, license fees, and may require local licenses. [Minn. Stat. Ann. Section 297.02(4) and 461.12, 609.685 (1994).]

### OTHER:

Department of Revenue Notice 96-04 provides new interpretation of Unfair Cigarette Sales Act. Notice prohibits all "rebates" in connection with sale of cigarettes, regardless of whether rebate is offered equally to all buyers. Policy prohibits manufacturers, wholesalers, distributors or subjobbers from offering: "1) rack or counter allowances; 2) coupons or stickers; 3) buy downs; 4) payments to retailers for cigarette display space; or 5) payments from manufacturers to distributors or retailers or any incentive bonus based on quantities of cigarettes purchased or sold during any given period of time."

Manufacturers must report the presence of certain compounds in tobacco products. [Minn. Stat. Ann. Section 461.17.]

No person shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee; cartons and other multipack units may be offered and sold through open displays, until federal requirements take effect. [Minn. Stat, Ann. Section 461.18.]

MISSISSIPPI (all provisions effective Feb. 1, 1998.)

ADAMHA COMPLIANCE:

The Attorney General or local law enforcement agency shall conduct annual, random, unannounced inspections. Minors may participate, with written parental consent. [Miss. Code Ann. Section 97-32-21 (1997).]

MINORS--18:

Prohibits sale or transfer of tobacco products to minors. Examination of ID is absolute defense, as is a receipt of documentary proof of age in case of sales through mail. First conviction is subject to \$50 fine; second conviction, \$75 fine; third conviction, \$150 fine. If violator is holder of retailer permit, retailer must complete education program for second violation; for third and subsequent violations, permit may be revoked or suspended. Retail sales clerks must be notified of requirements of state law, and must sign a written agreement regarding their obligations; failure of retailer to notify its clerks carries a penalty of \$50-100. No minor may purchase tobacco products. Any minor who misrepresents his age shall be penalized \$25-200, or required to complete 30 days of community service, or both. [Miss. Code Ann. Section 97-32-5, 97-32-7, 97-32-9 (1997).]

SIGN REQUIREMENTS:

Retailers are required to conspicuously post a sign at least 93 square inches or 8 1/2 by 11 inches that is likely to be read that states: "State law prohibits the sale of tobacco products to persons under the age of 18 years. Proof of age required." Penalty for not posting sign is \$100. [Miss. Code Ann. Section 97-32-11.]

LICENSE REQUIREMENTS:

Every distributor, wholesaler, dealer or retailer must file for a permit. Distributors and wholesalers may only deliver product to permitted retailers.. Vending machine owners are required to pay privilege tax of \$2.50 per machine to State Tax Commission. [Miss. Code Ann. Chapter 27, Article 3 Section 27-27-301, 27-69-5, 97-32-19.]

VENDING MACHINE RESTRICTIONS:

No person may sell tobacco products through vending machines unless the machine is located in an establishment to which minors are denied access or must be accompanied an adult. Violators are subject to a penalty of \$250. [Miss. Code Ann. Section 97-32-15 (1997).]

PREEMPTION:

Not specified.

## Mississippi con't

### OTHER:

No retailer may distribute tobacco products in unsealed packages (except cigars and pipe tobacco). Penalties include fines of \$100-300, and/or enrollment in education program. Retailers permit also may be revoked. [Miss. Code Ann. Section 97-32-17.]

## MISSOURI

### ADAMHA COMPLIANCE:

No state law specifically designates responsibility for inspections or reporting for federal requirements.

### MINORS--18:

Prohibits the sale or distribution of tobacco products to minors, except distribution to family members on private property. "A person" selling or distributing tobacco shall require proof of age if based on appearance purchaser or recipient maybe under 18 years of age. Reasonable reliance on proof of age is a defense. "Proof of age" is defined as driver's license or other generally accepted means of identification that contains a picture. Fine for first offense is \$25, second is \$100, subsequent offenses are \$250. Only liable for one offense per day. Employee who makes sale is guilty of offense; owner of establishment where vending machine is located is guilty; employee of sampling company that distributes to a minor is guilty. No penalty to minor. [Sections 407.925 R.S. Mo.; Sections 407.927; 407.929; 407.93; 407.932]

### SIGN REQUIREMENTS:

Signs required on vending machines and "in conspicuous place at every display from which tobacco products are sold". Signs must include depiction of pack at least 2 inches high "defaced by a red diagonal diameter of a surrounding red circle, and the words "Under 18". Must contain red lettering at least 1/2-inch high on white background and state: "It is a violation of state law for cigarettes or other tobacco products to be sold to any person under the age of eighteen." [R.S.M. 407.927 (1994)]

### LICENSE REQUIREMENTS:

State law does not require a retail tobacco license or a vending operator license. [Section 149.035 R.S. Mo.]

### VENDING MACHINE RESTRICTIONS:

State law does not exist. [Included in Section 407.925(11)]

### PREEMPTION:

Local political subdivisions are authorized to enact acts prohibiting sale of cigarettes or cigarette wrappers to minors, and may provide punishment and fines for such violation. [Sections 71.740 R.S. Mo.] May be more stringent than state regulation. [Section 407.932 R.S. Mo.]

### OTHER:

None found.



## MONTANA

### ADAMHA COMPLIANCE

State law does not specifically reference requirements to meet federal ADAMHA reporting requirements. State law requires Department of Public Health & Human Services to conduct inspections of persons selling tobacco products to determine compliance with state law. Law allows inspections to be conducted directly by the department or by contract with the department. Department is required to provide documentation of alleged violations to Department of Revenue. An exemption for minors from prohibition of possession exists for assisting with enforcement. [Mont. Code Ann. Section 16-11-309, 310(1995).]

### MINORS--18

Prohibits the sale or distribution of tobacco products to minors. If there is reasonable doubt as to purchaser or recipient's age, then "seller" shall require a driver's license or other identification that includes a picture. The employee responsible for the sale is subject to a \$25 tobacco education fee for each violation of employee is not the owner, [16-11-308(6)]. The first through third offense within a three-year period is punishable by a verbal notification to the owner; fourth offense is punishable by written notice; fifth offense within three-year period is punishable by a \$500 tobacco education fee charged to the owner; sixth offense is punishable by suspension of license for 3 months; and seventh and subsequent offenses within three-year period is punishable by suspension of license for 1 year. If a second violation has not occurred for two-year period following first violation, than second violation is considered a first violation. License may not be reissued unless \$500 tobacco education fee has been paid in full. [Section 16-11-303, 305, 308] Prohibits the possession or consumption of tobacco products by minors. First offense is subject to civil penalty of \$35, second offense is at least \$75 and no more than \$100, and third and subsequent offenses will be fined at least \$100 and no more than \$250 or may be adjudicated as a youth in need of supervision under the Montana Youth Court Act. If convicted, person may be subject to community service or attendance at a tobacco cessation program. [Mont. Code. Ann. Section 45-5-637.]

### SIGN REQUIREMENTS

Retail seller of tobacco products must "conspicuously display, at each place on the premises at which tobacco products are displayed and sold" a sign provided free by Department of Revenue that states: "Montana law prohibits the sale of tobacco products to persons under 18 years of age." No specific sign requirements for vending machines; however, licensing language treats vending machines as a retail sale. Failure to post signs is punishable by civil penalty of \$100. [Mont. Code Ann. Section 16-11-304]

## Montana con't

### LICENSE REQUIREMENTS

Retailers and vendors must obtain license from Department of Revenue. Application fee of \$5 for retailers.[Section 16-11-122] A person operating 10 or more machines is a vendor; fewer than 10 is a retailer. Violation is a misdemeanor punishable by fine of not more than \$100 and nor more than \$500 or by imprisonment for between 30 days and 6 months. No fee is specified for vendors. [Code Ann. Sections 16-11-102(2), 16-11-120, 16-11-121, 16-11-132, and 16-11-148.]

### VENDING MACHINE RESTRICTIONS

State law restricts the location of tobacco vending machines to places where machine is "under the direct supervision of the owner or an employee of the establishment" who would be liable for any sale to a minor; or to factories, businesses, offices, and other places not open to general public; places to which persons under age 18 are not permitted access; and places where alcoholic beverages are sold and consumed on the premises. Reports in each machine must be filed with the Department of Revenue. [Section 16-11-121] [Mont. Code Anno. Section 16-11-306]

### PREEMPTION

"A local government may by ordinance adopt regulations on the subject [of this state law] that are no more stringent" than state law. [Mont. Code Anno. Section 16-11-311] Prior to preemption, Billings had adopted an ordinance regulating the sale and distribution of tobacco products to minors and requiring certain signs be posted. [City Council ordinance effective 8/7/91, Section 18-801 through 18-810, 1991.] (Not researched)

### OTHER

Tobacco products may not be distributed for commercial purposes except in "a sealed package that is provided by the manufacturer and that contains the health warning required by federal law." State law also prohibits sale of single cigarettes. [Section 16-11-307]

## NEBRASKA

### ADAMHA REQUIREMENTS:

State law does not specifically designate responsibility for ADAMHA inspections or reporting. However, the Governor has assigned the responsibility of meeting federal ADAMHA reporting requirements to the Department of Public Institutions.

### MINORS--18:

Prohibits the sale or distribution of tobacco products in any form to minors. Subject to penalty as Class III misdemeanor (in 1996, fine up to \$500 and/or up to 3 months imprisonment). Retailer is also subject to revocation of license for violation, at the discretion of the court. Prohibits the use of tobacco products in any form by minors. Violators will be guilty of a Class V misdemeanor (fine up to \$100). However, minor may be freed from prosecution if he furnishes evidence for the conviction of the persons selling or giving him the tobacco products. Use of a false ID by a minor to obtain tobacco is also a Class V misdemeanor. [R.R.S. Neb § 28-1418, 28-1425, 28-1427, 29-1419, and 28-106(1).]

### SIGN REQUIREMENTS:

State law does not exist.

### LICENSE REQUIREMENTS:

State law requires tobacco retailers and vendors to obtain licenses from Clerks or Finance Directors of cities, villages or counties. Sale of cigarettes or cigarette material containing perfumes or drugs of any kind is prohibited. Applies to sales and gifts of tobacco. Violators are guilty of a Class III misdemeanor. If revoked, no new license shall be issued until 1 year after date of revocation. Fees for retailers are based on size of municipality and range from \$10 to \$25. A one-time tax fee and license costing \$25 is also required. [R.R.S. Neb. §§ 77-2601, 28-1420, 28-1421, 28-1422, 28-1423, 28-1424 and 28-1429]

### VENDING MACHINE RESTRICTIONS:

Effective January 1, 1994, tobacco vending machines may be located only in an "area, office, business, plant, or factory which is not open to the general public or on the licensed premises of any establishment having a license...for the sale of alcoholic liquor for consumption on the premises when such machine or device is located in the same room in which the alcoholic liquor is dispensed." Violation is Class III misdemeanor; second violation results in a 6 month license suspension and subsequent violations result in permanent revocation of any license to sell tobacco products. Third violations may lead to permanent revocation. [R.R.S. Neb. §§ 28-1429.01, 28-1429.02 (1996)]

**Nebraska con't**

**PREEMPTION:**

In vending restriction law, local governments are authorized to adopt ordinances that are at least as, or more stringent than state law. [R.R.S. Neb. §28-1429.02 (1996)]

**OTHER:**

None.

## NEVADA

### ADAMHA REQUIREMENTS:

State law requires Attorney General to conduct random, unannounced inspections of establishments where tobacco products are sold to enforce compliance with state law. Authorizes Attorney General to acquire assistance with inspections through contract with sheriff's department, police department, or other person that will perform inspection in fair and impartial manner. Allows for the use of minors to test compliance if written parental consent is given. State law requires "inspector" to follow certain guidelines and to prepare written report on "the inspection." Child assisting inspection must be photographed, and his appearance may not be altered. Attorney General is responsible for compiling inspection results at the end of each fiscal year and filing necessary reports to meet federal ADAMHA requirements.[Nev. Rev. Stat. Ann. §202.2496, §202.2497]

### MINORS--18:

Prohibits the sale or distribution of tobacco products, including cigarette papers, to minors. Violation is subject to fine of not more than \$500 and a civil penalty of not more than \$500. There is no violation if, prior to sale, seller demand, receives, and reasonably relies on ID showing purchaser is 18 years of age. If an employer's employee commits a violation, the employer will be found in compliance with state law and not subject to penalties if he/she had no knowledge of sale and has a continuous training program for employees. Minors are allowed to handle tobacco in the lawful course of employment. [Nev. Rev. Stat. Ann §202.2493 (1995)] Exceptions: (1) upon written order of parent or guardian, for use of parent or guardian, (2) Superintendent of NV Youth Center or Caliente Youth Center, upon consent of parent or guardian and person is 16 years of age or older.

### SIGN REQUIREMENTS:

No state law for retailers.

### LICENSE REQUIREMENTS:

Retailers and vendors must obtain license from Department of Taxation; no fee is charged. Violation is a gross misdemeanor. [Nev. Rev. Stat. Ann. § 370.015, 370.033, and 370.080, 370.090 (1995)]

## **Nevada con't**

### VENDING RESTRICTIONS:

Cigarette vending machines may not be located in public elevators; public waiting rooms, lobbies or hallways of medical care offices or facilities; public areas of food stores (except areas licensed for gambling); child care facilities; buses used by general public; or in school buses; if minors are permitted access in any such areas. Coin-operated vending machines must not be used to dispense any product not made from tobacco. [Nev. Rev. Stat. Ann. § 202.2494, 202.2491 (1995)]

### PREEMPTION:

State law expressly does not prohibit localities from requiring a wholesale or retail dealer tobacco license. [Nev. Rev. Stat. Ann. §370.160.] State law does prohibit agencies, boards, commissions or political subdivisions from imposing more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco products. (Nev. Rev. Stat. Ann. §202.249(4) (1995))

### OTHER:

State law prohibits sale/distribution of cigarettes or smokeless tobacco products in any form other than original manufacturer's packaging with required health warnings under federal law. Violators are subject to a fine of \$100 and a civil penalty of \$100. State law requires that cigarette manufacturers notify Department of Revenue of intent to sell cigarettes in packages containing other than 20 cigarettes at least 90 days before selling such packages in state. [Nev. Rev. Stat. Ann. §370.315 (1995)]

## NEW HAMPSHIRE

### ADAMHA REQUIREMENTS:

State law provides no specific provisions for inspections or reporting, but the Liquor Commission is empowered to adopt rules for enforcement and administration of ban on sale or distribution to minors. [N.H. Rev. Stat. Ann. §126-1:9.]

### MINORS--18:

No person may sell, give or furnish tobacco products to minors; violations are punishable by fines of \$250, \$500 and \$750 for the first, second and third (and each subsequent) offenses, respectively. In addition, for the fourth and subsequent offense, the person's license shall be suspended or revoked. No person may distribute free samples in a public place, unless the place is an area to which minors are denied access, is a store that is licensed, or is a similar area; violations are punishable by of \$250, \$500, and \$750 for the first, second and third (and each subsequent) offenses, respectively. In addition, for the fourth and subsequent offenses, the person's license shall be suspended or revoked. Minors may not purchase, attempt to purchase, possess or use any tobacco product; violations are punishable by a \$100 fine, 20 hours of community service, or both; punishment may also include participation in an education program. Any person responsible for sales of tobacco products (including through vending machines) must require proof of age from any person who does not appear to be at least 18 years of age. No person shall use any tobacco product in a public education facility or on grounds of any public educational facility. [NH Rev. Stat. Ann. §§126-1:3,4,5,6,7.]

### SIGN REQUIREMENTS:

Signs must be posted at any location where tobacco products are sold or distributed; Commissioner of Revenue Administration shall adopt regulations regarding placement of signs and shall furnish sign upon issuing or renewing a retailer's license. Sign must read: "State law prohibits the sale of tobacco products to persons under age 18 and the purchase, possession, or use of tobacco products by persons under age 18. Warning: Violators of this provision may be subject to fine." [NH Rev. Stat. Ann. Section 78:2.]

### LICENSE REQUIREMENTS:

State law requires tobacco retailers, vending machine operators and samplers to obtain licenses for each retail outlet and each vending machine from State Tax Commission. Fee for retailer license is \$10; \$70 for vending machine operator; a \$10 fee must also be paid for each vending machine location. Failure to have license is a misdemeanor. Commissioner may revoke license for any violation. A license shall not be revoked if there are unpaid fees, fines or penalties. [NH Rev. Stat. Ann. § 78:2, 78:4 and 78:6, 21-J:39, 651:2]

## **New Hampshire con't**

### **VENDING MACHINE RESTRICTIONS:**

Vending machines are permitted if equipped with a lockout device, except such devices are not required on machines in areas where minors are prohibited by law. Vending machines are allowed only in establishments where an employee or agent will be present to monitor the machine when the establishment is open for business. Each vending machine shall be located such that it is well within the premises and close enough to the person controlling the machine that the person can determine the age of the prospective user. No sales of tobacco products are permitted from a vending machine which also offers for sale any non-tobacco product. Vending machines must be posted with a sign informing customers of current state law regarding the sales to minors; vendors who sell tobacco products from a vending machine shall maintain a sign at the location where the device which operates the locking device is located which informs the clerk that it is illegal to sell tobacco products to minors. Violations are civil infractions punishable by fines of \$100, \$200 and \$300 for first, second and third (and subsequent) offenses, respectively, except for signage violations, which are punishable by a fine of not more than \$50. [NH Rev. Stat. Ann. §78:12-d.]

### **PREEMPTION:**

Local laws, ordinances and regulations are not preempted.

### **OTHER:**

New Hampshire has established a perinatal alcohol, tobacco and drug use task force to recommend legislative action to provide necessary relief. Sales of single cigarettes are prohibited. [NH Rev. Stat. Ann, § 126-I:8.]



## NEW JERSEY

### ADAMHA REQUIREMENTS:

The Commissioner of Health is authorized to enforce the provisions of N.J.S. 2A:170-51 with respect to 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. The commissioner shall report quarterly to the Legislature on the enforcement program's progress, use of grants awarded pursuant to section 7 of P.L.1966, C.36 (C.26:2F-7), results of enforcement efforts and other matters the commissioner deems appropriate. [NJ Stat. s.26:3A2-20.1 (1995)].

### MINORS--18:

Prohibits the direct and indirect sale, giving or furnishing of cigarettes or tobacco in any form to minors. Violators are subject to a fine of \$250, for a first violation, \$500 for a second violation, and \$1000 for the third and each subsequent violation. In addition, the division of taxation may suspend or, after a second or subsequent violation, revoke the retailer's license. [NJ Stat. s.2A:170-51].

### SIGN REQUIREMENTS:

As a condition of holding a tobacco license, each licensee must post sign at the point of display and at the point of sale. Sign must be at least 6 inches by 3 inches in bold letters at least one-quarter inch high and shall read: "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 \$1000 and may be subject to a license suspension or revocation." [NJ Stat s.54:40A-4.1].

### LICENSE REQUIREMENTS:

Each person engaged in the business of manufacturing, purchasing, selling, consigning or distributing cigarettes must obtain an appropriate license. These licensing requirements thus apply to distributors, wholesale dealers, or retail dealers operating vending machines and others. Retail dealers and vending machine operators must obtain license from Director of Division of Taxation. Annual fee is \$40 in 1996, \$50 in 1997 and each year thereafter. [NJ Stat. s.54:40A-4].

### VENDING MACHINE RESTRICTIONS:

State law prohibits the operation, installation or maintenance of coin-operated vending machines that dispense cigarettes on property used for school purposes and owned by any school board. [NJ Stat. s.18A:36-32]. With respect to licensing requirements for a retail dealer operating a vending machine for the sale of cigarettes, each vending machine shall be separately licensed and be deemed a separate place of business. [NJ Stat. s.54:40A-4(i)].

**New Jersey con't**

PREEMPTION:

State law permits municipalities to adopt ordinances concerning vending machines that dispense tobacco products. [NJ Stat. s.2A:170-51.2].

OTHER:

None.

## NEW MEXICO

### ADAMHA COMPLIANCE:

The Alcohol & Gaming Division of the Regulation & Licensing Department and local law enforcement authorities shall conduct random, unannounced inspections. (Does not specifically authorize the use of minors for inspections.) [N.M. Stat. Ann. 30-49-10 (1995).]

### MINORS--18:

Prohibits the sale or distribution of tobacco products to minors. "Any person" who violates the sales or distribution to a minor provision is guilty of a misdemeanor (with fine up to \$1,000 and term of imprisonment up to one year) under Section 31-19-1 NMSA 1978. Prohibits minors from purchasing or attempting to purchase tobacco products or using fake identification to do so. A minor who attempts to purchase tobacco products shall be punished by a fine up to \$100 or 48 hours of community service. [31-19-6.]

### SIGN REQUIREMENTS:

Retailers are required to "display in the place where tobacco products are sold and where a tobacco product vending machine is located" a sign that reads as follows: "A person less than 18 years of age who purchases a tobacco product is subject to a fine of up to \$1,000. A person who sells a tobacco product to a person less than 18 years of age is subject to a fine of up to \$1,000." [30-49-9.] \* Note: There is a contradiction in the law about the penalty for purchase by a minor.

### LICENSE REQUIREMENTS:

An annual tobacco product retail license is not required. However, the state requires persons selling cigarettes to register with the Secretary of Taxation & Revenue, and to furnish information as requested concerning vending machines or retail stores selling cigarettes. [Stat. Ann. Section 7-1-12 and 7-12-9.]

### VENDING MACHINE RESTRICTIONS:

Tobacco vending machines are restricted to locations not open to the general public, such as factories, businesses, and offices; locations inaccessible to minors unaccompanied by an adult; and locations where alcoholic beverages are sold for consumption on the premises. [30-49-7.]

**New Mexico con't**

**PREEMPTION:**

Local ordinances relating to the sale of tobacco products must be consistent with the state law. [30-49-9.]

**OTHER:**

Prohibits the sale of tobacco products except in manufacturer's sealed package carrying federal warning. [30-49-3.]

## NEW YORK

### ADAMHA COMPLIANCE:

The State Commission of Health is authorized to develop, plan and implement a comprehensive plan to reduce the prevalence of tobacco use, particularly among minors. The Health Department will fund appropriate programs. The Commissioner must submit to the Governor and Legislature tobacco control reports describing the extent of the use of tobacco products by minors. [NY Pub. Health Law ss1399-HH through 1399-KK.]

### MINORS--18:

Prohibits any person operating a place of business that sells tobacco products from selling such products, rolling papers or pipes to minors. Violators are subject to \$100-300 for the first offense, and \$1,000 for each subsequent offense. If a retail dealer is found to have violated these restrictions three times within a two-year period, or four or more times cumulatively, the enforcement officer must direct the Commissioner of Taxation and Finance to suspend the dealer's registration for one year. [NY Pub. Health Law ss.1399-cc, 1399-ee (consol. 1996).] State law requires places of business that sell tobacco products to verify age from photo identification issued by government entity or educational institution if person does not reasonably appear to be 25 years of age; provided, however, that appearance is not defense if sale is made to minor. [NY Pub. Health Law s.1399-cc.]

### SIGN REQUIREMENTS:

State law requires a white sign with red letters that are at least 1/2 inch in height to be conspicuously posted in any business that sells or offers to sell tobacco products. Sign must state: "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, ROLLING PAPERS OR PIPES, TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW." [NY Public Health Law s.1399-cc.] Penalty for not posting sign is up to \$100 for first violation, and \$250 for second and subsequent violations. [NY Pub. Health Law s.1399-cc, 1994.]

### LICENSE REQUIREMENTS:

State law requires retail dealers and vending machine owners/operators to "register" with the commissioner. Retailers are required to pay a registration fee of \$100 for each retail place of business. Owners/operators of vending machines must pay a registration fee of \$25 for each machine. Effective December 3, 1996, the fines for retailers who fail to register with the state is \$1,000. [NY Tax Law, s.480-a, as amended, 1996 NY ALS 628 (effective Dec. 3, 1996).]

## **New York con't**

### VENDING MACHINE RESTRICTIONS:

State law restricts the location of tobacco vending machines to bars or bar areas of restaurants that have an on-premises full liquor license; to private clubs; to tobacco businesses; or places of employment that has an insignificant portion of its regular workforce comprised of people under 18 years of age and only in places not open to the general public and under plain view and direct supervision and control of the person in charge of the location or his agent or employee. [NY Pub. Health Law s.1399-dd.]

### PREEMPTION:

State law preempts the enactment of rules concerning the distribution of samples or coupons. [NY Pub. Health Law, s.1399-bb (notes).] Court of Appeals ruled in lawsuit challenging New York City vending restriction ordinance that state law does not preempt the local municipal regulation of tobacco sales and distribution through vending machines in public places. [Vatore vs. Commissioner of Consumer Affairs of the City of New York, 83 N.Y. 2d 645, 634 N.E. 2d 958, 612 N.Y.S. 2d 357 (1994).]

### OTHER:

State law prohibits the sale by retail dealers of out-of-package cigarettes. [NY Pub. Health Law, s.1399-gg.]

## NORTH CAROLINA

### ADAMHA COMPLIANCE:

Department of Human Resources is authorized to use minors with written parental consent in annual, random, unannounced inspections if inspections are for the sole purpose of "preparing a scientifically and methodologically valid statistical study" to meet federal ADAMHA reporting requirements. Authorizes local sheriffs' departments to use minors to test compliance if written parental consent is given and inspection is under direct supervision of law enforcement. Prohibits the use of minors by other persons to purchase or attempt to purchase tobacco. [N.C Gen. Stat. §14-313 (1995).]

### MINORS--18:

Requires photographic identification that includes the bearer's date of birth as proof of age. [North Carolina S.B.143 of 1997]. Prohibits person from knowingly distributing or selling tobacco products including wrapping papers to minors. Also, prohibits any person from knowingly aiding, assisting or abetting a person in the sale of tobacco to a minor. Prohibits person from purchasing tobacco on behalf of a minor or sending minor to receive or purchase tobacco, except as used by state law enforcement officers. Seller must demand proof of age if he has reasonable grounds to believe that purchaser is under 18. Failure to demand proof is a Class 2 misdemeanor. Proof that defendant demanded proof of age shall be a defense. Exempts distribution to an employee if required in the performance of the employee's duties. Prohibits minors from purchasing or accepting receipt of, or attempting to purchase or accept tobacco products or present fake or misleading proof of age. Violators will be charged with an infraction. [NC Gen. Stat. §14-313, Chapter 628.]

### SIGN REQUIREMENTS:

Retail distributions of tobacco products shall prominently display near the point of sale sign in letters at least five-eighths of an inch high which states the following: "N.C. LAW STRICTLY PROHIBITS THE PURCHASE OF TOBACCO PRODUCTS BY PERSONS UNDER THE AGE OF 18. PROOF OF AGE REQUIRED." Failure to post the required sign shall be an infraction punishable by a fine of twenty-five (\$25.00) for the first offense and seventy-five (\$75.00) for each succeeding offense.

Failure by a retailer to demand proof of age is a misdemeanor violation if the fact the prospective purchaser is under 18 years of age.

## North Carolina con't

### LICENSE REQUIREMENTS:

State law does not require a retail tobacco license for sale of cigarettes. There is a \$10 retail dealer license tax for tobacco products other than cigarettes. [NC Gen. Stat. § 105-113.36 (1995)] But, it does require an annual "distributor's or operator's license" for vending machine operators. Owners of more than 5 tobacco vending machines shall acquire a statewide annual license from the Secretary of Revenue for \$50. [NC Gen. Stat. §105-65.1 and 105-113.]

### VENDING MACHINE RESTRICTIONS:

Tobacco products shall not be distributed in vending machines; provided, however, vending machines distributing tobacco products are permitted: 1) in any establishment which is open only to persons 18 years of age and older; or 2) in any establishment if the vending machine is under the continuous control of the owner or licensee of the premises or an employee thereof and can be operated only upon activation by the owner, licensee, or owner prior to each purchase and the vending machine is not accessible to the public when the establishment is closed. The owner, licensee, or employee shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Failure to demand proof of age as required is a Class 2 misdemeanor if in fact the purchaser is under 18 years of age. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought. Vending machines distributing tobacco products in establishments not meeting the above conditions shall be removed prior to December 1, 1997. Any person distributing tobacco products through vending machines in violation shall be guilty of a Class 2 misdemeanor. [North Carolina S.B.143 of 1997].

Vending machines must be marked to identify the owner. [NC Gen Stat §105-113.17 (1995).]

### PREEMPTION:

Prohibits political subdivisions, boards, or agencies of the state, or any municipality, county, or other local body, from enacting rules, regulations or ordinances concerning the sale, distribution, display or promotion of tobacco products on or after 9/1/95. This section does not apply to the regulation of vending machines, nor does it prohibit Secretary of Revenue from adopting rules to administer the tobacco products taxes. [NC Gen. Stat. §14-313.]

### OTHER:

None.



## NORTH DAKOTA

### ADAMHA COMPLIANCE:

No state law specifically designates responsibility for enforcement or reporting to meet federal ADAMHA requirements.

### MINORS--18:

Prohibits the sale or furnishing of tobacco products to minors. Tobacco products include cigarette wrapping papers. Violators will be charged with a Class B misdemeanor punishable by a fine of \$500 and/or imprisonment for 30 days. Prohibits the purchase of tobacco products on behalf of minors. Violators will be charged with a Class B misdemeanor. Prohibits the use of tobacco products by a minor in any form. Violators will be charged with a Class B misdemeanor. [ND Cent. Code Section 12.1-31-03(1), 12.1-31-03(2), and 12.1.32-01(6).]

### SIGN REQUIREMENTS:

No state law exists.

### LICENSE REQUIREMENTS:

State law requires a license for retailers ("dealers") from the Attorney General at a fee of \$25 for each retail outlet Other than the application the chapter will be administered by the Tax Commissioner). [Cent. Code Section 57-36-01(4) and 57-36-02.]

### VENDING MACHINE RESTRICTIONS:

No state law exists. (Sales of tobacco products includes dispensing from vending machine under controls of actor, 12.1-31-03 (1995), but not site restrictions found otherwise.)

### PREEMPTION:

No state law exists.

### OTHER:

All cigarettes must be sold in packages of five or more, other than to enrolled tribal members. [ND Cent. Code s57-36-07 (1995)].

## OHIO

### ADAMHA COMPLIANCE:

No state law specifically designates responsibility for enforcement or reporting to meet federal requirements.

### MINORS--18:

Prohibits the sale or distribution of tobacco products to minors. Violators will be charged with a 4th degree misdemeanor and fined up to \$250 and/or up to 30 days of imprisonment for first offense; and will be charged with a 3rd degree misdemeanor with a fine of up to \$500 and/or 60 days imprisonment for second and subsequent offenses. [Ohio Rev. Code Ann. s2927.02.]

### SIGN REQUIREMENTS:

Retailers are required to post conspicuously a sign that states that the giving, selling, or otherwise distributing tobacco products to minors is prohibited by law. [Ohio Rev. Code Ann. Section 2927.02.]

### LICENSE REQUIREMENTS:

Retailers are required to obtain a license from the county treasurer for a fee of \$30 for the first five places of business and an additional \$25 fee for each location over five. [Ohio Rev. Code Ann. Section 5743.15.]

### VENDING MACHINE RESTRICTIONS:

Tobacco vending machines are required to be located within the immediate vicinity and in plain view of owner or employee responsible for observing sales of tobacco. The vending machine must not be accessible to the public when the establishment is closed. Tobacco vending machines do not have to be supervised in factories, business offices other places not open to the general public; and in places inaccessible to minors. [Ohio Rev. Code Ann. Section 2927.02.]

### PREEMPTION:

No state law exists, however, one state appellate court has ruled that the state vending restrictions in section 2927.02 preempt a more municipal ordinance. [Automatic Refreshment Services, Inc. v. Cincinnati, 634 N.E. 2d 1053 (OH Ct. App. 1993)].

### OTHER:

None.

## OKLAHOMA

### ADAMHA COMPLIANCE:

State law requires the Alcoholic Beverage Laws Enforcement Commission to file reports to meet federal ADAMHA requirements and any regulations promulgated by the U.S. Department of HHS. The Commission or municipalities are authorized to conduct random, unannounced inspections; and is also authorized to use minors when conducting inspections. State law prohibits any other organizations from using minors to conduct their own inspections; subjects violators to a penalty of \$100. [OK Stat. Tit. 37, §600.11 (1997).]

### MINORS--18:

Prohibits the sale or distribution of tobacco products to minors. Violators subject to a fine of between \$100-\$300 and suspension of license, or both. State law requires "a person engaged in the sale or distribution of tobacco products" to demand proof of age if based on appearance purchaser/recipient appears to be under 18 years of age. "Proof of age" is defined as a driver's license or other form of identification that contains a picture. Penalty will be imposed on employee, not employer. [OK Stat. Tit. 21, s1241, id. at Tit. 37, §600.3 (1997)]. Showing of proof of age is a defense. Prohibits the purchase of tobacco products on behalf of minors. Violators subject to same penalties as above. Prohibits the purchase, receipt, or possession of tobacco products by minors. Violators subject to a penalty of \$100 for first offense, and \$500 for second and subsequent offenses within one-year period. [id. at Tit. 37, §600.4]. Prohibits minors from possessing tobacco products. Violators will be required to disclose the location at which they acquired the tobacco product, or be charged with a misdemeanor and charged accordingly. [OK Stat. Tit. 21, s1242 (1997)]. Exempts minors from possession, purchase or receipt prohibitions if it occurs during the course of employment. If any minor aged 16 or older is in possession and refuses to disclose source, he shall be liable for fine of \$5 or be imprisoned in county jail up to five days, or both. State law requires persons selling tobacco products at retail to sign a form that states: "I understand that state law prohibits the sale or distribution of tobacco products to persons under eighteen (18) years of age and out-of-package sales, and requires proof of age of purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under eighteen (18) years of age. I promise, as a condition of my employment, to obey the law. I understand that violations by me may be punishable by fines, suspension or nonissuance of my driver's license. In addition, I understand that violations by me may subject the storeowner to fines or license suspension" [id. at Tit. 37, §600.6].

## Oklahoma con't

### SIGN REQUIREMENTS:

State law requires a sign to be conspicuously posted at each place of business that states: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE." Failure to post sign will result in a fine of \$50. Each day a violation is continuing shall constitute a separate offense. [OK Stat. Tit. 37, §600.5 (1997)].

### LICENSE REQUIREMENTS:

State law requires a retail tobacco license from the Tax Commission for a fee of \$30. [OK Stat. Tit. 68, §§304 and 1504.]

### VENDING MACHINE RESTRICTIONS:

State law requires tobacco vending machines to be continuously supervised or equipped with a lock-out device; or restricted factories/businesses not open to general public or to places inaccessible to minors, such as offices, bars under continuous supervision of owner or lessee, and inaccessible to public when closed. [Tit. 37, Okla. Stat. §600.7 (1997).]

### PREEMPTION:

State law preempts localities from regulating the "sale, purchase, distribution, advertising, sampling, promotion, display, possession, licensing, or taxation of tobacco products." [OK Stat. Tit 37, §600.10 (1997).]

### OTHER:

State law requires tobacco products to be in manufacturer's original, sealed packaging. Violators are subject to a \$200 fine. [OK Stat. Tit. 37, §600.9 (1997)].

## OREGON

### ADAMHA COMPLIANCE:

Department of Human Resources is responsible for reporting to meet federal ADAMHA requirements. Department of Human Resources is authorized to develop rules for conducting random, unannounced inspections; and to conduct the inspections. State law does not specifically address the use of minors in inspections, but does establish that inspections shall only take place in areas open to the public, during hours that tobacco products are distributed, and once a month in a single establishment (unless a compliance problem exists). [ORS 431.853 (1994).]

### MINORS--18:

Prohibits the sale or distribution of tobacco products to minors. Violators will be subject to a fine of \$100-500. [OR Rev. Stat. s163.575 (1995)]. Prohibits minors from possessing tobacco products. Violators will be subject to a fine of up to \$100. [OR Rev. Stat. s167.400 (1995)]. Specifically, prohibits facilities, such as schools, juvenile training schools or juvenile detention facilities, from allowing minors to possess tobacco on grounds or at facility-sponsored events. [OR Rev. Stat. s163-575(1)(d), 163-575(1)(e), 163-575(3).] In addition, anyone who sells (tobacco) smoking devices must display a sign clearly stating that the sale of such devices to minors is prohibited by law. [OR Rev. Stat. s163.58 (1995)]. Prohibits the free distribution of tobacco products to minors. [OR Rev. Stat. s431.840 (1995)]. Violators shall be fined not less than \$100 nor more than \$500. [OR Rev. Stat. s431.845 (1995)].

### SIGN REQUIREMENTS:

State law requires a sign to be posted so it is clearly visible to the seller and the purchaser. The sign must contain a message substantially similar to: "The sale of tobacco in any form to persons under 18 years of age is prohibited by law. Any person who knowingly sells, or causes to be sold, tobacco to a person under 18 years of age commits the crime of endangering the welfare of a minor, pursuant to [ORS 163.575]." (Capital letters) Failure to post will result in a fine up to \$500. [OR Rev. Stat. s163.575, 431.840(1)(b),(3) (1995)].

### LICENSE REQUIREMENTS:

State law requires a "distributor's license" for anyone who "distributes cigarettes" from the Department of Revenue at no charge. [OR Rev. Stat. s323.105 (1995)]

### VENDING MACHINE RESTRICTIONS:

State law restricts the location of tobacco vending machines to places inaccessible to minors, and taverns/cocktail lounges, industrial plants, and hotel/motels. Violators are subject to fines up to \$250. [OR Rev. Stat. 167.402 (1995)].

**Oregon con't**

**PREEMPTION:**

State law prohibits cities and counties from regulating tobacco vending machines. [OR Rev. Stat. s167.404 (1995)].

**OTHER:**

State law requires cigarettes to be in a sealed package. [OR Rev. Stat. s431.840 (1995)].  
Violators shall be fined not less than \$100 and not more than \$500. [OR Rev. Stat. s431.845 (1995)].

## PENNSYLVANIA

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement or reporting to meet federal ADAMHA requirements.

### MINORS--18:

Prohibits the sale or distribution of tobacco products to minors. Violators shall be charged with a summary offense punishable by a fine of at least \$25 for first offense, and at least \$100 for subsequent offenses. Prohibits the purchase or acquiring of tobacco products by minors. Violators will be charged with a summary offense punishable by a fine of at least \$25 for first offense, and at least \$100 for subsequent offenses. [Stat. Ann. Title 18 Section 6305(a) and 6305(b).]

### SIGN REQUIREMENTS:

State law requires vending machine operators to conspicuously post their license on the machine. [Stat. Ann. Title 72 Section 8236.]

### LICENSE REQUIREMENTS:

State law requires a retail tobacco license, which includes vending machine operators, from the Department of Revenue for a fee of \$5.

### VENDING MACHINE RESTRICTIONS:

No state law exists.

### PREEMPTION:

No state law exists.

### OTHER:

None.

## RHODE ISLAND

### ADAMHA COMPLIANCE:

The Department of Health ("DOH") is the agency tasked with coordinating and promoting the enforcement of compliance provisions and serves as the primary liaison to other state or local agencies, departments or divisions on issues pertaining to stopping children's access to tobacco. DOH also will investigate concurrently with other state and local officials violations. DOH will utilize unannounced statewide compliance check of both retail tobacco over-the-counter sales and tobacco vending machine sales as part of investigating compliance. Underage individuals, acting as agents for DOH and with the written permission of a parent or guardian, may purchase, with impunity from prosecution, tobacco products for the purposes of law enforcement or government research involving monitoring compliance, provided that the minor is supervised by an adult law enforcement official. Any individual participating in an unannounced compliance check must state his/her accurate age if asked by the sales representative of the retail establishment being checked. In fulfilling the requirement of unannounced statewide compliance checks, the DOH shall maintain complete records of the unannounced compliance checks. [R.I. Gen Laws s.11-9-13.6 (1996)].

### MINORS--18:

Prohibits the sale, conveyance or distribution of tobacco products to minors via the United States Postal Service, or by any other public or private postal or package delivery service. A minimum fine of \$500 shall be assessed against any distributor, seller or conveyor convicted of distributing, selling or conveying tobacco products through these means of delivery. [R.I. Gen. Laws, s. 11-9-13.7, 13.11] Prohibits the sale of tobacco products to minors [R.I. Gen. Laws s.11-9-13]. Prohibits person under 18 years of age from purchasing tobacco products. [R.I. Gen. Laws s. 11-9-13]. Prohibits persons under 16 years of age from smoking or chewing in any public street, place or resort, any tobacco in any form whatsoever. Violators are subject to a \$5 fine. [R.I. Gen. Laws s.11-9-14].

### SIGN REQUIREMENTS:

Signs with letters at least 3/8 inch high must be conspicuously posted in each place of business in which tobacco products are sold, including sales through cigarette vending machines. [R.I. Gen. Laws s.11-9-13].



## **Rhode Island con't**

### LICENSE REQUIREMENTS:

State law requires each person engaging in the business of selling cigarette products, including any distributor, dealer or vending machine operator, to obtain an appropriate license from the tax administrator. Dealer's licenses may be obtained for a fee of \$25; vendors will be charged \$25 per machine. [R.I. Gen. Laws ss.44-20-2, 44-20-4, 44-20-7]. Violations of license requirements are subject to fines ranging from \$100 to \$200. [R.I. Gen. Laws s.44-20-3].

### VENDING MACHINE RESTRICTIONS:

State law requires vending machines to be located in the direct line of sight of an authorized employee, continuously supervised, and equipped with an electronic locking device. Does not require vending machines to be equipped with electronic locking devices if they are located in establishments licensed to sell alcohol which limit access to persons over age 21. [R.I. Gen. Laws s.11-9-13.1]. Tobacco products may not be sold with non-tobacco products in vending machines. [R.I. Gen. Laws s.11-9-13.1(b)].

### PREEMPTION:

None found.

### OTHER:

State law prohibits the sale of cigarettes in packs of less than 20 cigarettes. [R.I. Gen. Laws s.11-9-13.1(c)]. Prohibits licensees from selling, distributing or delivering tobacco products in any form other than an original factory-wrapped package. Penalty for each violation is \$500. [R.I. Gen. Laws s. 11-9-13.8].

## SOUTH CAROLINA

### ADAMHA COMPLIANCE:

Note: The statute regarding ADAMHA compliance was enacted and signed by the Governor on June 18, 1996. The applicable provisions, however, only take effect "when funds are appropriated by General Assembly..." [1995 SC H.B. 3201, s.5 (1996)]. It is unclear whether funds have been appropriated for this purpose. The Director of the Department of Revenue and Taxation shall provide for the enforcement of applicable provisions in a manner that reasonably may be expected to reduce the extent to which tobacco products are sold or distributed to persons under the age of 18, and annually shall conduct random, unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance. The Department shall designate an enforcement officer to conduct the annual inspections. The Director shall provide for the preparation of and submit annually to the Secretary of the United States Department of Health & Human Services the report required by Section 1926 of the federal Public Health Service Act (42 U.S.C. 300x-26) and otherwise is responsible for ensuring the state's compliance with that provision of federal law and implementing regulations promulgated by the United States Department of Health & Human Services. [1995 SC H.B. 3201, s.2 (effective when funds appropriated)].

### MINORS--18:

It is unlawful for any person to sell, furnish, give, or provide any minor under the age of 18 with cigarettes, tobacco, cigarette paper, or any substitute therefor. Any person violating these provisions, either in person, by agent or in any other way, shall be guilty of a misdemeanor and, if convicted, shall face the following penalties: for a first offense, a fine not exceeding \$25; for a second offense, a fine not exceeding \$50; for third and subsequent offenses, a fine of not less than \$100 or imprisonment for not more than one year nor less than 60 days, or both. [SC Code Ann. s.16-17-500 (Law Co-op. 1996)].

### SIGN REQUIREMENTS:

State law requires tobacco license be conspicuously posted at or in the place of business. [SC Code Ann. s.12-21-670].

### LICENSE REQUIREMENTS:

State law requires a license for wholesalers and vending machine operators, and tobacco product manufacturers sales representatives, but not retailers, from the Department of Revenue and Taxation. The fee is \$5. Vending machine operators need only obtain one license and maintain an up-to-date list of all their vending machines locations. [SC Code Ann. 2.12-25-660].

**South Carolina con't**

**VENDING MACHINE RESTRICTIONS:**

No state law exists.

**PREEMPTION:**

Any laws, ordinances, or rules enacted pertaining to tobacco products may not supersede state law or regulation. However, smoking ordinances in effect before June 18, 1996 are not subject to preemption. Laws, ordinances and rules must be implemented in an equitable and uniform manner throughout the State. [SC Code Ann. s.16-17-504].

**OTHER:**

None.

## SOUTH DAKOTA

### ADAMHA COMPLIANCE:

Local law enforcement officials or state's attorneys shall annually conduct random, unannounced inspections, and may use minors, if such activity is supervised, and written parental consent has been provided. The Attorney General prepares the annual report for submission by the Governor to the U.S. Department of Health & Human Services. [S.D. Codified Laws §§34-46-3, 34-46-4 (1996).]

### MINORS--18:

Prohibits the knowing sale or distribution of tobacco products to minors; the sale of cigarettes other than in an unopened package originating with the manufacturer and depicting required warning labels; and the distribution of tobacco product samples in or on a public street, sidewalk, or part that is within 500 feet of a playground, school, or other facility when the facility is being used primarily by person under the age of 18. [SD Codified Laws §34-46-2 (1996).] Prohibits minors from purchasing, attempting to purchase, possessing or consuming any smokeless tobacco product or misrepresenting their age for the purpose of purchasing or attempting to purchase any smokeless tobacco product. [SD Codified Laws §26-10-20 (1996).] Prohibits minors from purchasing, attempting to purchase, possessing or consuming tobacco, cigarettes or cigars unless it is done in the immediate presence of a parent, guardian or spouse over the age of 18, or misrepresenting their age for the purpose of purchasing such tobacco, cigarettes or cigars from any person. [SD Codified Laws §26-10-23 (1996).] Violations of §34-46-2 (see above) are Class 2 misdemeanors. A person is not liable for more than one violation on a single day. Reasonable reliance on proof of age is a complete defense. [SD codified Laws §34-46-5.]

### SIGN REQUIREMENTS:

State law does not require retailers to post signs. State law does require cigarette vending machine owners, lessees or other persons having control to post in a conspicuous place on each machine, a warning that has 1/2-inch letters in bold type and is kept in easily legible form and repair that states: "Any person under 18 years of age is forbidden by law to purchase cigarettes from this machine." Failure to post sign is a petty offense. [SD Codified Laws §26-10-24 (1996).]

### LICENSE REQUIREMENTS:

State law does not require a retail license. [SD Codified Laws §§10-50-1, 10-50-9 (1996.)]

## South Dakota con't

### VENDING MACHINE RESTRICTIONS:

State law prohibits the sale of tobacco products through a vending machine located in a place other than: (1) a factory, business, office, or other place not open to the general public, (2) a place that is open to the public but to which persons under the age of 18 are denied access; (3) an establishment licensed to sell on-premises alcoholic beverages. [SD Codified Laws §34-46-2(2) (1997).]

### PREEMPTION:

State ADAMHA compliance law provides that the state legislature is the "exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products." [SD Codified Laws § 34-46-6 (1996).] State tax law provides that state legislature is "exclusive regulator" of all matters relating to the use of tobacco products; provided, however, that 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 Codified Laws §10-50-64 (1996).]

### OTHER:

State law requires cigarettes to be sold in unopened packages originating with the manufacturer and depicting the warning labels required by federal law. [SD Codified Laws §34-46-2 (1996)] All cigarettes sold in the state must be in packages containing 20 or 25 cigarettes, except for those cigarettes offered by manufacturers for free distribution as samples. "Manufacturers, through their sales representatives or agents, may distribute, within the state, sample cigarettes in any package size or quantity." [S.D. Codified Laws §10-50-2 (1996)]

## TENNESSEE

### ADAMHA COMPLIANCE:

The Department of Agriculture is authorized to conduct random, unannounced inspections. Law enforcement efforts using minors are permissible if a parent consents. [Tenn. Code Ann. §§39-17-1504(b), 39-17-1509, 39-15-413 (approval must be written) (1996).]

### MINORS--18:

Prohibits sale or distribution of tobacco products to minors. Prohibits purchase of tobacco products on behalf of minors. [Tenn. Code Ann. §39-15-408(a) (1996).] Unless part of an otherwise valid law enforcement effort, no person may persuade, entice, send or assist a minor to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco product or smoking paraphernalia. [Tenn. Code Ann. §§ 39-17-1504(b), 39-15-408(b).] Prohibits the distribution of 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 is being used primarily by minors. [Tenn. Code Ann. §39-17-1504(c).] Persons engaged in the sale or distribution of tobacco products shall demand proof of age if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient is a minor; similarly, persons contemplating the dissemination of smoking paraphernalia to a minor must demand identification containing proof of age. [Tenn. Code Ann. §§39-17-1504(d), 39-15-410(a) (1996).] For distribution by mail, distributor must obtain an affirmative statement that purchaser is 18 years of age or older, and must inform the purchaser that he is strictly prohibited from distributing any tobacco product to minors. [Tenn. Code Ann. §§ 39-17-1504(d) (1996).] Violations of these provisions are Class A misdemeanors (for tobacco products) or Class C misdemeanors (for smoking paraphernalia). [See Tenn. Code Ann. §§39-17-1504(e), 39-15-408(c), 39-15-410(a) (1996).] However, proof that a defendant demanded, was shown, and reasonably relied upon proof of age for tobacco products is a defense. [Tenn. Code Ann. §39-17-1504(e) (1996).] Prohibit minors from purchasing or accepting receipt of a tobacco product, or presenting or offering to present a false proof of age; similarly prohibits minors from directly or indirectly purchasing or acquiring smoking paraphernalia. [Tenn. Code Ann. §§39-17-1505(a), 39-15-409 (1996).] Violations with respect to tobacco products are Class C misdemeanors, 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 a second or subsequent offense with a one-year period. [Tenn. Code Ann. §1505(b) (1996).] Violations with respect to smoking paraphernalia are subject to "juvenile proceedings." [Tenn. Code Ann. §19-15-409 (1996).]

## Tennessee con't

### SIGN REQUIREMENTS:

Every person who sells tobacco products at retail shall post a sign at his place of business that says: "STATE LAW STRICTLY PROHIBITS THE SALE OF TOBACCO PRODUCTS OR SMOKING PARAPHERNALIA TO PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS. PROOF OF AGE MAY BE REQUIRED." The sign must be at least 93 1/2 square inches to ensure that it is likely to be read at each point of sale. Violator commit a Class C misdemeanor with a fine of \$25 for the first offense, and \$50 for each subsequent offense within two years. In addition, each person who disseminates smoking paraphernalia must prominently display in the place where such items are disseminated, either the same sign or the sign required by law prior to April 22, 1994; violations of this provision are Class C misdemeanors. [Tenn. Code Ann. §39-17-1506(a), 39-15-411(a) (1996).]

### LICENSE REQUIREMENTS:

State law does not require a retail tobacco license or a vending operator license. [Tenn. Code Ann. §§67-4-1001, 67-4-1015 (1996).]

### VENDING MACHINE RESTRICTIONS:

It is unlawful for any person to sell tobacco products through a vending machine unless the vending machine is located in: (1) factories, businesses, offices, or other places that are not open to the public; (2) places that are open to the public, but to which person under 18 years of age are denied access; (3) places where alcoholic beverages are sold for on-premises consumption, but only if the vending machine is under the continuous supervision of the owner or lessee, or an employee thereof, and is inaccessible to the public when the establishment is closed; or (4) in other places, but only if the machine is under the continuous supervision of the owner or lessee, or an employee thereof, or the machine can be operated only with special tokens, and is inaccessible to the public when the establishment is closed. [Tenn. Code Ann. §39-17-1507(a). (1996).] In any place where supervision or tokens are required, the responsible person must demand proof of age, if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be a minor. [Tenn. Code Ann. §39-17-1507(b) (1996).] Violations of these provisions constitute a Class C misdemeanor. [Tenn. Code Ann. §39-17-1507(c) (1996).]

## Tennessee con't

### PREEMPTION:

The state intends to "occupy and preempt the entire field of legislation concerning the regulation of tobacco products." [Tenn. Code Ann. §39-17-1551 (1996).] Exempts regulation of the use of tobacco products within certain local government-owned or leased buildings, facilities regulated by airport authorities, utility districts and special school districts. Individual owners and operators of retail establishment in enclosed shopping malls also may establish tobacco use policies. [Tenn. Code Ann. §39-17-1551(1996).]

### OTHER:

State law requires cigarettes or smokeless tobacco products to be in original, sealed package from manufacturer with federal health warning. Imposes Class C misdemeanor for violations. [Tenn. Code Ann. § 39-17-1508(a) (1996).]



## TEXAS

### ADAMHA COMPLIANCE:

The Texas Department of Health is authorized to conduct random, unannounced inspections and to prepare and submit all reports required to satisfy federal ADAMHA requirements. [Tex. Health & Safety Code §161.082 (1997).] Municipalities have authority to conduct comparable enforcement actions. [Tex. Health & Safety Code §161.089.]

### MINORS--18:

A person commits an offense if the person, as a commercial enterprise and with criminal negligence: (1) sells or gives a cigarette or tobacco product to a minor; or (2) sells or gives a cigarette or tobacco product to another person who intends to deliver it to a minor. A retailer commits an offense if an agent or employee of the retailer commits an offense (as described above) and the retailer with criminal negligence, failed to prevent the offense through adequate supervision of the employee. Offenses are punishable by fines of \$100-1,000; subsequent offenses are punishable of \$500-2,000. Reliance on an apparently valid proof of identification is a defense. [Tex. Health & Safety Code § 161.083.] Additionally, a person may not sell or give a cigarette or tobacco product to someone under 27 years of age unless the prospective recipient presents an apparently valid proof of identification. [Tex. Health & Safety Code § 161.084.] A minor may not use or possess a cigarette or tobacco product; violators generally must participate in an approved tobacco use prevention program; failure to do so subjects the violator to a fine of \$100. [Tex. Health & Safety §§ 161.252, 161.253, 161.254.]

### SIGN REQUIREMENTS:

State law requires each person who sells cigarettes or tobacco products at retail or by vending machine to post conspicuously and close to place of purchase a sign which states: "SALE OR PROVISION OF TOBACCO PRODUCTS TO A MINOR UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW. UPON CONVICTION, A MAXIMUM FINE OF UP TO \$2,000 MAY BE IMPOSED." The intentional failure to post sign will result in a Class C misdemeanor. [Tex. Health & Safety Code § 161.085 (West 1997).] State law also requires each retailer who operates a vending machine that includes tobacco products to place a retailer's permit on the machine. [Tex. Tax Code §155.053(c) (West 1997).]

### LICENSE REQUIREMENTS:

State law requires retailers and owners of coin-operated cigarette vending machines to obtain permits to sell tobacco products from the state treasurer. A fee of \$200 required. [Tex. Tax Code §§154.001(14), 154.101, 154.111 (West 1997)] (stated). [Tax Code Sec. 154.101(b) and 154.001(14).]

## Texas con't

### VENDING MACHINE RESTRICTIONS:

A retailer or other person may not: (1) offer cigarettes or tobacco products for sale in a manner that permits a customer direct access, or (2) install or maintain a vending machine containing cigarettes or other tobacco products. These restrictions do not apply to (1) a bar, lounge, or similar place that, as its primary business sells alcoholic beverages for on-premises consumption, or (2) a facility or business that is not open to minors. Offenses are punishable by fines of \$100-1,000; subsequent offenses are punishable by fines of \$500-2,000. [Tex. Health & Safety Code § 161.086.]

### PREEMPTION:

Local regulations of the sale, distribution or use of cigarettes or tobacco products is permissible if the regulation, ordinance or requirement: (1) is compatible with and equal to or more stringent than a state requirement, or (2) relates to an issue not specifically addressed by state law. [Tex. Health & Safety Code § 161.0902.]

### OTHER:

Cigarettes may not be sold in quantities less than an individual package containing at least 20 cigarettes. [Tex. Tax Code §154.504 (West 1997).] A person generally may not use a sign to advertise a cigarette or tobacco product, unless the contract for the advertisement was entered into before September 1, 1997. However, signs containing advertisement for cigarettes or tobacco products may not be located closer than 500 feet to a church or school (certain exceptions apply). [Tex. Health & Safety Code §§ 161.122 (West 1997).] A person may not distribute a free sample of a cigarette or tobacco product, or a coupon other than the item that the recipient may use to receive a free or discounted cigarette or tobacco product. [Tex. Health & Safety Code § 161.087.]

## UTAH

### ADAMHA COMPLIANCE:

State law does not specify a department for reporting to meet federal ADAMHA requirements. However, state law does authorize peace officers to use minors (i.e., any person under 19) to investigate violations of restrictions on the sale, giving or furnishing of cigars, cigarettes or tobacco to persons under 19 years of age. If the person is under the age of 18, written parental or guardian consent is required. If a violation occurs, a citation must be issued within 7 days of the purchase. [Utah Code Ann. §77-39-101 (1996).]

### MINORS--19:

Prohibits the sale, giving or furnishing of any cigar, cigarette or tobacco product to persons under the age of 19. Violators will be charged with a Class C misdemeanor for first offense, Class B misdemeanor for second offense, and Class A misdemeanor for subsequent offenses. [Utah Code Ann. §76010-104 (1996).] Prohibits the purchase, acceptance, or possession of cigars, cigarettes, or tobacco products by persons under the age of 19. Violators may be charged with a Class C misdemeanor, or may be subject to the juvenile court. [Utah Code Ann. §76-10-105 (1996).]

### SIGN REQUIREMENTS:

No state law exists. However, all smokeless tobacco products sold within the state must bear a specific warning label. [See Utah Code Ann. §59-14-501 (1996).]

### LICENSE REQUIREMENTS:

All manufacturers, distributors, and retailers of all tobacco products must register with and be licensed by the state. [Utah Code Ann. § 59-14-301 (1996).]

### VENDING MACHINE RESTRICTIONS:

State law restricts location of tobacco vending machines to a "bar, or a privately owned and operated club or association that has a private club liquor license under Chapter 5 of Title 32A, or that requires membership and charges a membership fee," and a workplace for "adult employees, in an area not available to the general public." [Code Ann. § 76-10-105.1(1), (2) and (3).] Violation as first offense is a class C misdemeanor, second offense a class B misdemeanor; subsequent offense a class A misdemeanor.

### PREEMPTION:

State law authorizes cities to "prohibit the sale, giving away or furnishing of intoxicating liquors or narcotics, or of tobacco to any person under twenty-one years of age." [Code Ann. § 10-8-47.]

## Utah con't

### OTHER:

Efforts to apply a state law prohibiting outdoor tobacco advertisements to indoor advertisements and promotions have been made by local governments. State law prohibits any advertisements of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco on any "billboard, streetcar sign, streetcar, bus, placard, or on any other object of place of display." [Utah Code Ann. § 76-20-102 (1996).] It specifically authorizes a dealer cigarettes, cigarette papers, tobacco or cigars to "have a sign on the front of his place of business stating that he is a dealer in the articles." [Utah Code Ann. § 76-10-102 (1996).] Certain advertisements for smokeless tobacco must bear a warning label. [Utah Code Ann. § 76-10-102(2) (1996).] Other restrictions include: (1) business proprietors may not knowingly permit persons under the age of 19 to frequent their business while using tobacco [Utah Code Ann. § 76-10-103 (1996).]; (2) manufacturers, wholesalers, and retailers are limited in their ability to distribute free samples of smokeless tobacco [Utah Code Ann. §76-111 (1996).]; (3) manufacturers, wholesalers, and retailers are limited in their ability to distribute free samples of cigarette or other tobacco products [Utah Code Ann. § 76-10-112 (1996).]

## VERMONT

### ADAMHA COMPLIANCE:

No state law specifically designates enforcement or reporting to meet federal ADAMHA requirements. However, the Department of Liquor Control shall conduct or contract for compliance tests of tobacco licenses to assure consistent statewide compliance with prohibition on sales to minors. Licensees may have their licenses suspended if violations are detected. [S.B. 156 of 1997, § 13].

### MINORS--18:

Prohibits the sale or furnishing of tobacco products to minors. Violators will be fined \$100 for the first offense and not more than \$500 for any subsequent offense. [Stat. Ann. Title 7, § 1007 (1997).] Prohibits the purchase or possession of tobacco products by minors. Violators are subject to a \$25 fine and possible suspension of drivers license. Penalties imposed if minor used false identification to purchase tobacco. Penalty would then be a fine of not more than \$50 and/or 10 hours of community service. [Stat. Ann. Title 7, § 1005 (1995).]

### SIGN REQUIREMENTS:

State law requires a plainly printed copy of Sections 1004 and 1005 of the state law to be conspicuously posted in the premises identified in the tobacco license and on tobacco vending machines located on the premises. Failure to post state law will result in fine not more than \$100. [Stat. Ann. Title 7, § 1006 (1995).]

### LICENSE REQUIREMENTS:

State law requires persons engaged in the retail sale of tobacco products or persons who provide a vending machine which dispenses tobacco products to obtain a tobacco license from municipality where located. [Stat. Ann. Title 7, § 1002 (1995).]

## Vermont con't

### VENDING MACHINE RESTRICTIONS:

Beginning August 28, 1997, vending machines selling tobacco products are prohibited, unless the machine is located in a commercial establishment in which by law no minor may enter at any time. A vending machine may not be used to sell commodities in combination with tobacco products. Violations are subject to seizure of the machine. [Stat. Ann. Title 7 § 1003 (1997)] Beginning January 1, 2001 and subject to FDA preemption authority, all vending machines selling tobacco products are prohibited. Similarly, beginning January 1, 1999, excepting contracts in existence prior to March 31, 1997, no person holding a tobacco license shall display or store tobacco products that are accessible to consumers without direct assistance by sales personnel, unless: (1) the display is in a commercial establishment where minors cannot enter at any time; (2) the cigarettes or tobacco products in unopened cartons or unopened multipack containers of 10 or more packages are displayed in plain view and under the control of a responsible employee; or (3) the cigars or pipe tobacco stored in a humidor on the sale counter is in plain view and under the control of a responsible employee. [Stat. Ann. Title 7, § 1003 (1997).]

### PREEMPTION:

State law authorizes municipalities to adopt more stringent restrictions on tobacco vending machines. [Stat. Ann. Title 7, § 1003 (1995).]

### OTHER:

A person shall exhibit proper proof of age upon demand of a licensed tobacco retailer, an employee of a license or a law enforcement officer. The sale or furnishing of tobacco products to a person exhibiting proper proof of purchase of age is prima facie evidence of a licensee's compliance with the law. [Stat. Ann. Title 7, § 1004 (1995).]

No person shall be permitted to use tobacco on public school grounds, and no student shall be permitted to use tobacco at public school sponsored functions. [Stat. Ann. Title 16 § 140 (1997)].

## VIRGINIA

### ADAMHA COMPLIANCE:

For the purpose of compliance with regulation of the Substance Abuse and Mental Health Services Administration, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations. [VA Code Ann. s.18.2-371.2(E)(3)(Michie 1996).]

### MINORS--18:

Prohibits the sale or distribution of tobacco products to minors with knowledge or reason to believe that the person is less than 18 years old. Prohibits the purchase of tobacco products by minors, unless the possession is pursuant to the minor's employment. Prohibits the purchase of tobacco products on behalf of minors. Violators are subject to a fine of up to \$100 for first offense, up to \$200 for the second offense, and up to \$500 for third and subsequent offenses; provided, however, that a violation for purchase/possession by minors is subject to a fine not to exceed \$50 for a first violation and \$100 for a second and subsequent violation. Upon a third or subsequent violation of purchase/possession a minor also may be adjudged a delinquent. No person shall sell a tobacco product to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 18 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 18 years of age or whom the person knows is at least 18 years of age. [VA Code Ann. s.18.2-371.2.]

### SIGN REQUIREMENTS:

State law requires retail establishments that sell tobacco products to conspicuously post a sign or signs indicating that the sale of tobacco products to any person under eighteen years of age is prohibited by law. No tobacco products may be sold from a vending machine unless notice is posted on the machine in a conspicuous manner and place indicating that the purchase or possession of tobacco products by minors is unlawful. [VA Code Ann. s.18.2-371.2(A),(E)(1).]

### LICENSE REQUIREMENTS:

State law does not require a retail tobacco license or a vending operator license. The 1978 law requiring a retail tobacco license was repealed by Chapter 674 in 1984.

Virginia con't

VENDING MACHINE RESTRICTIONS:

No person shall operate a vending machine which dispenses tobacco products unless such a machine is located in: (a) a place that is not open to the general public and is not generally accessible to minors; or (b) a place that is open to the general public, but the vending machine shall be inside the establishment and unless the vending machine is at least 10 feet from any public entrance to the establishment, or the sale of a token is required to operate such a machine, it shall be placed within the normal unobstructed line of sight of the proprietor or his employees. [VA Code Ann. s.18.2-371.2(E)(2).]

PREEMPTION:

No state law exists. Fairfax and Arlington Counties have authority to tax the sale or use of cigarettes. [VA Code Ann. s.58.1-3831.] Additionally, any county, city or town having a tax upon the sale or use of cigarettes may, by ordinance, provide for the administration and enforcement of any such cigarette tax. [VA Code Ann. s.58.1-3832.]

OTHER:

Cigarettes are required to be sold in sealed packages provided by manufacturers with required health warnings. [VA Code Ann. s.18.2-371.2(Ex1).]



## WASHINGTON

### ADAMHA COMPLIANCE:

State law has authorized the liquor control board to work with local county health departments or districts and local law enforcement agencies to conduct random, unannounced inspections. [Wash. Rev. Code Ann. §70.155.110 (1995)] Minors can participate in enforcement actions, with parental authorization. [Wash. Rev. Code Ann. §70.155.080 (1995)].

### MINORS--18:

Prohibits the sale or giving of cigars, cigarettes, cigarette papers or wrappers, or tobacco in any form to minors. If there is a question of age, "retailer, sampler, or agent thereof," shall require proof of age. "Proof of age" is defined as liquor control authority card of identification, driver's license, instruction permit, identification card, "identocard," military identification card, merchant marine identification card or passport. Prohibits the purchase attempted purchase of cigarettes or tobacco products by minors. Violators are subject to a Class 3 civil infraction or participation in a smoking cessation program, or both. [Wash. Rev. Code Ann. §70.155.080 (1995)] State law does not specifically prohibit the possession of tobacco products by minors. However, state law does authorize enforcement officials to detain a person believed to be a minor who is purchasing, attempting to purchase or possessing tobacco products. They "may detain such person for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. Further, tobacco products possessed by persons under the age of eighteen years of age are considered contraband and may be seized." [Wash. Rev. Stat. Ann. §70.155.110 (1995)]

### SIGN REQUIREMENTS:

State law requires licensees to display their license (or a copy thereof) and to display a sign that is clearly visible to anyone purchasing tobacco products which provides "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18 IS STRICTLY PROHIBITED BY STATE LAW. IF YOU ARE UNDER 18, YOU COULD BE PENALIZED FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID REQUIRED." Failure to post such sign is subject to penalties. [Wash. Rev. Code Ann. §§70.155.020,70.155.100 (1995)]

## Washington con't

### LICENSE REQUIREMENTS:

State law requires a retail tobacco license for a fee of \$93 for each location, and an additional fee of \$30 is required for each vending machine for a retail dealer operating a cigarette vending machine. [Wash. Rev. Code Ann. §82.24.530 (1995)]

### VENDING MACHINE RESTRICTIONS:

State law restricts the location of tobacco vending machines to places inaccessible to minors, or in industrial worksites where minors are not employed. Vending machines must be located at least 10 feet from all entrances and exits. Violators are subject to penalties. [Wash. Rev. Code Ann. §§70.155.030, 70.155.100 (1995)].

### PREEMPTION:

State law preempts local ordinances or regulations governing "the licensure and regulation of tobacco product promotions and sales within retail stores." Ordinances adopted by 1/1/93 regulating sampling are exempt. Political subdivisions also may not: (1) impose related fees or licensing requirements; or (2) regulate or prohibit certain youth access provisions. [Wash. Rev. Code Ann. §70.155.130 (1995)]

### OTHER:

State law requires cigarettes to be in original unopened package. [Wash. Rev. Code Ann. § 70.155.040 (1995)] No person may distribute or offer to distribute samples in a public place, unless otherwise exempted. [Wash. Rev. Code Ann. §70.155.060 (1995)] No person may give or distribute cigarettes or other tobacco products to a person by a coupon if such coupon is redeemed in a manner that does not require an in-person transaction in a retail store. [Wash. Rev. Code Ann. §70.155.070 (1995)]

## WEST VIRGINIA

### ADAMHA COMPLIANCE:

The Division of Public Safety is responsible for reporting to meet federal ADAMHA requirements. Division of Public Safety, through sheriffs and chiefs of police, are authorized to conduct random, unannounced inspections, and may use minors if under direct supervision and written parental consent is first obtained. [W.Va. Code §16-9A7 (1996).]

### MINORS--18:

Prohibits the sale, giving or furnishing of any cigarette, cigarette paper or similar paper, or any cigar, pipe, snuff, chewing tobacco or tobacco product to minors. Violators will be guilty of a misdemeanor and subject to a fine of not less than \$10 nor more than \$25 for the first offense, and \$25-300 for each subsequent offense. [W.Va. Code §16-9A-2 1996.] Minors may not possess cigarettes, cigarette papers, or any pipe, snuff, chewing tobacco or tobacco product. Violators are subject to a fine of \$5; the magistrate court also has concurrent jurisdiction. [W. Va. Code §16-9A-3 (1996).] It is a defense if: (1) the buyer falsely evidenced that he was 18 years of age; 92) the appearance of the buyer was such that a prudent person would believe the buyer was 18 years of age; and 93) the seller carefully checked the buyer's driver license or other designated identification card. [W.Va. Code §16-9A-7(b) (1996).]

### SIGN REQUIREMENTS:

None found. However, any outdoor billboard advertisement for snuff and chewing tobacco 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." These warnings must be rotated, and certain size restrictions apply. [W.Va. Code §16-9A-5 (1996).]

### LICENSE REQUIREMENTS:

State law requires a "business registration certificate" from the Tax Commissioner for establishments selling tobacco products over the counter and/or through vending machines. A separate certificate is not required for each vending machine. [W. Va. Code §11-12-3(a) and (b), 11-17-2(9), (12), (14) and (15) (1996).]

### VENDING MACHINE RESTRICTIONS:

None found.

## West Virginia con't

### PREEMPTION:

State law provides that "one rate of excise tax shall be applicable to all quantities of cigarettes in this state..." [W.Va. Code §11-7-4 (1996).]

### OTHER:

West Virginia regulations prohibit the use or distribution of tobacco products in school buildings, on school grounds, in school-leased-or-owned vehicles, and at all school functions. Students under the age of 21 may not possess tobacco products at any time. [Title 126, CSR 66, s 126-66-1 et seq.]

## WISCONSIN

### ADAMHA COMPLIANCE:

No state law specifically designates responsibility for enforcement or reporting to meet federal ADAMHA requirements.

### MINORS--18:

Prohibits the sale or giving of cigarettes or tobacco products to minors, unless the minor is required to do so in the course of employment during working hours for a licensed retailer. [Wis. Stat. §§134.66, 938.983 (1995).] A defense exists if: (1) the purchaser falsely represented age and provided an ID card; (2) the purchaser reasonably appear to be 18; and (3) the sale was reasonable and in good faith. [Wis. Stat. §134.66(3) (1995)] Unless done in the course of employment (as noted above), minors may not: (1) buy or attempt to buy cigarettes or tobacco products; (2) falsely represent their age for the purpose of receiving any cigarettes or tobacco products; or (3) possess any cigarettes or tobacco products. [Wis. Stat. §938.983 (1995) Retailer and other sellers are subject to monetary fines and suspension of license. [Wis. Stat. §134.66 (1995)]]

### SIGN REQUIREMENTS:

State law requires a sign to be posted in retail establishments that states that the sale of any cigarette or tobacco product to a person under 18 is unlawful under sections 134.66 and 48.983 of the Wisconsin statutes. Vending machines must have a sign posted on them in a conspicuous place that says the purchase of tobacco products is unlawful and purchaser will be subject to a fine not to exceed \$25. [Wis. Code §134.66 (1995)]

### LICENSE REQUIREMENTS:

State law requires a license from the Department of Revenue for the retail sale of tobacco products and for tobacco vending machines. [Stat. Ann. Section 50.51(1) and (2), 139.30 and 139.34.]

### VENDING MACHINE RESTRICTIONS:

No retailer 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 minors unless: (1) the machine is in the immediate vicinity, plain view and control of an employee; and (2) the machine is inaccessible to the public when the premises are closed. [Wis. Code §134.66 (1995)]

### PREEMPTION:

State law says "A county, town, village or city may adopt an ordinance regulating the conduct regulated by this section (938.983 and 134.66) only if it strictly conforms to this section." [Wis. Code §§938.983(5), 134.66(5) (1995)]

Wisconsin con't

OTHER:

State law prohibits the sale of cigarettes without package or container containing tax stamp. [Wis. Code §134.66(2)(e) (1995)]

## WYOMING

### ADAMHA COMPLIANCE:

No state law specifically designates responsibility for enforcement or reporting to meet federal ADAMHA requirements.

### MINORS--18:

Prohibits the sale, offer for sale, giving away or delivery of tobacco products to minors. Violators will be guilty of a misdemeanor punishable by a fine of not more than \$50. It is a defense to prosecution if the person reasonably relied on an identification card or the tobacco product was given to the minor by a parent for use in parent's home or under the parent's direct supervision. [Wy. Stat. §14-3-302 (1996)] Prohibits the purchase of tobacco products by minors. Prohibits minors from misrepresenting their age or using false identification for purpose of purchasing tobacco products. Violators will be guilty of a misdemeanor punishable by a fine of not more than \$25, although, community service may be ordered instead. [Wy. Stat. §14-3-304 (1996)] Prohibits the possession and use of tobacco products by minors. Violators will be guilty of a misdemeanor punishable by a fine of not more than \$25, although, community service may be ordered instead. [Wy. Stat. §14-3-305 (1996)]

### SIGN REQUIREMENTS:

State law requires a sign to be posted at or near every display of tobacco products and on or upon every vending machine which offers tobacco products for sale. Sign, which must be "plainly visible," must "contain statement communicating that the sale of tobacco products to persons under 18 is prohibited." Failure to post signs will result in a fine of not more than \$50. [Wy. Stat. § 14-3-303 (1996)]

### LICENSE REQUIREMENTS:

State law requires a "wholesale license" and retail sales could fall within the definition of "wholesale." [Wy. Stat. §39-6-101; compare id. §14-3-306(c) (1996)]

### VENDING MACHINE RESTRICTIONS:

State law restricts the location of tobacco vending machines to places where persons under eighteen are not permitted access; businesses/factories and other offices or other places not open to general public; and to businesses where alcoholic or malt beverages are sold and minors are not permitted. Violators will be guilty of a misdemeanor punishable by a fine of not more than \$50. [Wy. Stat. § 14-3-303 (1996)]

**Wyoming con't**

**PREEMPTION:**

State law says "this article (Article 3, Sections 14-3-301 through 306) shall not be construed to prohibit the imposition by local law or ordinance of further regulation or prohibition upon the sale, use and possession of tobacco products to any person under eighteen (18) years of age." [Wy. Stats. §14-3-306 (1996)] State law also authorizes local government entities to require license and suspend or revoke license in case of reported violations. [Wy. Stat. §14-3-306 (1996)]

**OTHER:**

None.





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**STATE PROFILE**  
**OF**  
**MINORS**

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## STATE PROFILES ON MINORS

### ALABAMA

Prohibits the sale or distribution of tobacco products (cigarettes, cigarette paper, cigarette tobacco, or substitutes for them) to a person under age 19. [Ala. Code Sections 13A-12-3, 26-1-1, 26, -101(a)(1996).] A violation is punishable by a fine of up to \$200 for the first violation, or at the discretion of the Alabama Alcoholic Beverage Control Board, a training session administered by the Responsible Vendor Program. A second violation at the same location within 2 years is punishable by a fine of up to \$400. A third violation at the same location within 2 years is punishable by a fine of up to \$750. A fourth violation at the same location within 2 years of the first violation is punishable by a fine of up to \$1,000, as well as suspension or revocation of the retail tobacco permit for the location. The maximum suspension is for one year. Fines may be assessed against the retailer, the employee, or both. Failure of a permit holder to pay a fine within 7 calendar days results in the automatic permit suspension until the fine is paid. [1997 Ala. S. 300, s 9 (c) - (e).] State law prohibits minors from purchasing, using, possessing, or transporting tobacco or tobacco products within the state. Violation is punishable by a fine of \$10-50. Minor employees are, however, authorized to handle, transport, or sell tobacco products in the scope of their employment, if they are in the presence of a store owner or another employee who is 21 years of age or older. [1997 Ala. S. 300, s 13.]

### ALASKA

Prohibits selling and giving tobacco to persons under the age of 19. Criminally negligent violators will be subject to a fine of not less than \$300, and possible suspension or revocation of license. [Alaska Stat. §§ 11.76.100(a) & (d) 43.50.070 (1995)] Prohibits the knowing possession of tobacco products by persons under the age of 19. [Alaska Stat. §§ 11.76.105(1995)] Exemption for possession by, or selling or giving to a minor if the minor is a prisoner in an adult correctional facility. [Alaska Stat. §§ 11.76.100(f), 11.76.105(a)(1995).]

## ARKANSAS

State law makes it unlawful to give, barter, or sell tobacco in any form or cigarette papers to a person under the age of 18, except for the parent or guardian. Violators are guilty of a misdemeanor; and subject to a fine of \$100 for first offense, \$250 and suspension of license for seven days for second offense within two years, \$500 and suspension of license for 1-6 months for third violation within two years, and \$1,000 and suspension of license for 9-18 months for fourth and subsequent violations within two years. [Ark. Stat. Ann. Sections 5-27-227(a)&(e)(1995).] Also prohibition on distribution of free samples or coupons to minors or within 500 feet of any facility when the facility is being used primarily by minors. [Ark. Stat. Ann. Sections 5-27-227(c)(1995).] In addition, a person who commits four or more violations during a two year period shall have all his or her tobacco product licenses suspended for 9-18 months, unless the person demonstrates that he or she has an effective system in place to prevent unlawful sales to minors. [Ark. Stat. Ann. Sections 5-27-227(f)(1995).]

## ARIZONA

State law makes it a criminal offense to knowingly sell, give, or furnish cigars, cigarettes, cigarette papers, or smoking or chewing tobacco to a person under 18 years of age. Violation by an individual is subject to a fine of not more than \$300. A violation committed by a corporation, association, labor union, or other legal entity, including the legal entity's employees, is subject to a fine of not more than \$1000. Prohibits the purchase and possession of tobacco products by minors. Violations are punishable as criminal offenses, subject to a fine of up to \$300. [Ariz. Rev. Stat §§1-215(19)(definition of a minor), 13-105(15)&(27)(definitions of enterprise and petty offense), 13-305(A)(3)(a)(criminal enterprise liability), 13-803(a)(5)(fines against enterprises); 13-3622(distribution to and possession by a minor), 13-802 (fines)(1996).

## CALIFORNIA

Prohibits the sale, giving, or furnishing of tobacco products or paraphernalia to minors. [Cal. Bus. & Prof. Code s.22958; Cal. Penal Code s.308.] State law requires "persons engaging in the retail sale of tobacco products" to check identification of purchaser if person reasonably appears to be under 18 years of age. [Cal. Bus. & Prof. Code s.22956.] Imposes civil penalty on employer, not employee. [Cal. Bus & Prof. Code s.22952(f).] Proof that defendant, or his or her employee or agent, demanded, was shown, and reasonably relied on evidence of majority shall be a defense to any action. [Cal. Bus. & Prof. Code s. 22952(d)(4); Cal. Penal Code s. 308.] A violation is punishable as a misdemeanor, and also is subject to civil penalties within a 5-year period of \$200-300 for the first offense, \$600-\$900 for the second offense, and \$1,200-1,800 for the third offense, \$3,000-4,000 for the fourth offense, and \$5,000-6,000 for the fifth and subsequent violation. [s308; 22958 (a) (c)]. [Cal. Bus. & Prof. Code s.22958(a); see also Cal. Penal Code s. 308(a).] Alternatively, the California Department of Health and Human Services has the authority to assess civil penalties of \$200-300 for a first offense, \$600-900 for the second violation within 5 years, \$1,200-1,800 for the third violation within 5 years, \$3,000-4,000 for the fourth violation within five years. Prohibits minors from purchasing or receiving of tobacco products or paraphernalia. [Cal. Penal Code s. 308(b).] Violators will be fined \$75 or required to perform 30 hours of community service. [Cal. Pen. s.308(b).] The Director of Corrections may sell or supply tobacco or tobacco products to any person confined in an institution or facility under his jurisdiction who is 16 or older and has parental consent. [Cal. Penal Code s. 308(f).]

## COLORADO

Prohibits the furnishing of cigarettes or tobacco products to persons under 18 years of age. Violation is a Class 2 petty offense and "shall be punished" by a fine of \$200. It shall be a defense to prosecution if the person receiving the tobacco product presented proof of age, and the person furnishing the product reasonably relied on the proof of age. Prohibits the purchase of tobacco products by persons under 18 years of age. Violation is a Class 2 petty offense and "shall be punished" by a fine of \$50 or community service. [Colo. Rev. Stat. Sections 18-13-121(1)(2)(1996).]

## CONNECTICUT

Any person who sells, gives, or delivers tobacco in any form to a person under the age of 18 is subject to a fine of up to \$200 for the first offense. A second offense within an 18-month period is subject to a \$350 fine, and subsequent offenses within an 18-month period are subject to a fine of up to \$500. [Conn. Gen. Stat. §53-344(a) (1994) (amended by 1996 Ct. ALS 240, §8)] A "dealer" who sells or delivers tobacco in any form to a person under 18 years of age may have its license suspended or revoked for seven days or longer, and may have a penalty of \$1000 or more assessed, for a first offense. Second and subsequent offenses within a five year period require the commissioner of revenue services [Conn. Gen. Stat. §12-1(1994) (amended by 1995 Ct. ALS 79, §22)] to suspend the dealer's license for at least 30 days and to assess a penalty of at least \$5000. The commissioner is also required to order such a dealer to conspicuously post a notice in a public place stating that cigarettes cannot be sold during the period of the suspension and the reason for the suspension. The commissioner may not issue a new license unless the commissioner is satisfied that the licensee will comply with the provisions of the cigarette tax chapter in the tax code. [Conn. Gen. Stat. §12-295 (1994)] State law requires retailers and their employees to require a person attempting to purchase cigarettes or tobacco products whose age is in question to exhibit proper proof of age. "Proper proof" means a motor vehicle operator's license, a valid passport, or an identity card issued under the provisions of Conn. Gen. Stat. Section 1-1h. [Conn. Gen. Stat. §53-344a(1994).] A person under the age of 18 who purchases or misrepresents his age to purchase tobacco in any form is subject to a fine of up to \$50 for the first offense and \$50-100 for each subsequent offense. [Conn. Gen. Stat. §53-344(b) (1994).] Beginning July 1, 1997, the Commissioner of Revenue Services must assess civil penalties on any person under the age of 18 who has purchased cigarettes or tobacco products of not more than \$50 for the first offense and not more than \$100 for any second or subsequent offense. [1996 Ct. ALS 240, §6]

## DISTRICT OF COLUMBIA

In the District of Columbia, no person shall sell, give, or furnish any cigarette or other tobacco product to any person under 18 years of age. District law further requires that "[a]ny 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 years of age shall require that the purchaser present identification that indicates his or her age." [D.C. Code §22-1120a (1995)] Violation is a misdemeanor, subject to a fine of at least \$100 but not more than \$500, imprisonment of up to 30 days, or both, for a first offense. For a subsequent violation, the fine is at least \$500 but not more than \$1,000, imprisonment up to 90 days, or both. Suspension of the seller's cigarette sales license is possible for a first or second violation; the license shall be revoked for a third or subsequent violation. [D.C. Code §22-1120 (1995)] In any place where cigarettes or tobacco products are sold, a sign must be posted that includes the following: "No person under 18 years of age shall purchase any cigarette or other tobacco product. The United States Surgeon General has issued a warning that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy." [D.C. Code §22-1120 (1995)] The sign must also "clearly state the maximum fine for a violation" of the sales provisions. The signs must be "visible to the public at the entrance to the area and on the interior of the area in sufficient number to give notice of the law to the public." NOTE: The sign prohibits "purchase" by minors, but the law itself bans "sale" to minors. [D.C. Code §22-1120 (1996)]

## DELAWARE

It is unlawful for any person to sell or distribute any tobacco product to another person who has not attained the age of 18 years or to purchase any tobacco product on behalf of another such person, except that this requirement shall not apply to the parent or guardian of another such person. A person engaged in the sale or distribution of tobacco products shall have the right to demand proof of age from a prospective purchaser or recipient of such products. [Del. Code Ann. tit. 11, §1116 (1996)]. It shall be unlawful for any person who has not attained the age of 18 years to purchase a tobacco product, to accept receipt of a sample, to exchange a coupon for a tobacco product, or to present or offer to 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 or redeeming a coupon for a tobacco product. Violators are subject to a fine of \$50 or 25 hour of community service work for a first offense; a fine of \$50 and 50 hours of community service work for the second and each subsequent offense. [Del. Code Ann. tit. 11, §1124 (1996)]

Any person who sells or distributes tobacco products to minors, distributes samples to minors, distributes cigarettes through impermissible vending machines, or distributes

## DELAWARE Cont'd

tobacco products in unsealed and improperly labeled packages is subject to a fine of \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and subsequent offenses. Additionally, the court may order the Department of Finance to suspend the person's license for the sale of tobacco products for a period not to exceed six months.

## FLORIDA

State law makes it a second degree misdemeanor to sell, deliver, barter, furnish, or give, directly or indirectly, tobacco products (including cigarettes and cigarette wrappers), clove cigarettes, or tobacco substitutes to any person under 18 years of age. [Fla.Stat. §859.06(1)(1995).] Violation is punishable by a definite term of imprisonment of up to 60 days, or a fine not exceeding \$500. [Fla.Stat. §859.06(2), 775.083(1)(e), 775.082(4)(b)(1995).] State law authorizes counties to adopt ordinance imposing fines in addition to fines, penalties, and costs imposed by state law. [Fla. Stat. §775.083 (2)(1995), as amended by 1996 Fl. ALS 408, §.1(1996).]

Any dealer that sells tobacco products shall provide at the checkout counter in a location clearly visible to the dealer, the dealer's agency or employee, instructional material in a calendar format or similar format to assist in determining whether a person is of legal age to purchase tobacco products. This point of sale material must contain substantially the following language: "IF YOU WERE NOT BORN BEFORE THIS DATE (insert date and applicable year here) YOU CANNOT BUY TOBACCO PRODUCTS." [Florida H.B. 845 of 1997]

In order to prevent persons under 18 years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco products is prohibited, except: 1) when under the direct control or line of sight of the dealer or the dealer's agent or employee; or 2) sales from a vending machine (except in establishments that prohibit persons under the age of 18 years from entering) are prohibited and only permissible from a machine that is equipped with an operational lockout device which is under the control of the dealer or the dealer's agent or employee who directly regulates the sale of items through the machine by triggering the lockout device to allow the dispensing of one tobacco product. [Florida H.B. 845 of 1997]

State law authorizes the Division of Alcoholic Beverages and Tobacco to suspend or revoke a retailer's permit upon sufficient cause appearing of the violation of the provisions governing retailers permits, vending machine sales, signage, and minimum sales age. The Division also is authorized to assess fines of up to \$1000 for each



## FLORIDA Cont'd

violation. [Fla.Stat. §569.006 (1995).] Retailers can defend a violation of the prohibition against underage sales if, when the sale occurred, the buyer or recipient falsely evidenced that he was 18 years of age or older, the appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 18 years of age or older, and the retailer carefully checked a driver's license or state identification card, a passport or a military identification card and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient. [Fla. Stat. § 859.06(3) (1995).]

Fines for violation of the minimum sales age provision may be mitigated by the Division of Alcoholic Beverages and Tobacco if four conditions are met: (1) the retailer qualifies as a "responsible retail tobacco products dealer" under §569.008(2); (2) the retailer trained the employee who made the illegal sale in accordance with the training program described in S.569.008(2); (3) the retailer had no knowledge of the employee's illegal sale at the time of the violation and did not direct, approve, or participate in the violation; and (4) if the sale was through a vending machine, the machine was equipped with an operational lockout device. [Fla.Stat. §569.008(3)(1995).]

It is unlawful for any person under 18 years of age to knowingly possess any tobacco product. Violators subject to a noncriminal violation. For the first violation, minors are required to perform 16 hours community service or a \$25.00 fine. In addition, the person must attend a school-approved anti-tobacco program, if locally available. For the second violation within 12 weeks of the first violation, a \$25.00 fine. For a third or subsequent violation within 12 weeks of the first violation, the court much direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver's license or driving privilege. Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation. [Florida H.B. 845 of 1997]

It is unlawful for and person under 18 years of age to misrepresent his or her age or military service for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product, or to purchase any tobacco product from a person or a vending machine. Violators subject to a noncriminal violation. 16 hours community service for the first violation or a \$25.00 fine. In addition, the person must attend a school-approved anti-tobacco program, if locally available. For the second violation with 12 weeks of the first violation, a \$25.00 fine. For a third or subsequent violation within 12 weeks of the first violation, the court much direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver's license or driving privilege. Any second or subsequent

## FLORIDA Cont'd

violation not within the 12-week time period after the first violation is punishable as provided for a first violation. [Florida H.B. 845 of 1997]

Any person under 18 years of age cited for committing a noncriminal violation must sign and accept a civil citation indicating a promise to appear before the county court or comply with the requirement for paying the fine and must attend a school-approved anti-tobacco program, if locally available. [Florida H.B. 845 of 1997]

A person charged with a noncriminal violation must appear before the county court or comply with the requirement for paying the fine. The court, after a hearing, shall make a determination as to whether the noncriminal violation was committed. If the court finds the violation was committed, it shall impose an appropriate penalty. A person who participates in community service shall be considered a employee of the state for the duration of such service. [Florida H.B. 845 of 1997]

If a person under 18 years of age is found by the court to have committed a noncriminal violation and that person has failed to complete community service, pay the fine as required, or attend a school-approved anti-tobacco program, if locally available, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend the driver's license or driving privilege of that person for a period of 30 consecutive days. [Florida H.B. 845 of 1997]

## GEORGIA

It is unlawful to "knowingly" sell or barter, directly or indirectly, cigarettes or tobacco-related objects to minors. [Ga. Code Ann. §16-12-171(a)(1)(A) (1996)]. This prohibition shall not apply if the person has been furnished with "proper identification" showing that the purchaser is 18 years of age or older. In any case where reasonable doubt exists that the purchaser is 18 years or older, it is the duty of the person selling or otherwise furnishing to request and to be furnished with proper identification; failure to make such request and verification may be considered by court in determining whether the seller "knowingly" sold or furnished cigarettes or tobacco-related objects to a person under age 18. [Ga. Code Ann. §16-12-171(a)(2) (1996)]. Violators are guilty of a misdemeanor. [Ga. Code Ann. §16-12-171(a)(3) (1996)] Prohibits the purchase of cigarettes or tobacco-related objects by a minor, misrepresentation of a minor's identity or age, or the use of any false identification for the purpose of purchasing or procuring cigarettes or tobacco-related objects. Minors who violate these provisions may be required to perform a maximum of 20 hours of community service, attend lectures on smoking health hazards, or both.[Ga. Code Ann §16-12-171(b)(1) (1996)] Prohibits the knowing purchase of cigarettes or tobacco-related objects on behalf of a minor, unless the minor is the child of the purchaser; and prohibits any person from knowingly advising, counseling, or compelling any minor to smoke, inhale, chew, or use cigarettes or tobacco-related objects. Violators would be subject to penalties for sale to minors. [Ga. Code Ann. §16-12-171(a) (1) (b)-(c) (1996)].

## HAWAII

Prohibits the sale or furnishing of tobacco in any shape or form to minors. Violators are subject to a fine of up to \$100 for the first offense, and \$100-1,000 for subsequent offenses. [Haw. Rev. Stat. s.709-908 (1996).] Prohibits the purchase of tobacco products by minors, except that a minor, with parental consent, is authorized to participate in the controlled purchase as a part of a law enforcement activity or Department of Health study of the incidence of tobacco sales to minors. [1997 Hawaii S.B. 1286.] Violators will be subject to a fine of \$10 for the first offense; each subsequent offenses is subject to a fine of \$50 or 48-72 hours of community service. [Haw. Rev. Stat. s.709-908.]

## IOWA

State law makes it a simple misdemeanor, punishable by a fine of \$50-\$100 or imprisonment for up to 30 days, to sell, give or otherwise supply tobacco products to any person under 18 years of age including through a vending machine. [Iowa Code §453A.2(1), 453A.3 (1995).] Retailers are also subject to civil penalties of: (1) \$300 for a first violation; (2) 30-day license suspension for a second violation within 2 years; (3) 60-day suspension for a third violation in 5 years; and (4) license revocation for a fourth violation in 5 years. [Iowa Code §453A.22 (1995).] State law authorizes the Department of Public Health, county and city health departments, and cities to directly enforce the prohibitions on sales to, and purchase by minors. [Iowa Code § 453A.2(3) (1995).] State law also prohibits any person under the age of age of 18 from using, possessing, purchasing, or attempting to purchase tobacco products. Violation is punishable by a civil penalty of \$25 for a first offense, \$50 for a second offense, \$100 for a third or subsequent offense. Fines are doubled for failure to pay. [Iowa Code §§453A.2(2), 453A.3, 805.8(11) (1995).]

## IDAHO

State law makes it a misdemeanor, which is punishable by imprisonment in the county jail for up to six months, and/or a fine of up to \$300, for a person under the age of 18 to purchase, attempt to purchase, receive or attempt to receive or possess tobacco products or cigarette papers, except that a minor may possess tobacco products in the course of employment for a person engaged in the lawful sale or distribution of tobacco products. [1997 Id. H.B. 185.] State law authorizes a minor to possess tobacco products in the course of employment, or when assisting a law enforcement agency in an enforcement action. State law further makes it a misdemeanor to give, sell, or furnish, directly or indirectly, any of these items to persons under the age of 18. It is also a misdemeanor for any person to permit persons under the age of 18 to frequent any premises owned, held, or managed by him for the purpose of indulging in the use of cigarettes, cigars, or tobacco. [Idaho Code § 18-1502A (1996).] It is an affirmative defense to a charge that the person sold or distributed tobacco products to a minor, that the defendant demanded, was shown, and reasonably relied upon proof of age. [1997 Id. HB 185.]

## ILLINOIS

The Sale of Tobacco to Minors Act makes it unlawful to sell, buy for, or distribute cigars, cigarettes, smokeless tobacco, or tobacco in any form (including samples) to a person under 18 years of age. [720 Ill. Comp. Stat. 675/1 (West 1996)]. Violation is a petty offense punishable first by a fine of \$200. A second offense is subject to a \$400 fine. A third offense and subsequent offenses within 12 months are punishable by a fine of \$600. [720 Ill. Comp. Stat. 675/2 (West 1996)]. The Act makes it a petty offense, subject to the same penalties, for a minor to purchase tobacco products. [720 Ill. Comp. Stat. 675/1 (West 1996)]. The Smokeless Tobacco Limitation Act provides for additional fines for the sale or distribution (including sampling) of smokeless tobacco products to persons under the age of 18. Fines range from \$50 to \$600. [720 Ill. Comp. Stat. 680/1-4 (West 1996)].

## INDIANA

State law makes the sale or distribution (including promotional distribution) of tobacco products to persons under 18 years of age a Class C infraction, subject to penalties of up to \$500. It is a defense to prosecution that the accused reasonably believed the buyer or taker was 18 years of age or older or sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco agriculture, processing, transporting, wholesaling, or retailing. [IN Code ss34-4-32-4(c)(penalties), 35-46-1-10(sale or distribution) (1996).]

Prohibits any person from operating a "tobacco business" within 200 feet of a public or private elementary or secondary school, as measured between the nearest point of the premises occupies by the tobacco business and the nearest point of a building used by the school for instructional purposes. Violators commit a Class C Infraction. Defines Class C Infraction as a judgment of up to \$500. [Indiana SB106 of 1997.]

Prohibits persons less than the age of 18 years from possessing tobacco "on his person." Violators commit a Class C Infraction. Exempts accused persons engaging in the following businesses: 1) agriculture; 2) processing; 3) transporting; 4) wholesaling; or 5) retailing. [Indiana S.B.106 of 1997.] State law further provides that a person less than 18 years of age who purchases tobacco or accepts tobacco for personal use commits a Class C infraction subject to a penalty of up to \$500. [IN Code s35-46-1-10.5 (1996).] The sale or distribution of tobacco to persons under the age of 18 in violation of section 35-46-1-10 is also subject to injunction, restraining order, or other appropriate order, and an award of costs and reasonable attorney's fees to the person (including a private citizen) bringing the action. [IN Code ss34-4-38-1 ("person"), 34-4-38-2 (injunction), 34-4-38-3 (order of court, costs, and attorney's fees), 35-41-1-22 ("person") (1996).]

## KANSAS

Prohibits the sale, furnishing or distribution of cigarettes or tobacco products to minors. [1995 Kan. H.B. 2544 §7(1)] Prohibits the purchase or attempted purchase of cigarettes or tobacco products by minors. [1995 Kan. H.B. 2544, §7(m)] Penalties for violations of these provisions include fines and/or jail terms. [1995 Kan. H.B. 2544, §8].

## KENTUCKY

State law establishes civil penalties for any person who sells, causes the sale of, or solicits the purchase of tobacco products at retail to a person under the age of 18. The prohibition also applies to vending machine sales. [Ky. Rev. Stat. Ann. §438.315 (Michie 1996)] Violators will be subject to a fine of \$100-500 for first offense, and \$500-1,000 for second and subsequent offenses. [Ky. Rev. Stat. Ann. §438.310 (Michie 1996)] Violators will be subject to a fine of \$100-250 for each offense. Retailers are required to inform employees of state law and have employees sign statement that says "I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products." Statement must be kept accessible in case requested for inspection. Violators will be fined \$100-\$500 for each violation. Retailers are required to demand proof of age from any prospective purchaser or recipient if the seller has reason to believe the prospective purchaser or recipient is under the age of 18. [Ky. Rev. Stat. Ann. §438.310(3) (Michie 1996)] Retailers are further required to inform their employees that proof of age is required from any prospective purchaser or recipient whom the employee has reason to believe is under the age of 18. [Ky. Rev. Stat. Ann. §438.325 (2) (Michie 1996)] State law makes it unlawful for a person under 18 years of age to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, including vending machine sales. State law further prohibits the use of false or fraudulent identification for purposes of purchasing or receiving any tobacco product. Violation is punishable by a fine of \$50 and 20 hours of community service for a first offense, and a fine of \$200 and 40 hours of community service for a second or subsequent violation within one year. State law does not prohibit accepting a tobacco product from a family member or from an employer with required in the performance of the minor's duties. [Ky. Rev. Stat. Ann. §§438.311, 438.315 (Michie 1996)]

## LOUISIANA

State law makes it unlawful to knowingly sell or distribute any tobacco product to a person under the age of 18. A minor employee may accept a tobacco product from an employee when required in the course of the minor's duties. State law further makes it unlawful for any person under the age of 18 to buy any tobacco product. [La. Rev. Stat. §14:91.8 (1996).] First violation is subject to a fine of not more than \$50. A second violation is subject to a fine of not more than \$100. A third violation is subject to a fine of not more than \$250. Subsequent violations are subject to a fine of not more than \$400. [La. Rev. Stat. §14:91.8(F)(1) (1996).]

State law establishes the following prohibitions: 1) No person can sell/serve tobacco products over the counter in a retail establishment to anyone under age 18 and must prove, with authentic identification, that the purchaser is indeed 18 years of age; 2) No person can violate the terms/provisions of the "Prevention of Youth Access to Tobacco Law;" 3) No person selling tobacco products can violate the terms/provision of this chapter; and 4) No retail or wholesale dealer may purchase tobacco products for resale except to retailers operating under the conditions of this chapter. [Louisiana H.B.76 of 1997.]

State law establishes that it is unlawful for any person under age 18 to purchase any tobacco product. Establishes that it is unlawful for any person under age 18 to possess any tobacco product. Allows persons under 18 to possess a tobacco product under the following circumstances: 1) when a person under 18 is accompanied by a parent, spouse, or legal guardian age 21 or older; 2) their possession of tobacco products is in private residences; or, 3) when the tobacco product is handled during the course and scope of employment and required in the performance of such person's duties. [Louisiana H.B.76 of 1997.]

Violators shall be fined not more than \$50 for the first violation. The penalties for subsequent violations shall be not more than \$100 for the second violation; \$250 for the third violation; and a fine of not more than \$400 for any subsequent violation. A person who violates the provisions of this section by possessing tobacco products shall be fined not more than \$50 for each violation. The law enforcement agency issuing the citation, making the arrest, or the clerk of the court in which prosecution is initiated, shall notify the commissioner of the office of alcoholic beverage control of the action and the final disposition of the matter. [Louisiana H.B.76 of 1997.]

## MASSACHUSETTS

Prohibits the sale or distribution of any tobacco products to minors other than by parent or guardian. Violators will be fined at least \$100 for first offense, at least \$200 for second offense, and at least \$300 for third and subsequent offenses. The sale of rolling papers to minors is also prohibited. Violators are fined at least \$25 for the first offense, \$50 for second offense, and \$100 for third or subsequent offenses. [Mass. Gen. Laws Ann. Ch. 270, §6; §6A.] Prohibits operator or owner of a vending machine from allowing a minor to purchase tobacco from the machine. Violators will be fined not more than \$50. [Mass. Gen. Laws Ann. Ch. 64C, §10 (1996)]

## MARYLAND

Prohibits the sale or distribution of tobacco products (specifically mentions rolling papers) to minors. Penalizes employee, not employer, up to \$300 for first offense, up to \$1,000 for second offense within two years, and up to \$3,000 for third and subsequent offenses within two years. It is a defense to prosecution for "distribution" of tobacco products to minors if "defendant examined the purchaser's or recipient's driver's license or other valid identification issued by an employer, government entity, or institution of higher education that establishes age as 18 years or older. Prohibits the purchase of tobacco products on behalf of a minor or supplying tobacco products to a minor. Violators subject to fine of up to \$300 for first offense, up to \$1,000 for second offense within two years, and up to \$3,000 for third and subsequent offenses within two years. Prohibits minors from possessing tobacco products, except during the course of employment. May also require participation in smoking cessation classes and/or supervised work program. [Md. Ann. Code Art. 27, Section 404, 405, and 405A; Md. Ann. Code Sections 3-810.]



## MAINE

Prohibits the knowing sale or distribution of tobacco products to minors. Violators may be fined \$50-\$1500 per offense. Any person who employs someone who violates this section may be fined. It is a defense to prosecution if purchaser presented fraudulent proof of age. Prohibits the purchase, possession or use of tobacco products by minors. Violators will be fined \$100-\$300 and/or community service for first offense, \$200-500 and/or community service for second offense, and a fine of \$500 and/or community service for subsequent offenses. Provisions concerning sales and purchase of tobacco products were specifically amended to include cigarette rolling papers. [22 M.R.S. Section 1551.] Separate provision defines the sale or furnishing of tobacco products to persons under age 16 as "endangering the welfare of a child", subject to imprisonment for one to three years. Affirmative defense if defendant is parent or guardian. [22 M.R.S. Section 1555; 17-A M.R.S. 554.] State law provides that a person under 18 years of age may not offer false identification in an attempt to purchase any tobacco products or to purchase, possess, or use cigarettes, cigarette paper or any other tobacco products. [Maine SB133 of 1997.]

Regulates the sale of tobacco as follows: 1) Requires tobacco products to be sold at retail only in a direct, fact-to-face exchange in which the purchaser may be clearly identified and through the mail under procedures or provide reliable verification that the purchaser is not a minor; 2) Prohibits any person from selling, furnishing, giving away or offering to sell, furnish or give away a tobacco product to any person under 18 years of age and prohibits tobacco products from being sold at retail to any person under 27 years of age unless the seller first verifies that person's age by means of reliable photographic identification containing the person's date of birth; 3) Restricts vending machines to be located only in areas in which minors are allowed only when accompanied by an adult; and, 4) Requires tobacco products to be sold at wholesale without a face-to-face exchange only in the normal course of trade and under procedures approved by the Bureau of Taxation to ensure that tobacco products are not provided to any person 18 years of age. Violators and employers of violators shall be fined between \$50.00 and \$1,500.00, plus court costs. [Maine S.B.133 of 1997.]

## MICHIGAN

Prohibits persons from sales or distribution of tobacco products to a minor. Violators will be fined \$50 per offense. Prohibits possession or use of tobacco products by a minor on public property or in public places of business or amusement. Violators will be charged with a misdemeanor punishable by up to \$50 per offense and/or participation in health promotion and risk reduction program and/or community service. Prohibits persons from furnishing tobacco products to minors, except for parents or legal guardians within private premises. [Mich. Stat. Ann. §§25.281 through 25.285 (1996).] No exemption from prohibition of possession of tobacco products by minors is granted for retail sales. Affirmative defense of written policy against sales to minors. [Mich. Stat. Ann. §25.281(5) (1996).] Note: State law does not specifically prohibit the purchase of tobacco products by a minor; however, state law requires a sign that says purchase by a minor is illegal.

## MINNESOTA

Prohibits the sale or distribution of tobacco products to a minor. Violators guilty of a gross misdemeanor, and fined up to \$3,000 and/or up to one year imprisonment; separate administrative penalties also may apply. It is a defense to prosecution if "defendant" proves he/she "reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6," which says proof of age may be established from a valid driver's license, military identification card, or a passport. Prohibits the use, possession, purchase, or attempt to purchase tobacco products by a minor. Violators guilty of a petty misdemeanor, and fined up to \$200. The offender's driver's license also may be suspended. Allows the sale or distribution by an Indian to an Indian minor if used for bona fide artistic, spiritual, or cultural purposes and person using tobacco product is an Indian or member of another cultural group that uses tobacco for such purposes. [Minn. Stat. Ann. Sections 461.12, 609.685, 609.03, 609.0331, 171.171 and 297.04(a) (1994).] Please note: Section 609.685 only contained the Indian-Indian circumstance; none other found.

## MISSOURI

Prohibits the sale or distribution of tobacco products to minors, except distribution to family members on private property. "A person" selling or distributing tobacco shall require proof of age if based on appearance purchaser or recipient may be under 18 years of age. Reasonable reliance on proof of age is a defense. "Proof of age" is defined as driver's license or other generally accepted means of identification that contains a picture. Fine for first offense is \$25, second is \$100, subsequent offenses are \$250. Only liable for one offense per day. Employee who makes sale is guilty of offense; owner of establishment where vending machine is located is guilty; employee of sampling company that distributes to a minor is guilty. No penalty to minor. [Mo. Rev. Stat. §§407.925, 407.927; 407.929; 407.93; 407.932 (1995)]

## MISSISSIPPI

Prohibits sale or transfer of tobacco products to minors. Examination of ID is absolute defense, as is a receipt of documentary proof of age in case of sales through mail. First conviction is subject to \$50 fine; second conviction, \$75 fine; third conviction, \$150 fine. If violator is holder of retailer permit, retailer must complete education program for second violation; for third and subsequent violations, permit may be revoked or suspended. Retail sales clerks must be notified of requirements of state law, and must sign a written agreement regarding their obligations; failure of retailer to notify its clerks carries a penalty of \$50-100. No minor may purchase tobacco products. Any minor who misrepresents his age shall be penalized \$25-200, or required to complete 30 days of community service, or both. [Miss. Code Ann. Section 97-32-5, 97-32-7, 97-32-9 (1997).]

## MONTANA

Prohibits the sale or distribution of tobacco products to minors. If there is reasonable doubt as to purchaser or recipient's age, then "seller" shall require a driver's license or other identification that includes a picture. The employee responsible for the sale is subject to a \$25 tobacco education fee for each violation if employee is not the owner. The first through third offense within a three-year period is punishable by a verbal notification to the owner; fourth offense is punishable by written notice; fifth offense within three-year period is punishable by a \$500 tobacco education fee charged to the owner; sixth offense is punishable by suspension of license for 3 months; and seventh and subsequent offenses within three-year period is punishable by suspension of license for 1 year. If a second violation has not occurred for two-year period following first violation, then second violation is considered a first violation. License may not be reissued unless

## MONTANA Cont'd

\$500 tobacco education fee has been paid in full. [M.C.A. §§305, 308 (1995)] Prohibits the possession or consumption of tobacco products by minors. First offense is subject to civil penalty of \$35, second offense is at least \$75 and no more than \$100; and third and subsequent offenses will be fined at least \$100 and no more than \$250 or may be adjudicated as a youth in need of supervision under the Montana Youth Court Act. If convicted, person may be subject to community service or attendance at a tobacco cessation program. [M.C.A. §45-5-637 (1995)]

## NEBRASKA

Prohibits the sale or distribution of tobacco products in any form to minors. Subject to penalty as Class III misdemeanor (in 1996, fine up to \$500 and/or up to 3 months imprisonment). Retailer is also subject to revocation of license for violation, at the discretion of the court. Prohibits the use of tobacco products in any form by minors. Violators will be guilty of a Class V misdemeanor (fine up to \$100). However, minor may be freed from prosecution if he furnishes evidence for the conviction of the persons selling or giving him the tobacco products. Use of a false ID by a minor to obtain tobacco is also a Class V misdemeanor. [N.R.S. §§28-1418, 28-1425, 28-1427, 28-1419, and 28-106(1) (1996)]

## NEVADA

Prohibits the sale or distribution of tobacco products, including cigarette papers, to minors. Violation is subject to fine of not more than \$500 and a civil penalty of not more than \$500. There is no violation if, prior to sale, seller demands, receives, and reasonably relies on ID showing purchaser is 18 years of age. If an employer's employee commits a violation, the employer will be found in compliance with state law and not subject to penalties if he/she had no knowledge of sale and has a continuous training program for employees.

Minors are allowed to handle tobacco in the lawful course of employment. [Nev. Rev. Stat. Ann §202.2493 (Michie 1995)] Exceptions: (1) upon written order of parent or guardian, for use of parent or guardian, (2) Superintendent of NV Youth Center or Caliente Youth Center, upon consent of parent or guardian and person is 16 years of age or older.

## NEW HAMPSHIRE

No person may sell, give or furnish tobacco products to minors; violations are punishable by fines of \$250, \$500 and \$750 for the first, second and third (and each subsequent) offenses, respectively. In addition, for the fourth and subsequent offense, the person's license shall be suspended or revoked. No person may distribute free samples in a public place, unless the place is an area to which minors are denied access, is a store that is licensed, or is a similar area; violations are punishable by of \$250, \$500, and \$750 for the first, second and third (and each subsequent) offenses respectively. In addition, for the fourth and subsequent offenses, the person's license shall be suspended or revoked. Minors may not purchase, attempt to purchase, possess or use any tobacco product; violations are punishable by a \$100 fine, 20 hours of community service, or both; punishment may also include participation in an education program. Any person responsible for sales of tobacco products (including through vending machines) must require proof of age from any person who does not appear to be at least 18 years of age. No person shall use any tobacco product in a public education facility or on grounds of any public educational facility. [NH Rev. Stat. Ann. §§126-I:3,4,5,6,7.]

## NEW JERSEY

Prohibits the direct and indirect sale, giving or furnishing of cigarettes or tobacco in any form to minors. Violators are subject to a fine of \$250, for a first violation, \$500 for a second violation, and \$1000 for the third and each subsequent violation. In addition, the division of taxation may suspend or, after a second or subsequent violation, revoke the retailer's license. [NJ Stat. §2A:170-51 (1996)].

## NEW MEXICO

Prohibits the knowing sale or distribution of tobacco products to minors. Exception for individuals providing free samples to family or acquaintances, if done on private property closed to public. "Any person" who violates the sales or distribution to a minor provision is guilty of a misdemeanor (with fine up to \$1,000 and term of imprisonment up to one year). Prohibits minors from purchasing or attempting to purchase tobacco products or using fake identification to do so. A minor who attempts to purchase tobacco products shall be punished by a fine up to \$100 or 48 hours of community service. [N.S.A. §§30-49-2; 30-49-3; 30-49-6; 30-49-8; 30-49-12 (1996)]

## NEW YORK

Prohibits any person operating a place of business that sells tobacco products from selling such products, rolling papers or pipes to minors. Violators are subject to \$100-300 for the first offense, and \$1,000 for each subsequent offense. If a retail dealer is found to have violated these restrictions three times within a two-year period, or four or more times cumulatively, the enforcement officer must direct the Commissioner of Taxation and Finance to suspend the dealer's registration for one year. [NY Pub. Health Law ss.1399-cc, 1399-ee (consol. 1996).] State law requires places of business that sell tobacco products to verify age from photo identification issued by government entity or educational institution if person does not reasonably appear to be 25 years of age; provided, however, that appearance is not defense if sale is made to minor. [NY Pub. Health Law s.1399-cc.]

## NORTH CAROLINA

Requires photographic identification that includes the bearer's date of birth as proof of age. [North Carolina S.B.143 of 1997]. Prohibits person from knowingly distributing or selling tobacco products including wrapping papers to persons under 18. Also, prohibits any person from knowingly aiding, assisting or abetting a person in the sale of tobacco to a minor. Prohibits person from purchasing tobacco on behalf of a minor or sending minor to receive or purchase tobacco, except as used by state law enforcement officers. Seller must demand proof of age if he has reasonable grounds to believe that purchaser is under 18. Failure to demand proof is a Class 2 misdemeanor. Proof that defendant demanded proof of age shall be a defense. Exempts distribution to an employee if required in the performance of the employee's duties. Prohibits minors from purchasing or accepting receipt of, or attempting to purchase or accept tobacco products or present fake or misleading proof of age. Violators will be charged with an infraction. [NC Gen. Stat. §14-313, Chapter 628.]

## NORTH DAKOTA

Prohibits the sale or furnishing of tobacco products to minors. Tobacco products include cigarette wrapping papers. Violators will be charged with a Class B misdemeanor punishable by a fine of \$500 and/or imprisonment for 30 days. Prohibits the purchase of tobacco products on behalf of minors. Violators will be charged with a Class B misdemeanor. Prohibits the use of tobacco products by a minor in any form. Violators will be charged with a Class B misdemeanor. [ND Cent. Code §§12.1-31-03(1), 12.1-31-03(2), and 12.1-32-01(b) (1995)]

## OHIO

Prohibits the sale or distribution of tobacco products to minors. Violators will be charged with a 4th degree misdemeanor and fined up to \$250 and/or up to 30 days of imprisonment for first offense; and will be charged with a 3rd degree misdemeanor with a fine of up to \$500 and/or 60 days imprisonment for second and subsequent offenses. [Ohio Rev. Code Ann. §2927.02 (1996)]

## OKLAHOMA

Prohibits the sale or distribution of tobacco products to minors. Violators subject to a fine of between \$100-\$300 and suspension of license, or both. State law requires "a person engaged in the sale or distribution of tobacco products" to demand proof of age if based on appearance purchaser/recipient appears to be under 18 years of age. "Proof of age" is defined as a driver's license or other form of identification that contains a picture. Penalty will be imposed on employee, not employer. [OK Stat. Tit. 21, s1241, id. at Tit. 37, §600.3 (1997)]. Showing of proof of age is a defense. Prohibits the purchase of tobacco products on behalf of minors. Violators subject to same penalties as above. Prohibits the purchase, receipt, or possession of tobacco products by minors. Violators subject to a penalty of \$100 for first offense, and \$500 for second and subsequent offenses within one-year period. [id. at Tit. 37, §600.4]. Prohibits minors from possessing tobacco products. Violators will be required to disclose the location at which they acquired the tobacco product, or be charged with a misdemeanor and charged accordingly. [OK Stat. Tit. 21, s1242 (1997)]. Exempts minors from possession, purchase or receipt prohibitions if it occurs during the course of employment. If any minor aged 16 or older is in possession and refuses to disclose source, he shall be liable for fine of \$5 or be imprisoned in county jail up to five days, or both. State law requires persons selling tobacco products at retail to sign a form that states: "I understand that state law prohibits the sale or distribution of tobacco products to persons under eighteen (18) years of age and out-of-package sales, and requires proof of age of purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under eighteen (18) years of age. I promise, as a condition of my employment, to obey the law. I understand that violations by me may be punishable by fines, suspension or nonissuance of my driver's license. In addition, I understand that violations by me may subject the storeowner to fines or license suspension" [id. at Tit. 37, §600.6].

## OREGON

Prohibits the sale or distribution of tobacco products to minors. Violators will be subject to a fine of \$100-500. [Or. Rev. Stat. §163.575 (1995)]. Prohibits minors from possessing tobacco products. Violators will be subject to a fine of up to \$100. [Or. Rev. Stat. §167.400 (1995)]. Prohibits the free distribution of tobacco products to minors. [Or. Rev. Stat. §431.840 (1995)]. Violators shall be fined not less than \$100 nor more than \$500. [OR Rev. Stat. §431.845 (1995)].

## PENNSYLVANIA

Prohibits the sale or distribution of tobacco products to minors. Violators shall be charged with a summary offense punishable by a fine of not less than \$25 for a first offense, and not less than \$100 for subsequent offenses. Prohibits the purchase or acquiring of tobacco products by minors. Violators will be charged with a summary offense punishable by a fine of not less than \$25 for a first offense, and not less than \$100 for subsequent offenses. Prohibits the furnishing by gift or otherwise, of cigarettes to minors. violators for the first offense will be subject to a \$25 fine, for a second offense up to a \$100 fine and for subsequent offenses be charged with a third degree misdemeanor. [Pa. Cons. Stat. §208-A (1996)]

## RHODE ISLAND

Prohibits the sale, conveyance or distribution of tobacco products to minors via the United States Postal Service, or by any other public or private postal or package delivery service. A minimum fine of \$500 shall be assessed against any distributor, seller or conveyor convicted of distributing, selling or conveying tobacco products through these means of delivery. [R.I. Gen. Laws, § 11-9-13.7, 13.11] Prohibits the sale of tobacco products to minors [R.I. Gen. Laws §11-9-13]. Prohibits person under 18 years of age from purchasing tobacco products. [R.I. Gen. Laws § 11-9-13]. Prohibits persons under 16 years of age from smoking or chewing in any public street, place or resort, any tobacco in any form whatsoever. Violators are subject to a \$5 fine. [R.I. Gen. Laws §11-9-14].



## SOUTH CAROLINA

It is unlawful for any person to sell, furnish, give, or provide any minor under the age of 18 with cigarettes, tobacco, cigarette paper, or any substitute therefor. Any person violating these provisions, either in person, by agent or in any other way, shall be guilty of a misdemeanor and, if convicted, shall face the following penalties: for a first offense, a fine not exceeding \$25; for a second offense, a fine not exceeding \$50; for third and subsequent offenses, a fine of not less than \$100 or imprisonment for not more than one year nor less than 60 days, or both. [SC Code Ann. §16-17-500 (Law Co-op. 1996)].

## SOUTH DAKOTA

Prohibits the knowing sale or distribution of tobacco products to minors; the sale of cigarettes other than in an unopened package originating with the manufacturer and depicting required warning labels; and the distribution of tobacco product samples in or on a public street, sidewalk, or part that is within 500 feet of a playground, school, or other facility when the facility is being used primarily by person under the age of 18. [SD Codified Laws §34-46-2 (1996).] Prohibits minors from purchasing, attempting to purchase, possessing or consuming any smokeless tobacco product or misrepresenting their age for the purpose of purchasing or attempting to purchase any smokeless tobacco product. [SD Codified Laws §26-10-20 (1996).] Prohibits minors from purchasing, attempting to purchase, possessing or consuming tobacco, cigarettes or cigars unless it is done in the immediate presence of a parent, guardian or spouse over the age of 18, or misrepresenting their age for the purpose of purchasing such tobacco, cigarettes or cigars from any person. [SD Codified Laws §26-10-23 (1996).] Violations of §34-46-2 (see above) are Class 2 misdemeanors. A person is not liable for more than one violation on a single day. Reasonable reliance on proof of age is a complete defense. [SD codified Laws §34-46-5.]

## TENNESSEE

Prohibits sale or distribution of tobacco products to minors. Prohibits purchase of tobacco products on behalf of minors. [Tenn. Code Ann. §39-15-408(a) (1996).] Unless part of an otherwise valid law enforcement effort, no person may persuade, entice, send or assist a minor to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco product or smoking paraphernalia. [Tenn. Code Ann. §§ 39-17-1504(b), 39-15-408(b).] Prohibits the distribution of 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 is being used primarily by minors. [Tenn. Code Ann. §39-17-1504(c).] Persons engaged in the sale or distribution of tobacco products shall demand proof of age if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient is a minor; similarly, persons contemplating the dissemination of smoking paraphernalia to a minor must demand identification containing proof of age. [Tenn. Code Ann. §§39-17-1504(d), 39-15-410(a) (1996).] For distribution by mail, distributor must obtain an affirmative statement that purchaser is 18 years of age or older, and must inform the purchaser that he is strictly prohibited from distributing any tobacco product to minors. [Tenn. Code Ann. §§ 39-17-1504(d) (1996).] Violations of these provisions are Class A misdemeanors (for tobacco products) or Class C misdemeanors (for smoking paraphernalia). [See Tenn. Code Ann. §§39-17-1504(e), 39-15-408(c), 39-15-410(a) (1996).] However, proof that a defendant demanded, was shown, and reasonably relied upon proof of age for tobacco products is a defense. [Tenn. Code Ann. §39-17-1504(c) (1996).] Prohibit minors from purchasing or accepting receipt of a tobacco product, or presenting or offering to present a false proof of age; similarly prohibits minors from directly or indirectly purchasing or acquiring smoking paraphernalia. [Tenn. Code Ann. §§39-17-1505(a), 39-15-409 (1996).] Violations with respect to tobacco products are Class C misdemeanors, 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 a second or subsequent offense with a one-year period. [Tenn. Code Ann. §1505(b) (1996).] Violations with respect to smoking paraphernalia are subject to "juvenile proceedings." [Tenn. Code Ann. §19-15-409 (1996).]

## TEXAS

Prohibits commercial enterprises from knowingly selling or giving cigarettes or other tobacco products to minors. It is a defense to prosecution if the "defendant" relied on a driver's license or identification card that contains a "physical description" and establishes age. [Tex. Health & Safety Code §161.081(c) (West 1997)] Prohibits commercial enterprises from knowingly selling or giving cigarettes or other tobacco products to person for delivery to a minor. [Tex. Health & Safety Code §161.081(a)(2) (West 1997)] Violators will be charged with a Class C misdemeanor (Tex. Health & Safety Code §161.081(c) (West 1997)] Violators will be charged with a Class C misdemeanor. [Tex. Health & Safety Code § 161.081(b) (West 1997)] Exception: Director of Corrections or the Youth Authority may sell or supply tobacco or tobacco products to confined persons if aged 16 or more and on consent of parent or guardian.

## UTAH

Prohibits the sale, giving or furnishing of any cigar, cigarette or tobacco to persons under the age of 19. Violators will be charged with a Class C misdemeanor for first offense, Class B misdemeanor for second offense, and Class A misdemeanor for subsequent offenses. [Utah Code Ann. §76-10-104 (1996).] Prohibits the purchase, acceptance, or possession of cigars, cigarettes, or tobacco by persons under the age of 19. Violators may be charged with a Class C misdemeanor, or may be subject to the jurisdiction of the juvenile court. [Utah Code Ann. §76-10-105 (1996).]

## VERMONT

Prohibits the sale or furnishing of tobacco products to minors. Violators will be fined \$100 for the first offense and not more than \$500 for any subsequent offense. [Stat. Ann. Title 7, § 1007 (1997).] Prohibits the purchase or possession of tobacco products by minors. Violators are subject to a \$25 fine and possible suspension of drivers license. Penalties imposed if minor used false identification to purchase tobacco. Penalty would then be a fine of not more than \$50 and/or 10 hours of community service. [Stat. Ann. Title 7, § 1005 (1995).]

## VIRGINIA

Prohibits the sale or distribution of tobacco products to minors with knowledge or reason to believe that the person is less than 18 years old. Prohibits the purchase of tobacco products by minors, unless the possession is pursuant to the minor's employment.

Prohibits the purchase of tobacco products on behalf of minors. Violators are subject to a fine of up to \$100 for first offense, up to \$200 for the second offense, and up to \$500 for third and subsequent offenses; provided, however, that a violation for purchase/possession by minors is subject to a fine not to exceed \$50 for a first violation and \$100 for a second and subsequent violation. Upon a third or subsequent violation of purchase/possession a minor also may be adjudged a delinquent. No person shall sell a tobacco product to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 18 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 18 years of age or whom the person knows is at least 18 years of age. [VA Code Ann. s.18.2-371.2.]

## WASHINGTON

Prohibits the sale or giving of cigars, cigarettes, cigarette papers or wrappers, or tobacco in any form to minors. If there is a question of age, "retailer, sampler, or agent thereof," shall require proof of age. "Proof of age" is defined as liquor control authority card of identification, driver's license, instruction permit, identification card, "identocard," military identification card, merchant marine identification card or passport. [WRCA §70.155.090 (1995)] Prohibits the purchase attempted purchase of cigarettes or tobacco products by minors. Violators are subject to a Class 3 civil infraction or participation in a smoking cessation program, or both. [Wash. Rev. Code Ann. §70.155.080 (1995)] State law does not specifically prohibit the possession of tobacco products by minors. However, state law does authorize enforcement officials to detain a person believed to be a minor who is purchasing, attempting to purchase or possessing tobacco products. They "may detain such person for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. Further, tobacco products possessed by persons under the age of eighteen years of age are considered contraband and may be seized." [Wash. Rev. Stat. Ann. §70.155.110(3) (1995)]

## WEST VIRGINIA

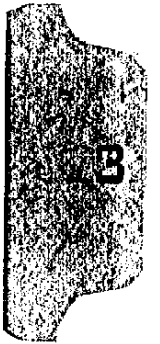
Prohibits the sale, giving or furnishing of any cigarette, cigarette paper or similar paper, or any cigar, pipe, snuff, chewing tobacco or tobacco product to minors. Violators will be guilty of a misdemeanor and subject to a fine of not less than \$10 nor more than \$25 for the first offense, and \$25-300 for each subsequent offense. [W.Va. Code §16-9A-2 1996.] Minors may not possess cigarettes, cigarette papers, or any pipe, snuff, chewing tobacco or tobacco product. Violators are subject to a fine of \$5; the magistrate court also has concurrent jurisdiction. [W. Va. Code §16-9A-3 (1996).] It is a defense if: (1) the buyer falsely evidenced that he was 18 years of age; 92) the appearance of the buyer was such that a prudent person would believe the buyer was 18 years of age; and 93) the seller carefully checked the buyer's driver license or other designated identification card. [W.Va. Code §16-9A-7(b) (1996).]

## WISCONSIN

Prohibits the sale or giving of cigarettes or tobacco products to minors, unless the minor is required to do so in the course of employment during working hours for a licensed retailer. [Wis. Stat. §§134.66, 938.983 (1995).] A defense exists if : (1) the purchaser falsely represented age and provided an ID card; (2) the purchaser reasonably appear to be 18; and (3) the sale was reasonable and in good faith. [Wis. Stat. §134.66(3) (1995)] Unless done in the course of employment (as noted above), minors may not: (1) buy or attempt to buy cigarettes or tobacco products; (2) falsely represent their age for the purpose of receiving any cigarettes or tobacco products; or (3) possess any cigarettes or tobacco products. [Wis. Stat. §938.983 (1995) Retailer and other sellers are subject to monetary fines and suspension of license. [Wis. Stat. §134.66 (1995)]

## WYOMING

Prohibits the sale, offer for sale, giving away or delivery of tobacco products to any person under the age of 18. Violators will be guilty of a misdemeanor punishable by a fine of not more than \$50. It is a defense to prosecution if the person reasonably relied on an identification card or the tobacco product was given to the minor by a parent for use in parent's home or under the parent's direct supervision. [Wy. Stat. §14-3-302 (1996)] Prohibits the purchase of tobacco products by minors. Prohibits minors from misrepresenting their age or using false identification for purpose of purchasing tobacco products. Violators will be guilty of a misdemeanor punishable by a fine of not more than \$25, although, community service may be ordered instead. [Wy. Stat. §14-3-304 (1996)] Prohibits the possession and use of tobacco products by minors. Violators will be guilty of a misdemeanor punishable by a fine of not more than \$25, although, community service may be ordered instead. [Wy. Stat. §14-3-305 (1996)]



51826 1693

**STATE PROFILE**  
**OF**  
**SAMPLING & ADVERTISING**

51826 1694

## SAMPLING AND ADVERTISING STATE PROFILE

### ALABAMA

#### SAMPLING

No state or local laws restrict sampling of tobacco products to adults.

#### ADVERTISING

No state law restricts advertising of tobacco products.

Prichard restricts advertising for tobacco and alcohol products as provided for in Ordinance No. 1821, Section F, paragraph F8. Paragraph F8 states, "Any future advertisements for tobacco and alcohol products will be banned and all current advertisements, signs and billboards must be in compliance by January 1, 1997. Prichard prohibits erection of tobacco and alcohol advertising unless in existence on September 5, 1995. Existing advertising signs must meet all general advertising requirements no later than January 1, 1997.

### ALASKA

#### SAMPLING:

No state or local laws restrict sampling of tobacco products to adults.

#### ADVERTISING:

State law requires that signs be posted conspicuously where alcoholic beverages are sold or served stating: "WARNING: Drinking alcoholic beverages such as beer, wine, wine coolers, and distilled spirits or smoking cigarettes during pregnancy can cause birth defects." [1991, Senate Bill 203 effective September 17, 1991. AS 04.21.065(b)]

### ARKANSAS

State law prohibits distribution of free samples of tobacco products or coupons redeemable for free samples "(1) in or on any public street or sidewalk within five hundred feet (500 ft.) of any playground, public school or other facility when such facility is being used primarily by persons under eighteen (18) years of age for recreational, education or other purposes, or (2) to any person under eighteen (18) years of age." [1991, Act 543. Section 5-27-227 (c), Arkansas Code.]

No local laws restrict sampling of tobacco products to adults.



## ARIZONA

No state or local laws restrict sampling of tobacco products to adults.

## CALIFORNIA

### SAMPLING:

Effective January 1, 1992, state law prohibits "nonsale distribution of any smokeless tobacco or cigarettes to any person in any public park or playground or on any public sidewalk, street, or other public grounds" owned, operated or maintained by a public entity. Such areas are exempt if minors are prohibited by law, or if leased for private functions and minors are denied access by peace officers or licensed security guards. "Nonsale distribution" means giving products to general public "at no cost, or at nominal cost, or to give coupons or rebate offers." Distribution of products or coupons in connection with sale of another item, including tobacco products, lighters, or periodicals, is not "nonsale distribution." More restrictive local ordinances regulating distribution of smokeless tobacco or cigarettes are specifically authorized. [1991, Chapter 829. Division 20, Chapter 12.7, Section 25967 of Health and Safety Code.]

State law also prohibits distribution of sample tobacco products to persons under age 18. Prohibits local governments from adopting ordinances inconsistent with state law. [1988, Chapter 1045. Section 308 of Penal Code.]

State law also regulates sampling of smokeless tobacco products by direct distribution or through mail-in or telephone requests. Prohibits sampling of smokeless tobacco products within two-block radius of schools or other youth-oriented premises. Prohibits distribution of unsolicited smokeless tobacco products through the mail. [1986, Chapter 185. Section 17537.3 of Business and Professions Code.] Repealed by 1988 law: Ban on unsolicited distribution of all tobacco products to residences. [1971, Chapter 1005. Section 308b of Penal Code.]

## California con't

Alameda County regulates sampling in unincorporated areas of the county. Distribution of free or nominal cost tobacco products for promotional purposes is prohibited "within a two block radius of any school, playground, clubhouse, youth center, park, video arcade, theater, coliseum, stadium, sports facility, fairground, other entertainment facility, confectioner, or any premises or facility whose primary purpose is directed towards persons under the age of 18." In other places, sampling may be conducted only during school hours and requires a permit from the County Health Officer. Permit requirements are extremely detailed. Samplers must also distribute with each sample a written notice of state's prohibition on distribution to or receipt by a minor, and a written notice containing "the most recently issued warning regarding smoking issued by the Office of the United States Surgeon General." Samplers must also arrange for security personnel to be in attendance. [1991, Title 2, Chapter 17.6, Ordinance Code of the County of Alameda.]

Albany provides that "No person shall knowingly distribute or furnish without charge, or cause to be furnished or distributed without charge, cigarettes or other tobacco products, or coupons for cigarettes or other tobacco products, in any public place or at any event open to the public, except in retail tobacco stores." "Public place" is defined as any area to which the public is invited or in which the public is permitted. "Retail tobacco store" means a store "utilized primarily for the sale of tobacco products and accessories." [1992, Ordinance 92-02. Chapter XVII, Section 17-1.]

Calistoga prohibits self-service displays of tobacco products or "promotional items" that carry tobacco logo images, characters, messages or themes. [1995]

Clayton bans distribution of samples and coupons. Same language as Contra Costa County. [1992, Ordinance No. 295. Chapter 8.14, Clayton Municipal Code.]

Contra Costa County prohibits persons in business of selling or distributing tobacco products for commercial purposes from distributing tobacco products or "coupons, certificates, or other written material which may be redeemed for tobacco products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building." Prohibits such distribution in sports arenas and entertainment facilities (except bars), for which a charge is made for admission, whether publicly or privately owned. Applies only to unincorporated areas of county. [1991, Ordinance No. 91-44. Chapter 440-8, County Ordinance Code.] Billboards advertising alcohol and tobacco are prohibited within 2,000 feet of schools. "Billboards" are defined as outdoor advertising signs that are at least 40 square feet in area.

## California con't

Dublin restricts sampling and distribution of coupons for free products to retail tobacco stores. [1994]

El Cerrito prohibits sampling and distribution of coupons using same language as surrounding Contra Costa County ordinance. [1991.]

Fremont prohibits distribution "without charge" for commercial purposes of sample tobacco products or coupons for tobacco products "at any event open to the public or in any public place, including but not limited to any public way, any mall or shopping center, park, playground or any property owned by the City or any other public agency, except in a retail tobacco store." [1993. Ordinance 2034. Chapter 6, section 4-6107.1.]

Hercules prohibits persons in business of selling or distributing tobacco products for commercial purposes from distributing tobacco products or coupons, certificates or other written materials which may be redeemed for tobacco products without charge "on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building." Would define public ground or building to include sports arenas and any entertainment facility, except a bar, for which a charge is made for admission, whether or not publicly owned. [1992, Ordinance 309. Section 5-6.108.]

Hollister prohibits distribution of sample tobacco products and coupons for free tobacco products, except for within retail tobacco stores. [1993]

Lafayette prohibits persons in business of selling or distributing tobacco products for commercial purposes, or their employees or agents, from distributing any tobacco product or "coupon, certificate, or other written material which may be redeemed for tobacco products without charge, to any person on a public street or sidewalk or in a public park or other public ground or in any public building," including publicly or privately owned sports arenas and entertainment facilities, except bars, for which a charge is made for admission. [1992, Ordinance 393. Chapter 3, Section 5-310, Lafayette Municipal Code.]

Lemon Grove prohibits distribution of samples and coupons for free tobacco products. Would exempt bars from distribution prohibition. [1994]

Livermore prohibits distribution of free tobacco products in retail tobacco stores. [1993]

## California con't

Long Beach prohibits distribution of free tobacco products "in any public place or at any event to which the public is invited unless such activity is authorized in a permit for staging of a special event," which may be revoked for distribution to minors. [1991, Section 8.68.170, Long Beach Municipal Code. Previously, Ordinance C-6879 included same prohibition, but measure was repealed after being suspended by referendum petition.]

Morro Bay prohibits distribution of tobacco products for free or for a nominal cost below retail price. Would prohibit tobacco advertisements within 2 miles of public or private schools, including any advertisement or promotion outdoors or within any public or private facility open to the public. Would ban vending machines. [1994]

Oakland prohibits "nonsale distribution" of tobacco products at no cost or at nominal cost or coupons or rebate offers for tobacco products or tobacco accessories to general public for any purpose, "including but not limited to promotional, marketing, advertising, testing, and consumer research purposes." Would exempt distribution of products or coupons "in connection with the sale of another item, including tobacco products, magazines, newspapers or other items." [1992, Ordinance 11433. Section 4-11.]

Orinda prohibits persons in business of selling or distributing tobacco products for commercial purposes, or their employees or agents, from distributing tobacco products or "coupons, certificates, or other written materials which may be redeemed for tobacco products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building," including sports arenas and any entertainment facility whether enclosed or not, except a bar, for which a charge is made for admission, whether publicly or privately owned." [1992, Section 6-110 (Health & Safety), Orinda Municipal Code.]

Pinole prohibits persons in business of selling or distributing tobacco products for commercial purposes, or their employees or agents, from distributing tobacco products or "coupons, certificates or other written material which may be redeemed for tobacco products without charge" to any person "on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building," including sports arenas and any entertainment facilities "whether enclosed or not, except a bar, for which a charge is made for admission, whether publicly or privately owned." [1992, Section 9.28.100, Pinole Municipal Code]

## California con't

Pleasanton prohibits distribution of tobacco product samples or "coupons, certificates, or other written material which may be redeemed for tobacco products and/or tobacco accessories without charge or for a nominal charge...on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building" by persons in business of distributing tobacco products for commercial purposes. [Effective December 5, 1991, Ordinance 1529. Chapter 9.32, Pleasanton Municipal Code.]

San Francisco prohibits distribution of free cigarettes or other tobacco products or "coupons, certificates, or other written material which may be redeemed for tobacco products without charge" in public places. [1988. Part II, Chapter VIII, Section 95 of San Francisco Municipal Code (Police Code).]

San Mateo County prohibits persons in business of selling or distributing tobacco products for commercial purposes from distributing sample tobacco products or "coupons, certificates, or other written material which may be redeemed for tobacco products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public place." Applies only to unincorporated areas of county. [1992, Ordinance 03360. Article 11 Section 5007.]

Seaside prohibits distribution of "free tobacco products anywhere in the city." [1992, Ordinance 806. Section 8.38.080.]

Sebastopol prohibits distribution of tobacco product samples, defined as "a tobacco product and/or tobacco accessories distributed to members of the general public at no cost or at a nominal cost for product promotional purposes." The ordinance also provides, "No person, business, or tobacco retailer shall distribute or permit to be distributed any tobacco product sample for commercial purposes to any person who may redeem a coupon, certificate, or other written materials." Coupon is defined as "any card, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discounted price." [1992, new section.]

Solana Beach prohibits distribution of sample tobacco products or coupons in public places, using same language as Contra Costa County ordinance. [1992. Section 6.16.080, Solana Beach Municipal Code.]

## California con't

Solano County prohibits distribution of sample tobacco products (defined as tobacco products or accessories distributed at no cost or at nominal cost for product promotional purposes) or "coupons, certificates, or other written material which may be redeemed for tobacco products and/or tobacco accessories without charge or for a nominal charge, to any person on any public street or sidewalk, or in any public park or playground, or on any other public ground or in any public building." Applies only to unincorporated areas of county. [1991, effective 12/26/91. Chapter 13.3, section 31, Solano County Code.]

Union City prohibits distribution of samples or coupons for free tobacco products, except in retail tobacco stores. [1994].

Vallejo prohibits distribution (by a person in the business of distribution of tobacco products) of "(1) any tobacco product sample, or (2) coupons, certificates, or other written material which may be redeemed for tobacco products and/or tobacco accessories without charge or for a nominal charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building." [1991. Section 7.69.040, Vallejo Municipal Code.]

West Sacramento prohibits distribution of free samples of tobacco products "to any person in any public area" and prohibits "distributing vouchers or coupons for free tobacco products in a public area." No definition of "public area" is provided, but "public place" is defined as "any enclosed area to which the public is invited or in which the public is permitted." [1991, Ordinance No. 91-23. Sections 8.16.030 to 8.16.160.]

### ADVERTISING:

State law prohibits tobacco product advertising in any state-owned or state-occupied buildings. By definition this includes "all indoor areas of the building, except for covered parking lots, residential space, and state prison yard areas." The state exempts "advertising contained in a program, leaflet, newspaper, magazine, or other written material lawfully sold, brought, or distributed within a state building." [1993, Chapter 211, Assembly Bill 291. Division 5, Chapter 5.6, Section 19994.35 of Government Code.]

## California con't

State law prohibits any person, firm, corporation, partnership or other organization from advertising, or causing to be advertised, tobacco products, on any outdoor billboard located within 1,000 feet of any public or private elementary school, junior high school, or high school, or public playground. Local ordinances may be more restrictive. [1997, Chapter 219, Assembly Bill 752, Division 3, Section 22961 of Business and Professions Code.]

Calistoga prohibits self-service displays of tobacco products or "promotional items" that carry tobacco logos, characters, messages or themes. [1995].

Long Beach prohibits billboard advertising of tobacco products within 500 feet of "or so oriented that the message portion of the sign is visible from any school, child care center, nursery school, hospital, place of worship or recreational facility." [1991. Section 8.68.180, Long Beach Municipal Code. Previously, Ordinance C-6879 included same restriction, but was repealed after suspension by referendum petition.]

Morro Bay prohibits self-service displays of tobacco products or "promotional items" that carry tobacco logos, images, characters, messages or themes. Also would prohibit tobacco advertisements within 2 miles of public or private schools, including any advertisement or promotion outdoors or within any public or private facility open to the public. [1995]

Needles bans all billboards. [1996]

Orange County Transit District is phasing out tobacco advertising from buses, reducing allowed amount from 30 to 20-percent in 1991 and then to complete ban. [1991, Transit District Board policy.]

San Diego transit system prohibits tobacco and alcoholic beverage advertising from system facilities. [1978. Transit Board policy.]

San Francisco prohibits advertising for tobacco products on any property "owned by or under the control of" the city. Prohibition "shall include the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product." Does not apply to anti-tobacco advertising sponsored by state, local or non-profit entity. Applies to all existing leases, permits or agreements, "except where its application would impair obligations of contract." [1992, Ordinance 121-92-2. Section 4.20, San Francisco Administrative Code.]

## **California con't**

San Francisco Bay Area Rapid Transit prohibits tobacco and alcoholic beverage advertising from system facilities. [1987, Transit Board policy.] San Francisco's Public Utilities Commission prohibits tobacco and alcoholic beverage ads from its city buses and cablecars. [1991, Commission policy.]

Santa Clara County transit system prohibits tobacco and alcoholic beverage advertising from system facilities. [1982, Transit Board policy.]

## **COLORADO**

### **SAMPLING:**

No state or local laws restrict sampling of tobacco products to adults. (But see Denver Executive Order below.)

### **ADVERTISING:**

No state laws restrict advertising of tobacco products.

Denver Regional Transit District prohibits advertising of tobacco products and alcoholic beverages in system facilities. [1984. Transit Board policy.]

By Denver Mayor's Executive Order, sales, promotion or advertising of tobacco products by City employees or agents is prohibited on City premises or in City facilities. Does not affect "advertising or sponsoring which is a part of a performance or show or event displayed or held in City facilities." [10/10/95, Executive Order; does not affect existing legal obligations.]

## **CONNECTICUT**

No state or local laws restrict sampling of tobacco products to adults. Commissioner of Revenue may authorize distributors to give away sample packages each containing two or more cigarettes on which taxes have been paid. [Section 12-314.]



## DISTRICT OF COLUMBIA

### SAMPLING:

District law prohibits distribution of free sample tobacco products to any person "on any public street, public sidewalk, public park, playground, in a public building, other public property, or private property open to the public," except "at a tobacco store, convention, or a conference catering to adults." [1990, Act 8-278 effective May 2, 1991. Section 6-921.]

### ADVERTISING:

District law requires signs to be posted at retail tobacco outlets with following warning: "No person under 18 years of age shall purchase any cigarette or other tobacco products. The United States Surgeon General has issued a warning that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy." Signs must also state maximum fine for violation of minors law. Signs must be "visible to public at the entrance to the area and on the interior of the area in sufficient number to give notice of the law to the public." Signs must be posted in places where smoking is restricted stating, "Smoking causes lung cancer, heart disease, emphysema, and may cause fetal injury, premature, and low birth weight in pregnant women." [1990, Act 8-278 effective May 2, 1991. Section 22-1120 (point of sale) and Section 6-914 (smoking restrictions).]

## DELAWARE

No state or local laws restrict sampling of tobacco products to adults. Department of Finance regulates payment of taxes on sample packs used for free distribution. [Title 30, Section 5324.] Unfair Cigarette Sales Act provides that wholesalers may not give cigarettes free of charge, except for "specially packaged manufacturer's samples which are designated on the package as not to be sold." [Chapter 26, Title 6, Section 2604(3).]

## FLORIDA

The gift of sample tobacco products to any person under the age of 18 by an entity licensed to sell tobacco is prohibited.

## GEORGIA

### SAMPLING:

State law prohibits distribution of any free tobacco sample to persons under age 18. Prohibits distribution of free tobacco samples "on any public street, sidewalk, or park within 500 feet of any school or playground when those facilities are being used primarily by persons under the age of 18 years." Commissioner of Revenue "may provide for the licensing of promotional activities, not including the sale of cigars or cigarettes, carried on by the manufacturer" for a \$10 annual fee. [Distribution: 1993, Act 301. Section 16-12-174. Licensing: Section 48-11-4(g).]

Atlanta prohibits distribution of free tobacco products on public streets or sidewalks "or in areas open to the public in any publicly owned or operated building." [1986.]

### ADVERTISING:

Atlanta City Council resolution urged Recreation Authority to remove tobacco advertising from stadium and other property. [1995]

## HAWAII

### SAMPLING:

No state laws restricts sampling of tobacco products to adults.

Honolulu prohibits distribution of samples or coupons for tobacco products and "tobacco promotional materials" on public streets, sidewalks or parks within 1,000 feet of schools. Would exempt distribution within "permanent commercial buildings."

### ADVERTISING:

No state laws restrict advertising of tobacco products. State law prohibits commercial advertising of any kind on billboards.

Honolulu prohibits advertising on city buses for any product or service which may not legally be sold to minors. [1989, City Ordinance.]

## IDAHO

No state or local laws restrict sampling of tobacco products to adults.

## ILLINOIS

No state law restricts sampling of tobacco products to adults. State law relating prohibiting sale to persons under age 18 also prohibits distribution of samples to minors. [1987, P.A. 85-305; 1990, P.A. 86-1181. Illinois Ann. Stat. ch. 23, para. 2357.]

Chicago prohibits distribution of free or nominally priced tobacco samples and/or coupons "on any public street, alley, sidewalk, or in any public park, ground or playground, or in areas open to the public in any publicly owned or operated building." Allows sampling "in a publicly owned or operated building: (i) at a location for which a retail tobacco dealer's license has been issued; or (ii) in a separately enclosed area to which persons under the age of 18 are denied admission at an event sponsored in whole or in part by a manufacturer of tobacco products" and for which sampler licensing and notification requirements have been met. Licenses are required from city's Department of Revenue at least 30 days prior to sampling and are limited to specific locations. Copies of license must be carried at sampling location at all times. Licenses are not required for sampling at locations for which a retail tobacco dealer's license has been issued. Restrictions on distribution of coupons do not apply to coupons included in newspapers, magazines or other publications. [1991, Chapter 4-316, Municipal Code. Sampling restrictions take effect March 1, 1991, but licensing provisions take effect July 1, 1991.]

Four cities in Dupage County have enacted ordinances banning free distribution of tobacco products on or in publicly-owned property: Addison (1989, Ordinance 0-89-101, Sections 13-36 through 13-40), Schaumburg (1989, Ordinances 3267 and 3268, Chapter 20, Section 70 and Chapter 12, Sections 2 and 5), Wheaton (1989, Article VI, Chapter 15), and Woodridge (1989, Ordinance 89-15, Chapter 18A).

The Village of Barrington (in Cook and Lake Counties) also prohibits free distribution of tobacco products on public property and prohibits sale or other delivery within 100 feet of youth facilities (1990, Ordinance 2258, Article IX, Sections 15-121 through 15-132).

Crystal Lake banned tobacco licensees from giving away or delivering any tobacco product, or promotional or advertising materials of tobacco products free of charge to any person at any right of way, park, playground, school district, park district, public library, or other property owned by the city (1996)

Grayslake banned sampling of tobacco products. [1996]

Palos Hills bans sampling on all city-owned property (1996)

## **Illinois con't**

The Village of Hoffman Estates prohibits free distribution of tobacco products "in any place of public assembly upon public property or private property and including any right-of-way, park, playground or other property." Exempts distribution of coupons in newspapers, magazines or other publications. (1991, Ordinance 2532, Amending Section 7-9-1.)

Lake Zurich prohibits distribution of samples. [1995]

Orland Park prohibits the sale or distribution of tobacco products within 100 feet of schools, child care facilities, libraries, or other buildings used for programs for minors. Would prohibit distribution of samples on any "right-of-way, park, playground or other property owned by the Village, any school district, or any public library." [1995]

Wauconda prohibits distribution of tobacco product samples. [1995]

## **INDIANA**

State sale-to-minors law includes specific prohibition on distribution of tobacco products to persons under age 18 "as a means of promoting, advertising, or marketing the tobacco to the general public." [1988, Senate Bill 235. Indiana Code 35-46-1-10.]

Indianapolis requires a cigarette and tobacco vendors license for each location where tobacco products are distributed free of charge, except that manufacturers of tobacco products are exempted from such requirements. Distribution of sample tobacco products is prohibited "in a public park, public playground, within one hundred feet (100') of any elementary or secondary school or within one hundred feet (100') of any public library." The Indiana State Fair Grounds property is not a public park for the purposes of this ordinance. [1991, General Ordinance No. 35. Article V, Sections 17-151 through 17-155, Code of Indianapolis and Marion County.]

## IOWA

### SAMPLING:

State law prohibits distribution of sample tobacco products to any person under age 18 or "within 500 feet of any playground, school, high school, or other facility when such facility is being used primarily by persons under age 18 for recreational, educational or other purposes." Requires samplers to secure stocks in safe location and to cease sampling at any particular location when circumstances make it apparent that sampling cannot be conducted in manner consistent with law. Cigarette samples must be shipped to distributor; manufacturers must send affidavit of shipment to Director of Taxation. Distributor must pay tax on samples by separate remittance. [Effective July 1, 1991, Section 98.39. House File 232.] STATE LAWS HAVE BEEN RECODIFIED - SAMPLING LAW IS IN CHAPTER 142. Previous state law required that sample packages of cigarettes contain no more than four cigarettes and bear the word "sample." Authorization from Director of Taxation must be obtained before distribution. 1939. Section 98.39 repealed and replaced in 1991.]

No local laws restrict sampling of tobacco products to adults.

### ADVERTISING:

Repealed state law prohibited advertising for tobacco products on signs or billboards within 400 feet of public schools. [Enacted 1904; repealed 1980.]

## KANSAS

### SAMPLING:

No state or local laws restrict sampling of tobacco products to adults.

### ADVERTISING:

No state laws restrict advertising of tobacco products.

## KENTUCKY

### SAMPLING:

No state or local laws restrict sampling of tobacco products to adults.

State law prohibits wholesalers, retailers, or manufacturers of tobacco products from providing samples of such products free of charge to any person under age 18. [1992, House Bill 352 (effective July 15). New Section in KRS Chapter 365.]

### ADVERTISING:

State law prohibits tobacco advertising on billboards with display space larger than 50 square feet located within 500 feet of any elementary or secondary school building or adjacent school-owned property. [1992, House Bill 352 (effective July 15). New Section in KRS Chapter 438.]

## LOUISIANA

No state or local laws restrict sampling of tobacco products to adults. State prohibits distribution of "promotional samples" to persons under age 18. [1988, House Bill 1966. R.S. 14:91.6.]

## MAINE

No state or local laws restrict sampling of tobacco products to adults. State law prohibits distribution of free cigarettes or tobacco products to persons under age 18 "in any place, including, but not limited to, a public way or sidewalk, public park or playground, public school or other public buildings, or an entranceway, lobby, hall or other common area of a private building, shopping center or mall." [First passed in 1983, Chapter 239; revised in 1989, Chapter 445. 22 MRSA, Section 1579.]

## MARYLAND

### SAMPLING:

State law prohibits the distribution of any tobacco product to persons under age 18. Prohibits distribution to a minor of a coupon redeemable for any tobacco product. Exempts distribution of coupons within a newspaper, a magazine, or any other type of publication in which the coupon is incidental to the publication, or sent through the mail. [1993, Senate Bill 309.]

## Maryland con't

Baltimore prohibits distribution of cigarettes at less than basic cost or coupons redeemable for cigarettes "in public places, in public areas, or at public events." Exempts distributions in specific "downtown" area and exempts coupons contained in newspapers, magazines or other publications, or sent through the mail. [1991, Council Bill 1265, effective July 28, 1991. Article 11, Section 284.]

Bowie prohibits distribution of free tobacco products in the course of business to any person "on any public street or sidewalk, or in any public park or playground, or any other public ground, or in any public building. [1986, Ordinance 0-21-86. Section 18.13.]

Takoma Park prohibits distribution of tobacco products at less than basic cost and distribution of coupons redeemable for tobacco products to the public at public events or in any place, except retail stores, where members of the public are normally invited or permitted, including but not limited to parks, streets, sidewalks, sports fields, gymnasiums, shopping centers, or any property owned, occupied or operated by the City. Exempts coupons sent through the mail or included in newspapers, magazines or other publications where the coupon is incidental to the primary purpose of the publication. Exempts distribution of samples or coupons by retailers, manufacturers or distributors of tobacco products to employees at least age 18. [1990, Ordinance 1990-39, effective October 1, 1990. Chapter 10B, Article 3, Section 10B-13.]

## ADVERTISING:

Governor Schaefer's policy prohibits advertising for alcohol or cigarettes on buses operated by Mass Transit Administration. Ads are to be phased out over 18 months. [Governor's policy announced 5/27/93.]

Baltimore prohibits the placement of cigarette advertisements in a publicly visible location, including outdoor billboards, sides of buildings, and freestanding signboards. Advertisements would include signs, posters, placards, devices, graphic displays, etc. Would exempt advertisements inside establishments owned by a holder of a cigarette business license, on commercial vehicles used for transporting cigarettes, signs that contain the name or slogan of the premises used by a holder of a cigarette business license, signs, that contain generic description of cigarettes, neon or electrically charged signs on premises used by a holder of a cigarette business license that is part of a promotion of a particular brand, signs on MTA vehicles or taxis, signs on property governed by the Maryland Stadium Authority, signs at Memorial Stadium, signs on property adjacent to interstate highways, signs located in a B-4 or K-3 zone, etc. Violators would be fined \$1,000 a day. [1994. Lawsuit challenging ordinance pending, 1995.]

## MASSACHUSETTS

### SAMPLING:

State law does not restrict sampling of tobacco products to adults.

\* Copy of regulations not available.

Abington prohibits sampling, but exempts the redemption of coupons and "buy one, get one free" offers. [1995. Board of Health regulation.]

Acton prohibits distribution of tobacco free of charge by any method of distribution, except "in conjunction with and as a part of the sale of an equal or greater quantity of the identical tobacco product" or "in exchange for a coupon or voucher." [1993. Board of Health regulation, Section E50.]

Amherst prohibits distribution except at full retail price of tobacco products for commercial purposes in public places. [1987. Town Meeting Article 52.]

Ashland prohibits "Distribution to the public of tobacco products other than by a permittee (sic)." Retail Tobacco Sales Permits are obtained from Board of Health. [1993, Board of Health Regulation.]

Attleboro prohibits distribution of free tobacco products. [1994 Board of Health regulation.]

Auburn prohibits tobacco ads and other forms of promotion.

Avon prohibits distribution of free samples, but exempts "buy one, get one free" offers and redemption of coupons. [1994 Board of Health regulation.]

Barre provides that "No free samples of tobacco or tobacco products shall be distributed in Barre. This restriction does not apply to 'buy one get one free' offers or to the redemption of coupons in stores." [1991. Board of Health Regulation.]

Bedford prohibits distribution of samples or sale at less than full retail price. Prohibits coupons, except those in publications. [1995 Board of Health regulation.]

Belmont prohibits distribution of free sample tobacco products. [1990, Board of Health Regulation] As revised, allows redemption of coupons. [1994 Board of Health regulation.]



## Massachusetts con't

Billerica prohibits distribution of samples, unless "part of a promotional campaign that rewards a legal purchase with a free sample." Exempts redemption of coupons from publications or affixed to packaging. [1995 Board of Health regulation.]

Boston prohibits distribution except at full retail price of tobacco products for commercial purposes in public places. [1984. Title 14, Section 270A, City of Boston Code.]

Brookline prohibits free distribution of tobacco products "or in connection with a commercial or promotional endeavor," including but not limited to, "give-aways," or distribution of a product "as an incentive, prize, award or bonus in a game, contest or tournament. Violation subject to \$50 fine. [1990 by-law also specifically prohibited "cents-off coupons," "buy one, get one free." Readopted 1993 as Article XLI.]

Burlington prohibits distribution of "free or nominal cost" tobacco products. Distribution of "any coupons or vouchers redeemable for tobacco or tobacco products for free or at nominal cost" is prohibited within city limits, except that restriction does not apply to "coupons in magazines, newspapers, or other periodicals or affixed to packaging." [1992. Board of Health regulation.]

Cambridge prohibits distribution of free tobacco products in the course of business in public places. [1982. Section 17-41A, Code of the City of Cambridge.] As revised, also prohibits distribution of coupons for reduced price samples. [1995 ordinance.]

Canton prohibits distribution of samples and coupons for less than full retail price. [1994 Board of Health regulation.]

Chelmsford prohibits distribution of free tobacco samples and prohibits distribution of "any coupons or vouchers redeemable for tobacco or tobacco products for free" except for coupons in magazines or newspapers. [1991. Board of Health regulation.]

Concord prohibits distribution of "tobacco or tobacco-related products free of charge or by any method of distribution in connection with a commercial or promotional endeavor." Such distribution "includes, but is not limited to, product 'give-aways', 'cents-off coupons', 'buy one, get one free', or as an incentive, prize, award or bonus in a game, contest or tournament involving skill or chance." [1991. Town Meeting Bylaw.]

## Massachusetts con't

Dudley prohibits distribution of samples or reduced-price cigarettes. Exempts coupons or vouchers distributed through publications or affixed to packaging. [1994 Board of Health regulation.]

Falmouth prohibits distribution of tobacco "except at full retail price, in or on any part of the streets, parks, public grounds, public buildings, or other public places...for any promotional or other commercial purpose." Also prohibits distribution of "free or nominal cost tobacco products." Prohibits distribution of coupons or vouchers redeemable for free or nominal cost tobacco products, but exempts coupons in magazines, newspapers, other periodicals or affixed to packaging. [1993. Board of Health regulation.]

Fitchburg provides that "No free or nominal cost samples of tobacco or tobacco products shall be distributed or sold to minors. Coupons received through the mail or in periodicals are redeemable by permitted tobacco retailers." [1992. Ordinance.]

Foxborough provides that "No person or entity shall, except at full retail price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the Town of Foxborough distribute any products containing tobacco for any promotional or other commercial purpose." Also provides that "No person or entity shall distribute tobacco products in the Town of Foxborough below the minimum price set by the Massachusetts Department of Revenue. [1993, Board of Health Regulation.]

Framingham prohibits distribution of tobacco "free of charge by any method of distribution within the Town of Framingham." [1991. Board of Health regulation.]

Gloucester prohibits the distribution of samples and redemption of coupons for free tobacco products. [1994 Board of Health regulation.]

Groton prohibits distribution of samples, but exempts "buy one, get one free" offers and the redemption of coupons. [1995 Board of Health regulation.]

Hingham prohibits distribution of tobacco products "except at full price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places" for any promotional or other commercial purposes. Prohibits distribution of tobacco products "reduced in price more than 25% from the prevailing average retail price by vouchers, coupons or other means as set by the Massachusetts Department of Revenue." [1992. Board of Health regulation.]

## Massachusetts con't

Holden prohibits distribution of samples and coupons. [1993]

Holliston REPEALED its prohibition on distribution of free samples or products substantially reduced in price from prevailing price of that particular brand within the city. [Adopted 1994, repealed 1995.]

Holyoke prohibits distribution of samples or promotional giveaways. Exempts redemption of coupons distributed in publications or affixed to packaging. [1994 Board of Health regulation.]

\*Kingston prohibits sampling. [1995 Board of Health regulation.]

Lancaster prohibits distribution of free samples of tobacco or tobacco products. Restriction "does not apply to "buy one, get one free" offers or to the redemption of coupons in stores." [1992. Board of Health regulation.]

Lee prohibits distribution of tobacco products for promotional or other commercial purposes, except at full price, "in or upon any part of the streets, parks, public grounds, public buildings, or other public places." Prohibits distribution of tobacco products "substantially reduced in price from the prevailing average retail price of the particular brand." [1992. Tri-Town Health District regulation.]

Lenox prohibits distribution of tobacco products for promotional or other commercial purposes, except at full price, "in or upon any part of the streets, parks, public grounds, public buildings, or other public places." Prohibits distribution of tobacco products "substantially reduced in price from the prevailing average retail price of the particular brand." [1992. Tri-Town Health District regulation.]

Leominster prohibits sampling of tobacco products in public places. [1989. Board of Health regulation.]

Lexington prohibits distribution of tobacco products, except at full retail price for promotional or commercial purposes. Prohibits distribution of tobacco products "substantially reduced in price from the prevailing average retail price of the particular brand as set by the Massachusetts Department of Revenue. [1993, Town Meeting Article 34.] As revised, allows distribution of coupons in publications and affixed to packaging. [1995 Board of Health regulation.]

## **Massachusetts con't**

Longmeadow prohibits distribution of tobacco products "free of charge by any method of distribution...Distribution or redemption of coupons of any value for tobacco products by minors are similarly prohibited." Board of Health letter states "Redemption of coupons by adults (including 'two for one's') has not been restricted by this new regulation." [1992, Board of Health regulation]

Lowell prohibits distribution of samples and coupons for free products. [1995 Board of Health regulation.]

Malden prohibits distribution of tobacco products for promotional or commercial purposes "substantially reduced in price from the minimum retail price for the particular brand as determined by the State Department of Revenue in or upon any part of the streets, parks, public grounds, or public buildings or other public places." Defines distribution to include, but not be limited to, "a bonus in a game, contest or tournament involving skill or chance." Prohibits distribution of "coupons or vouchers redeemable for tobacco or tobacco products for free or at nominal cost" but does not apply to "coupons in newspapers, industry sponsored promotions, or magazines or to coupons affixed to packaging for products distributed to adults by tobacco retailers." [1992. City Code, Section 9.6 (E).]

Mansfield prohibits distribution of "free or nominal cost samples" of tobacco products. Prohibits distribution of "coupons or vouchers redeemable for tobacco products for free or at a nominal cost...Such restrictions shall not apply to coupons in magazines, newspapers, other periodicals or affixed to packaging. [1993. Board of Health Regulation.]

Marlborough prohibits distribution or sale of "free or nominal cost samples of tobacco or tobacco products." "Does not pertain to coupons distributed in newspapers or affixed to packaging on a national level." [1992. Board of Health Regulation.]

Medfield prohibits distribution of tobacco products for promotional or commercial purposes, "except at full price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places." Prohibits distribution of products "substantially reduced in price from the prevailing average retail price of the particular brand in the Town of Medfield." [1992. Board of Health Regulation.]

Medway prohibits sampling. [1995 Board of Health regulation.]

**Massachusetts con't**

Methuen prohibits distribution of samples except in retail tobacco stores. [1995 Board of Health regulation.]

Middleton prohibits distribution of samples except in retail tobacco stores. [1995 Board of Health regulation.]

Milford prohibits "free or nominal cost samples" of cigarettes. Exempts distribution of coupons or vouchers redeemable for cigarettes for free or nominal cost, "including coupons in magazines, newspapers or other periodicals or affixed to packaging." [1993. Board of Health regulation.]

Millis prohibits distribution of free or nominal cost tobacco product samples, and prohibits distribution of coupons or vouchers redeemable for tobacco products for free or at nominal cost. Exempts coupons distributed in newspapers or affixed to packaging. [1991, Board of Health Regulation.]

Milton prohibits distribution of samples or tobacco products at less than full retail price, except in retail tobacco stores. Prohibits distribution of coupons in public places or events open to the public. [1994 Board of Health regulation.]

Natick prohibits distribution of free tobacco products. As revised, exempts ban on use of coupons. [1994, Board of Health Regulation.]

Needham prohibits distribution or sale of free or nominal cost tobacco products and prohibits distribution of coupons or vouchers redeemable for free or nominal cost tobacco products. Coupons in magazines or newspapers are exempt. [1991. Board of Health Regulation.]

New Bedford prohibits distribution, except at full retail price, in streets, parks, public grounds, public buildings, or other public places for commercial purposes. [1989. Section 22-14.]

Newton prohibits distribution of free tobacco products in the course of business in any public place. [1982. Ordinance R-224. Section 20-18, Revised Ordinances of the City of Newton.]

North Attleboro prohibits distribution of sample tobacco products and coupons in manner similar to Millis regulation. [1991, Board of Health Regulation.]

## **Massachusetts con't**

Northampton prohibits distribution of samples and tobacco products at less than full retail price, except at retail tobacco stores. Prohibits distribution of coupons in public places or at events open to the public. [1994 Board of Health regulation.]

Northbridge prohibits distribution of samples and coupons. [1994.]

Norwood prohibits distribution of samples. [1995 Board of Health regulation.]

Oak Bluffs prohibits distribution of tobacco products, except "at full retail price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places" for promotional or other commercial purpose. Prohibits distribution of "tobacco products substantially reduced in price from the prevailing average retail price of the particular brand in the Town of Oak Bluffs." [1993. Board of Health regulation.]

Pepperell prohibits distribution of free tobacco products and coupons redeemable for free tobacco products. [1994, Board of Health Regulation]

Plainville prohibits distribution of tobacco products "except at full retail price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places...for any promotional or other commercial purpose." "Public place" is defined as any indoor area open to and used by the general public. Also prohibits distribution of tobacco products "substantially reduced in price from the prevailing average retail price of the particular brand." [1993. Board of Health regulation.]

Plymouth regulation states, "Sale or distribution of tobacco products in any form other than an original factory-wrapped package is prohibited, including distribution of free samples." [1993 Board of Health regulation.]

Saugus prohibits distribution of samples or tobacco products at less than nominal cost or substantially reduced from prevailing average price. [1994 Board of Health regulation.]

Seekonk prohibits distribution of free tobacco products, or at nominal cost. Prohibits distribution of coupons except in publications or affixed to packaging. [1994 Board of Health regulation.]

Sharon would prohibit distribution of samples and tobacco products as a promotional or commercial endeavor, including product "giveaways." [1994.]

## Massachusetts con't

Somerville ordinance prohibits the distribution of free tobacco products in public places. [1983. Ordinance 83-8. Section 12-83, Code of Ordinances of the City of Somerville.]

Board of Health regulation prohibits distribution of tobacco products for "promotional or other commercial purposes...in or upon any part of the streets, parks, public grounds, public buildings, or other public-owned places." Distribution "includes, but is not limited to, bonus in a game, contest, or tournament involving skill or chance, but does not include redemption of coupons distributed in newspapers or other periodicals or affixed to packaging for products distributed to adults by tobacco retailers." [1992. Board of Health regulation.]

South Hadley prohibits distribution of tobacco products free of charge or at less than full retail price. Prohibits distribution of samples or coupons in public places, except in retail tobacco stores. [1994.]

Stockbridge prohibits distribution of tobacco products for promotional or other commercial purposes, except at full price, "in or upon any part of the streets, parks, public grounds, public buildings, or other public places." Prohibit distribution of tobacco products "substantially reduced in price from the prevailing average retail price of the particular brand." [1992. Tri-Town Health District regulation.]

\*Swampscott restricts distribution of samples and coupons. [1994 Board of Health regulation.]

Swansea prohibits distribution of samples and coupons for tobacco products, except for coupons in publications or affixed to packaging. [1995 Board of Health regulation.]

Tewksbury prohibits distribution of free tobacco products except as "part of a promotional campaign that rewards a legal purchase with a free sample." Exempts redemption of coupons from publications or affixed to packaging. [1995 Board of Health regulation.]

Walpole prohibits distribution of tobacco samples and coupons for products at nominal cost. [1995 Board of Health regulation.]

## Massachusetts con't

Wellesley prohibits free distribution of tobacco products, including promotions involving free tobacco, such as "two for the price of one" as are coupons redeemable for tobacco products. [Health Board regulation, Chapter VIII.] Letter from Director of Public Health states that "Any form of "two for the price of one" sales is considered as a violation of the regulation, as it is making the second package free to the purchaser. Coupons redeemable for tobacco products are also in the same category. Coupons for articles other than tobacco are presently permitted by current regulation." [Letter to Retail Tobacco Sales Permit Holders, September 23, 1993.]

West Boylston prohibits distribution of samples or coupons. [1995 Board of Health regulation.]

Westford prohibits distribution of free tobacco product samples to minors and prohibits distribution of any coupons or vouchers redeemable for free tobacco products to minors. [1993. Board of Health Regulation.]

Weymouth Board of Health amended 1990 regulation to prohibit distribution of tobacco products for less than normal wholesale price. (1993, Board of Health Regulation.) Prohibits sale or distribution of tobacco products for free or below prevailing retail price. [1990. Regulation #16.] An earlier sampling ban regulation was adopted in 1989, but was suspended due to legal questions from City Attorney.

Wilbraham prohibits distribution of tobacco products at less than full retail price, except in retail tobacco stores. [1994 Board of Health regulation.]

Williamstown prohibits distribution of tobacco products "except at full retail price, in or upon any part of the streets, parks, public grounds, public buildings or other public places...for any promotional or other commercial purposes." Defines public place as "An enclosed, indoor area open to and used by the general public in which these regulations prohibit or restrict smoking or the sale or distribution of tobacco products." Prohibits redemption of coupons or promotions involving the sale of tobacco products at less than full retail price, except "at a checkout counter or at a location directly controlled by an employee." [1993, Board of Health Regulation.]

Wilmington prohibits distribution of free tobacco products. [1994 Board of Health regulation.]



## Massachusetts con't

Winchenden prohibits distribution of free or nominal cost samples, except for "buy one-get one free" offers and the redemption of coupons in stores. [1995 Board of Health regulation.]

Worcester prohibits distribution of free tobacco products for commercial purposes in "any public park or playground, at any center of youth activities, schools or college campuses or fraternity or sorority houses, or within 200 feet of such enumerated premises or to anyone under the age of 18 years." [1984. Chapter 15, Section 13, Revised Ordinances of 1974.]

### ADVERTISING:

No state laws restrict advertising of tobacco products. State law requires Massachusetts Bay Transportation Authority's Directors to establish and implement policies which provide for maximization of nontransportation revenues from all sources and to report to the Legislature on such efforts prior to approval of annual budget. [General Laws of Massachusetts, Chapter 161A Section 30. 1989, House Bill 5601.] Statute enacted to offset policy adopted by MBTA Board in 1986 prohibiting advertising for tobacco products in transit system.

Amherst prohibits tobacco advertising on buses and taxis operating in city. [1987. Town Meeting By-Law.]

Attleboro prohibits tobacco advertising on billboards or signage within 2 miles of public or private schools, on any city- or state-owned property, or on public transit. Prohibits advertising or promotions outdoors or within a facility catering to minors. [1994. Board of Health regulation. Challenged in court September 1995.]

Billerica prohibits tobacco advertising on public transit. [1995 Board of Health regulation.]

Canton prohibits tobacco advertising on billboards. [1994 Board of Health regulation.]

Dudley REPEALED its prohibition of outdoor tobacco advertising on "banners, free-standing signage, billboards, or any other advertising method that the Board of Health deems to be inconsistent with this regulation." [Adopted 1994, repealed 1995.]

Hingham prohibits advertising for tobacco products "on or in any bus, taxicab licensed or garaged within the Town of Hingham." [1992. Board of Health regulation.]

## Massachusetts con't

Holden prohibits tobacco advertising on public transit. [1993]

Holliston REPEALED its prohibition on outdoor advertising, including billboards and public transit, as well as its ban on any brand names or logos in stores, unless behind the counter. [Adopted 1994, repealed 1995.]

Holyoke prohibits advertising for tobacco products on billboards along streets, roadways or any other place that billboards may be located. Would prohibit tobacco ads on public transit, and penalize violators \$100 per day per vehicle. [1994 Board of Health regulation.]

Malden prohibits advertising for tobacco products "on or in any bus, taxicab or other vehicle used for public transportation" licensed by City Council, department or city agency. [1992. City Code, Section 9.7.]

Marlborough prohibits tobacco advertising "on or in any bus, taxicab licensed or garaged within the City, or any other vehicle used for public transportation with the City of Marlborough." Violation subject to civil fine of \$100 per day per vehicle. [1992. Board of Health regulation.]

Medfield prohibits advertising for tobacco products "on or in any bus, taxicab licensed or garaged within the Town of Medfield, or any other vehicle used for public transportation within the Town." [1992. Board of Health regulation.]

Millis REPEALED its ban on all outdoor advertising of tobacco products, including logos on property of retail establishments and on vehicles whose purpose is promotion of tobacco products. However, city prohibits free-standing or self-service displays of tobacco products in retail stores. Allows tobacco logos or advertising inside retail store only if part of a tobacco products display behind the counter and not easily visible from outside. Prohibits display of any cartoon character in any tobacco display or promotion. [1994. Board of Health regulation; outdoor advertising provisions repealed 1995.]

Milford prohibits display of "outside advertising for tobacco products, such as banners, free-standing signage, billboards or any other advertising method that the Board of Health deems to be inconsistent with this regulation. [1993. Board of Health regulation.]

Natick prohibits advertising of tobacco products on public transit. [1994 Board of Health regulation.]

## **Massachusetts con't**

Northampton prohibits advertising of tobacco products on public transportation vehicles. [1994 Board of Health regulation.]

Oak Bluffs prohibits display of advertising for tobacco products "on or in any bus, taxicab licensed or garaged within the Town" or on "any other vehicle used for public transportation within the Town." [1993. Board of Health regulation.]

Plainville prohibits tobacco advertising on "any bus, taxicab licensed or garaged within the City/Town, or any other vehicle used for public transportation within the City/Town of (X)." [1993. Board of Health regulation.]

Saugus prohibits advertising of tobacco products on public transportation vehicles. Requires in-store displays of any company emblem or promotional product to be part of tobacco product display. [1994 Board of Health regulation.]

Springfield's Pioneer Valley Transit Authority prohibits tobacco advertising in its vehicles and facilities. [1991. Policy]

Tewksbury prohibits tobacco advertising on public transit. [1995 Board of Health regulation.]

West Boylston prohibits tobacco advertising on public transit. [1995 Board of Health regulation.]

Westfield prohibits "smoking promotion advertisements or any other tobacco sale advertisement" on billboards. [1994 regulation --enforcement began in 10/95]

## **MICHIGAN**

State law prohibits distribution of free tobacco samples unless all the following conditions are met: the person distributing the product regularly sells or manufactures the product; the distributor ascertains that the recipient is at least 18 years old; the recipient is physically present; and, distribution is not prohibited by local ordinance. Distribution of tobacco products through the mail or other common carrier service is prohibited except to persons who have paid or agreed to pay for the product; in response to a consumer complaint; or in direct mail marketing in which the recipient has returned a signed authorization card indicating that he or she is at least 18 years old, and such card is kept on file by tobacco company at least one year. [1992, House Bill 5646. Section 42b added

## Michigan con't

to Act No. 328 of the Public Acts of 1931, being sections 750.1 to 750.568 of the Michigan Compiled Laws.]

Detroit requires a license, issued by Consumer Affairs Department, to sell or "give away" cigarettes. It is unlawful to sell or give away cigarettes to a minor, or to "persuade, counsel or advise any minor to smoke cigarettes."

East Lansing prohibits distribution of tobacco products "at no cost or at nominal cost for product promotional purposes." Does not apply to "delivery or exchange for a manufacturer supplied coupon." [1991, Ordinance No. 734-B. Chapter 106, Section 9.78, Code of the City of East Lansing.]

Ingham County requires a temporary permit for to be obtained from Health Officer at least 24 hours prior to event where tobacco products will be delivered at no cost or at nominal cost for product promotional purposes. Permits shall be granted when distribution is in an area to which persons under age 18 are denied admission, and in such other areas "where the place of distribution reasonably assures distribution of tobacco products to adults only." [1992. County Health regulation.]

## MINNESOTA

### SAMPLING:

State law prohibits promotional distribution of tobacco products, except that "single serving samples" may be distributed in "tobacco stores." [1987, Chapter 399. Section 325F.77, Subdivision 3. Minnesota Statutes 1986.] No person shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee; cartons and other multipack units may be offered and sold through open displays, until federal requirements take effect. [Minn. Stat. Ann, §461.18]

Repealed by 1987 law: Prohibited promotional distribution of smokeless tobacco products. Required verification of age before distribution of promotional cigarette sample. [1986, Chapter 352. Section 325F.746.]

## **Minnesota con't**

Department of Revenue Notice 96-04 provides new interpretation of Unfair Cigarette Sales Act. Notice prohibits all "rebates" in connection with sale of cigarettes, regardless of whether rebate is offered equally to all buyers. Policy prohibits manufacturers, wholesalers, distributors or subjobbers from offering: "1) rack or counter allowances; 2) coupons or stickers; 3) buy downs; 4) payments to retailers for cigarette display space; or 5) payments from manufacturers to distributors or retailers or any incentive bonus based on quantities of cigarettes purchased or sold during any given period of time."

Albert Lea prohibits distribution of free cigarettes anyplace in the city for purpose of advertising cigarettes or any other product, service or establishment. [1980, Ordinance 2430. Chapter 1721, Section 6, Municipal Code.]

Minneapolis prohibits distribution of free cigarettes on "public malls, sidewalks or pedestrian concourses: by any person in the business of selling or promoting cigarettes. [1979. Title 13, Chapter 281, Section 70, Minneapolis Code of Ordinances for License and Business Regulations.]

St. Paul prohibits distribution of free cigarettes on "sidewalks, pedestrian concourses, pedestrian malls, or pedestrian skyway systems" by persons in business of selling or promoting cigarettes. [1979, Ordinance No. 16609. Chapter 336, Section 8, Saint Paul Legislative Code.]

## **ADVERTISING:**

Preston prohibits point-of-sale advertising of tobacco products in retail establishments by all means other than two "tombstone" signs that are 8 1/2 x 14 inches in size. Would not include the display of actual tobacco products.[1994]

## **NEBRASKA**

### **SAMPLING:**

State law prohibits distribution of smokeless tobacco products to the general public "at no cost or at nominal cost or to give coupons and rebate offers with the products" for promotional purposes. [1989, Legislative Bill 48. New Section.]

No state law restricts sampling of cigarettes to adults.

## **Nebraska con't**

Legislature adopted resolution condemning "questionable tactic of targeting high-risk, vulnerable groups for the purpose of luring them into nicotine addiction within its attendant personal deleterious results and public health problems." [1990, Resolution 257.]

Omaha prohibits distribution of free samples of cigarettes or other products or "coupons that can be redeemed for free samples of cigarettes other tobacco products." [1993, Ordinance 32972. Section 12-135.]

## **ADVERTISING**

Omaha requires signs or decals to be placed on vending machines and at public entrances to establishments licensed to sell tobacco products. In addition to warning against sale to minors and phone number for reporting illegal sales, signs must include "DRUG USE IS LIFE ABUSE - Tobacco Is A Drug." [1993, Ordinance 32972. Section 12-134.]

## **NEVADA**

No state or local laws restrict sampling of tobacco products to adults. State law preempts local governments from adopting more stringent restrictions on use, sale, distribution, marketing, display, or promotion of tobacco products. [Assembly Bill 622, 1995.]

## **NEW HAMPSHIRE**

No person shall distribute or offer to distribute samples of tobacco products in public places. This does not apply to: 1) areas where a minor is denied access; 2) a store where a retailer's license is issued; and 3) factory, construction sites; conventions, trade shows, fairs, or motorsport facilities. Violations are civil infractions punishable by administrative action of the commission against the licensee. Fines for the first offense are not more than \$250; \$500 for the second; \$750 for third and subsequent offenses; and fourth and subsequent offenses the sampler's license shall be suspended for a term not to exceed the term of validity of the license. [NH Rev. Stat. Ann. §126-I:5 (1997).]

## **NEW JERSEY**

No state or local laws restrict sampling of tobacco products to adults.

## NEW MEXICO

State law prohibits distribution of any free tobacco samples to persons under age 18. State law does not apply to distribution to a family member or to "an acquaintance on private property not held open to the public." [1993, Chapter 244, House Bill 582.]

Albuquerque prohibits distribution of "free samples of a tobacco product intended for smoking in or on any public street, sidewalk, or park, within 500 feet of any youth center or youth activities." [1991. Council Bill No. F/S O-102.]

Bernalillo County has identical ordinance. [1991. Effective October 17, 1991.]

## NEW YORK

### SAMPLING:

State law sets conditions for distribution of sample tobacco products and coupons, and prohibits adoption of local restrictions after September 6, 1992. Samplers must give notice of intent to sample at least five days in advance to local board of health.

Distribution of coupons redeemable for tobacco products is allowed through newspapers, magazines and other publications; through purchase of other tobacco products; through the mail; or at locations which sell tobacco products if distribution is confined to a designated area.

Distribution of products and coupons is also permitted at private social functions; conventions and trade shows in designated areas generally accessible only to persons over the age of 18; events sponsored by tobacco companies in similar designated areas; bars; tobacco businesses; and at factories and construction sites in designated areas generally accessible only to persons over age 18. If prospective recipient does not appear to be at least 25 years old, sampler must receive proof through photographic identification that recipient is at least 18 years old. [1992, Chapter 799 effective September 6, 1992. N.Y. Public Health Law Article 13-F, Section 1399-bb.]

Erie County prohibits distribution of tobacco products at less than basic cost to the general public in public places or at public events. Public place means any place to which the public is invited or permitted, indoor or outdoor. Public event means any event to which the public is invited or permitted. Prohibition does not apply to redemption of coupons to persons of legal age in stores selling tobacco products, or distribution of tobacco products by retailers, manufacturers or distributors of such products to their employees who are of legal age. [1991. Local Law Intro No. 5.] As revised, prohibits distribution of coupons for sample tobacco products, too. [1995]

## New York con't

The Village of Great Neck Plaza prohibits distribution of tobacco products without charge or for a nominal cost in the furtherance of business "to any individual within the Village at any time." [1991. New section.]

New York City prohibits distribution of free or "less than basic cost" tobacco products to the general public in places where the general public is permitted or at public events. Less than basic cost is defined as less than the distributor's cost plus value of required taxes. Stores which sell tobacco products may serve free samples of "smoking tobacco or smokeless tobacco" to persons of legal age, and retailers, distributors and manufacturers may give tobacco products to employees of legal age. Violation subject to penalty up to \$500 for first offense and up to \$1000 for subsequent offenses. [Administrative Code of New York City, Section 17-176. 1990, Introduction No. 401-A.]

Suffolk County prohibits distribution of free or promotional sample tobacco products to minors. [Suffolk County Code, Chapter 437, new section. 1990, Intro. Res. No. 1884-90.]

## ADVERTISING:

No state laws restrict advertising of tobacco products.

Albany's Capital District Transportation Authority prohibits tobacco advertising in its conveyances or facilities, effective when contracts expire, 7/1/93. [1993. CDTA policy announced 2/18/93.]

Buffalo urges outdoor advertisers to voluntarily cease placement of advertising for tobacco and alcoholic beverages within 1000 feet of schools, churches, community centers and gymnasium. [1990, Common Council Resolution.]

Erie County prohibits tobacco advertising in county-owned or leased facilities. Advertise is defined to include posters, signs, written or visual material intended to communicate commercial information or images to the public. [1994]

New York City ordinance requires one public service message on risks of tobacco use to be displayed for every four (or less) tobacco ads displayed on city-owned or leased property, public transportation vehicles, and taxicabs (taxi provision has been overturned in court). Such anti-tobacco messages must be of comparable size, location and visibility; at least 25-percent must be directed toward youth. Holder of ad space is responsible for display and maintenance of anti-tobacco messages. [1992.]



## **New York con't**

New York City's Metropolitan Transportation Authority prohibits tobacco advertising in its facilities and conveyances. [1992. Policy becomes effective with new contracts beginning on or after 1/1/93, and replaces earlier provision limiting tobacco ads to no more than 20-percent of ad revenue.]

Former New York City Mayor Koch ordered Department of General Services not to accept advertising for tobacco products on city-owned billboards. [1989, Mayor's order.] His successor, Mayor Dinkins, has also announced plans to phase out tobacco advertising from all city-owned facilities. [1991.] As result of a lawsuit, billboard advertising in Shea Stadium is restricted. [1994]

New York City would ban tobacco ads in Shea and Yankee Stadiums. [1994]

## **NORTH CAROLINA**

No state or local laws restrict sampling of tobacco products to adults. State law provides uniform law on sale, distribution, display or promotion of tobacco products or cigarette wrapping papers. Does not effect local restrictions enacted before 9/1/95, and exempts the regulation of vending machines. [House Bill 766, 1995.]

## **NORTH DAKOTA**

No state or local laws restrict sampling of tobacco products to adults.

## **OHIO**

### **SAMPLING:**

State law prohibits sale or distribution of tobacco products to persons under age 18. Prohibits distribution in any place that does not have posted a conspicuous sign stating ban on sale or distribution to persons under age 18. [1984, House Bill 152. Section 2927.02 Revised Code.]

Cincinnati prohibits handing out or otherwise distributing tobacco products "in or upon any sidewalk, street or other public place for advertising or sales promotion purposes." [1988. Section 714.24, Cincinnati Municipal Code.]

Cleveland prohibits distribution of tobacco products at no charge in or upon any sidewalk, street or public park. [1990. Section 629.04, Codified Ordinances of Cleveland.]

## **Ohio con't**

### **ADVERTISING:**

Cincinnati bans outdoor advertising for tobacco products within 500 feet of churches, schools and hospitals. Effective 6/1/96, all outdoor advertising is prohibited. [1994, Chapter 895 and Chapter 850.]

## **OKLAHOMA**

State law prohibits the distribution of any tobacco product to persons under age 18. Prohibits distribution of tobacco product samples "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 years of age." Prohibits agencies or other political subdivisions from adopting any order, ordinance, rule or regulation concerning the sale, purchase, distribution, advertising, sampling, promotion, display, possession, licensing, or taxation of tobacco products. [1994, Title 37, Section 600.8 and 600.10, Senate Bill 1130.] Further provides that the Director of the Dept. of Wildlife Conservation shall not approve advertising which relates to or advertises an alcohol or tobacco product. [1996, House Bill 2294]

## **OREGON**

State law prohibits distribution of free tobacco products to persons under age 18 "as part of a marketing strategy to encourage the use of tobacco products." [1989, House Bill 3146. New Section.]

No local laws restrict sampling to adults.

## **PENNSYLVANIA**

No state or local laws restrict sampling of tobacco products to adults.

State tax law allows sample packs containing not more than five cigarettes to be distributed through licensed dealers or manufacturers and their sales representatives, without being individually stamped. By regulation, sample packs containing six or more cigarettes must be stamped as packages for resale. [Title 72, Article XII, Section 827. Regulations Article III, Sections 73.31.]

## RHODE ISLAND

No state or local laws restrict sampling of tobacco products to adults. The Tax Administrator may authorize distributors to give away sample packages, each containing two or more cigarettes, on taxes have been paid. [Section 44-20-31.]

## SOUTH CAROLINA

No state or local laws restrict sampling of tobacco products to adults.

## SOUTH DAKOTA

State law prohibits the distribution of any tobacco product to persons under age 18. Prohibits distribution of free samples "in or on a public street, sidewalk, or park that is within 500 feet of a playground, school, or other facility when the facility is being used primarily by persons under the age of 18." "Manufacturers, through their sales representatives or agents, may distribute, within the state, sample cigarettes in any package size or quantity." [1994, Senate Bill 189. 1984, Chapter 101. S.D. Codified Laws Ann. Section 10-50-2.]

## TENNESSEE

State law prohibits the distribution of any tobacco product to persons under age 18. Prohibits distribution of free 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 is being used primarily by persons under age 18." Preempts the entire field of legislation concerning the regulation of tobacco products. [1994, House Bill 2395.] State law also requires distributors, when distributing tobacco products through the mail, to obtain statement of age from addressee that individual is 18. Requires distributor to inform recipient that they are prohibited from distributing any tobacco product to a minor. [Senate Bill 346/House Bill 915, 1995. Section 39-17-1503(2) and 39-17-1504(d) and (e).]

## TEXAS

### ADVERTISING:

Prohibits the advertisement of cigarettes or tobacco products within 1,000 feet to a church or school. Violators liable for 10 percent of the gross sales price of any outdoor advertising of cigarettes and tobacco products in the state, but not to exceed \$5,000.

Prohibits a person from distributing to persons under the age of 18 years: 1) a free sample of a cigarette or tobacco product; or, 2) a coupon or other item that the recipient may use to receive a free or discounted cigarette or tobacco product or a sample cigarette or tobacco product. An offense is a Class C misdemeanor.

### SAMPLING:

A person may not distribute: (1) a free sample of a cigarette or tobacco product; or (2) a coupon or other item that the recipient may use to receive a free or discounted cigarette or tobacco product or a sample cigarette or tobacco product. [Tex. Health & Safety Code §161.087.]

Austin prohibits delivery of free tobacco products or the offer to transfer free products "upon any public street, highway, bridge, alley, sidewalk or right-of-way." [1988, Ordinance No. 880218-F. Section 10-5-3(j), Code of the City of Austin.] (1996)

Dallas prohibits free distribution of tobacco products "in or on any public street, sidewalk, park, playground, building, or other public place." [1990, Ordinance No. 20781. Section 31-31, Dallas City Code.] Previously, Dallas required promoters of special events in city parks to obtain "special product permit" in order to have product samples available for "on-premises give away at a specified location and time." Prohibited Park & Recreation Department from co-sponsoring any special events at which "adult-oriented products are given free to the general public and/or sampled by the general public in city parks or park facilities." Defined "adult-oriented products" to include tobacco products, alcoholic beverages and services or entertainment "which may be deemed adult-oriented." [Dallas Park Board Special Events Policy.]

El Paso prohibits distribution of tobacco products for sampling purposes.

## Texas con't

Houston City Council resolution "opposes the distribution of free cigarettes and coupons on public property to any person other than an existing smoker who is 21 years of age or older." [1990 Resolution.] Also, Houston prohibits use of "any booth, stand or other structure, either permanent or temporary, upon any sidewalk, street, parkway, esplanade or other public property or any property dedicated to public use for the purpose of carrying on or furthering any private business, enterprise, calling, vocation or profession" unless granted a franchise from the city, or under a permit for Houston Festival. [Houston Code Section 40-8.]

San Antonio prohibits distribution of "free samples of smoking tobacco products or smoking paraphernalia on any public right-of-way, city park or any City owned building or facility." [1992. Section 36-2(f), City Code.]

Texas City prohibits sampling of tobacco products.

## ADVERTISING:

Prohibits the advertisement of cigarettes or tobacco products within 1,000 feet to a church or school. Violators liable for 10 percent of the gross sales price of any outdoor advertising of cigarettes and tobacco products in the state, but not to exceed \$5,000.

Prohibits a person from distributing to persons under the age of 18 years: 1) a free sample of a cigarette or tobacco product; or, 2) a coupon or other item that the recipient may use to receive a free or discounted cigarette or tobacco product or a sample cigarette or tobacco product. An offense is a Class C misdemeanor.

Houston prohibits advertising of any kind from being displayed "upon any curb, sidewalk or other public improvement in any public street or grounds, any bridge or part of same, any public building, structure or erection of any kind belonging to the city, or any other public place" unless express consent has been granted by City Council. [1970, Houston Code Section 28-38. Ordinance No. 70-1747.]

## UTAH

### SAMPLING:

State law prohibits distribution of tobacco products "without charge" except to adults at "professional conventions where the general public is excluded" and to persons at least 19 years old upon their purchase of tobacco products. [1989, House Bill 51. Section 76-10-112 Utah Code Annotated 1953.]

Sampling of smokeless and chewing tobacco is prohibited with the same exceptions. [1990, House Bill 14. Section 76-10-111, originally enacted to prohibit any distribution of smokeless or chewing tobacco without charge, 1986, House Bill 154.]

### ADVERTISING:

State law prohibits advertising for cigarettes, other tobacco products or cigarette papers on any billboard, streetcar sign, streetcar, bus, placard or any other object or place of display, except that a dealer of such products may have a sign on the front of his place of business stating that he deals in the articles. [Utah Code Annotated, Section 76-10-102(1). 1923.]

## VERMONT

No state or local laws restrict sampling of tobacco products to adults.

## VIRGINIA

### SAMPLING:

State law prohibits the distribution of tobacco product samples to persons under age 18. [1994, Chapter 305, Section 18.2-371.2, House Bill 1353.]

### ADVERTISING:

No state laws restrict advertising of tobacco products.

Peninsula Transportation District (serving Hampton, Norfolk, Newport News, Portsmouth, Virginia Beach, etc.) prohibits advertising for tobacco products in transit system. [1986, Transit Board policy.]

## WASHINGTON

### SAMPLING:

State law requires samplers to be licensed by Liquor Control Board on annual basis. Sampling is prohibited in public streets, sidewalks, parks, or areas open to the public in publicly-owned or operated buildings; however, sampling is permitted in areas to which persons under age 18 are denied admission, in stores or concessions with retailer's license, or, at or adjacent to production, repair, or outdoor construction site or facility. Sampling is prohibited (even in above places) in or on a public street, sidewalk or park that is within 500 feet of playground, school or other facility when in use primarily by persons under age 18 for recreational, educational or other purposes. Prohibits distribution by use of a coupon unless redemption requires an in-person transaction in a retail store. State law preempts political subdivisions from adopting requirements for licensure and regulation of tobacco product promotions and sales, except for sampling ordinances adopted by January 1, 1993. [1993. House Bill 2071. New Chapter in Title 70 RCW.]

Emergency rules of State Liquor Control Board include license application for samplers distributing tobacco products; fee for manufacturer is \$500; for firm contracting with manufacturer, \$50. Rules requires samplers to provide dates and times of sampling activities to Board upon request, and to provide such information and quantities distributed in semi-annual report to Department of Health. [Emergency Rule effective 7/25/93-11/25/93.]

King County prohibits giving away or offering to give away tobacco products to any person and prohibits retailers from providing tobacco products "by a coupon at no cost." [1991. Board of Health Rule and Regulation, amending Rule and Regulation No. 41 and No. 64 (1990). Section 19.04.010 and 19.04.115.]

Puyallup prohibits distribution of tobacco products without charge. Also prohibits providing tobacco products to any person "by a coupon or at no cost to such person." [1993. Ordinance No. 2349. Sections 5.86.040 and 5.86.090.] HOWEVER, SEE STATE LAW'S PREEMPTION OF LOCAL RESTRICTIONS EXCEPT THOSE ADOPTED BY 1/1/93.

Seattle prohibits distribution of sample tobacco products "to the general public." [1991, Ordinance 115531. Section 6.240.120, Seattle Municipal Code.]

## Washington con't

Tacoma prohibits distribution of tobacco products without charge. Further, "It is unlawful for any retailer or wholesaler to provide tobacco or tobacco products to any person by a coupon or at no cost to such person." [1992, Ordinance No. 25198 effective January 1, 1993. Chapter 5.15, Regulation of Sale of Tobacco Products.]

Four other localities prohibit distribution of free sample tobacco products "in any setting": Battle Ground (1989, Ordinance 643); Clark County (1989, Ordinance 1989-10-05); Vancouver (1989, Ordinance 2844); and, Washougal (1990, Ordinance No. 979).

## ADVERTISING:

No state law restricts advertising of tobacco products.

King County prohibits tobacco advertising in structures, facilities or fixtures owned by or leased to the County. Exempts advertising contained in programs, newspapers or other written materials lawfully sold in that facility. [1992, Ordinance 92-563. New section in King County ordinances.]

King County also requires that signs be posted in establishments serving alcoholic beverages for on-premises consumption stating: "WARNING: DRINKING DISTILLED SPIRITS, BEER, WINE, COOLERS AND OTHER ALCOHOLIC BEVERAGES OR SMOKING CIGARETTES DURING PREGNANCY MAY CAUSE BIRTH DEFECTS." Signs must be either menu notations at least 2 inches high, table placards at least 3 by 3 inches, or signs at least 8-1/2 inches by 11 inches and posted conspicuously at the bar or point of sale. [1988, Board of Health Rule and Regulation No. 42. Section 5.60.060 King County Code of the Board of Health.]

Seattle's Metro Transit Board prohibits tobacco and alcohol advertising in its facilities. [1986 contract.] Billboard advertising for any product is prohibited within 500 feet of schools. [1994]

Seattle ban all billboards within 500 feet of schools. [1994]



## WEST VIRGINIA

No state or local laws restrict sampling of tobacco products to adults.

## WISCONSIN

### SAMPLING:

State law prohibits providing tobacco products "for nominal or no consideration" to persons under age 18. Allows a local government to adopt a measure regulating conduct in this section "only if it strictly conforms to this section." [1988, Act 336. Section 134.66, Wisconsin Statutes.]

Local restrictions on sampling to adults are preempted under state law.

### ADVERTISING:

No state laws restrict advertising of tobacco products.

Madison's transit board prohibits tobacco advertising in its facilities and vehicles. [1992. Policy adopted by Board, but confirmed by City Council.]

Waukesha bans billboards within 1 mile of schools. [1996]

## WYOMING

No state or local laws restrict sampling of tobacco products to adults.

4

51826 1737

**STATE SMOKING  
RESTRICTION LAWS  
December 1997**

The Tobacco Institute

STATE	Any Public Bldg Posed as No Smoking	Elevators	Public Trans- portation	Educational Facilities	Cultural Facilities	Health Care Facilities	Govt. Owned Bldg./Public Meetings	Food Stores	Retail Stores	Restaurants	Workplace- Government	Workplace- Private Sector	Local Preemption
ALABAMA													
ALASKA	•	•	•	•	•	•	•	•	•	•	•		
ARIZONA		•	•	•	•	•	•				•		
ARKANSAS						•	•				•		
CALIFORNIA	•		•	•	•	•	•	•	•	•	•	•	•
COLORADO	•	•	•	•	•	•	•				•		
CONNECTICUT	•	•	•	•	•	•	•	•	•	•	•	•	•
DELAWARE		•	•	•	•	•	•	•	•	•	•	•	•
FLORIDA		•	•	•	•	•	•	•	•	•	•	•	•
GEORGIA	•	•	•	•	•	•	•						
HAWAII	•	•	•	•	•	•	•	•	•	•			
IDAHO	•	•	•	•	•	•	•	•	•	•			
ILLINOIS		•	•	•	•	•	•	•	•	•	•	•	•
INDIANA	•		•	•	•	•	•	•	•	•	•		
IOWA	•	•	•	•	•	•	•	•	•	•	•	•	•
KANSAS		•	•	•	•	•	•	•	•	•	•		
KENTUCKY				•			• #				• #		•
LOUISIANA		•	•	•	•	•	•	•	•	•	•	•	•
MAINE	•		•	•	•	•	•	•	•	•	•	•	•
MARYLAND		•	•			•	•	•	•	•	•		
MASSACHUSETTS	•	•	•	•	•	•	•	•	•	•	•	•	
MICHIGAN		•	•	•	•	•	•	•	•	•	•	•	
MINNESOTA	•	•	•	•	•	•	•	•	•	•	•	•	
MISSISSIPPI			•										•
MISSOURI		•	•	•	•	•	•	•	•	•	•	•	
MONTANA	•	•	•	•	•	•	•	•	•	•	•	•	
NEBRASKA	•	•	•	•	•	•	•	•	•	•	•	•	
NEVADA	•	•	•	•	•	•	•	•	•	•	•	•	•
NEW HAMPSHIRE	•	•	•	•	•	•	•	•	•	•	•	•	
NEW JERSEY	•	•	•	•	•	•	•	•	•	•	•	•	•
NEW MEXICO							•				•		
NEW YORK		•	•	•	•	•	•	•	•	•	•	•	
NORTH CAROLINA							•				•		•
NORTH DAKOTA	•	•	•	•	•	•	•			•	•		•
OHIO		•	•	•	•	•	•				•		
OKLAHOMA		•	•	•	•	•	•			•	•		•
OREGON	•	•		•	•	•	•	•	•	•	•	•	
PENNSYLVANIA	•	•	•	•	•	•	•		• #	•	•	•	•
RHODE ISLAND		•	•	•	•	•	•	•		•	•	•	
SOUTH CAROLINA		•	•	•	•	•	•				•	•	•
SOUTH DAKOTA		•	•	•	•	•	•				•		
TENNESSEE				• #	•	•	• #				• #		•
TEXAS		•	•	•	•	•							
UTAH	•	•	•	•	•	•	•	•	•	•	•	•	•
VERMONT	•	•	•	•	•	•	•	•	•	•	•	•	
VIRGINIA		•		•	• #	•	•	•	•	•	•	• #	•
WASHINGTON **		•	•	•	•	•	•	•	•	•	•	•	
WEST VIRGINIA			•			•	•				•		
WISCONSIN		•	•	•	•	•	•	•	•	•	•	•	
WYOMING													
48 States	22	38	40	41	38	43	46	31	25	33	43	23	19
D.C.	•	•	•	•		•	•		•	•	•	•	

51826 1738

Fire Prevention Laws are not included  
# Local Authorizing Statute

\*\* Washington Dept. of Labor & Industries' regulations on smoking in private-sector workplaces are in effect, but subject to current court challenge.

**STATE PROFILE**  
**OF**  
**SMOKING RESTRICTIONS**

51826 1739

**STATE SMOKING RESTRICTIONS PROFILE**

**ALABAMA**

No state laws restrict smoking.

## ALASKA

Smoking is permitted in properly ventilated designated smoking areas in public or private elementary or secondary schools, so long as minors are not permitted in the area and a collective bargaining agreement requires the designation of a smoking area. [AK Stat. §18.35.305(1) (Michie 1996)]. Smoking is also permitted in limousines and taxis for hire so long as the driver consents and the driver ascertains that all passengers consent to smoking in the vehicle. [AK Stat. §18.35.310(a)(2) (Michie 1996)]. State law authorizes the designation of smoking sections by "(a) person in charge" of indoor places and vehicles. [AK Stat. §18.35.320 (Michie 1996)]. If smoking areas are designated, "reasonable accommodations" must be made "to protect the health of the nonsmokers who use the place or vehicle by separation, partition, or ventilation that ensures that nonsmokers...are not subject to the active by-products of smoke..." [AK Stat. §18.35.320(c) (Michie 1996)].

State law prohibits smoking on public transportation, including waiting, baggage, and boarding areas, in government-owned, -leased, and -operated buildings or portions of buildings; public or private elementary, secondary, or postsecondary educational institutions, or adult daycare facilities; in courtrooms and jury deliberation rooms, in places under the control of the state legislature; in health care and mental health care offices, institutions, and facilities; in food service establishments with a capacity of at least 50; in grocery stores; in places of employment where a posted sign states that smoking is prohibited by law; in correctional facilities; in elevators; and in Pioneers' Homes. [AK Stat. §18.35.300, §18.35.305 (Michie 1996)]. Violation is subject to a fine of \$10-50. [AK Stat. §18.35.340(c), §18.35.341(c) (Michie 1996)]. Although enforcement proceedings may be initiated by either the Commissioner of Environmental Conservation or by peace officers, a person may not be fined more than once for the same offense. [AK Stat. §18.35.342 (Michie 1996)]. Any affected party or the Commissioner can seek injunctive relief for repeat violations. [AK Stat. §18.35.343 (Michie 1996)].

State law requires the conspicuous display of smoking and no smoking signs. Failure to comply with state signage requirements is punishable by a fine of \$20-300. Each day a signage violation continues after a complaint is filed or a citation is issued constitutes a separate violation. [AK stat. §18.35.330, 18.35.340, 18.35.341 (Michie 1996)] The commissioner of Environmental Conservation and affected parties may seek injunctive relief for repeated violations. [AK Stat. §18.35.343 (Michie 1996)].

## ARKANSAS

State law requires the chief administrative officer of each state agency to promulgate smoking policies for the general office spaces of the agencies, taking into consideration the rights of both nonsmokers and smokers. Requires Department of Human Services' to include a ban on smoking in day care centers in licensing requirements. [AR Code Ann. s20-27-702 (1995).] Prohibits smoking in school buses; waiting rooms of doctors' and dentists' offices; hospital corridors; nurses' stations in hospitals and clinics; and all shared patient rooms. Exempts hotels, motels and restaurants. Violation by smoker is a misdemeanor subject to fine of \$10 to \$100. [AK Stat. Ann. s20-27-702 (1995).] State law makes it a misdemeanor to smoke in enclosed areas, buildings, or facilities of public elementary or secondary schools, except in designated smoking areas by nonstudents over the age of 18. Violation is subject to a fine of \$10-100. [AR Code Ann. s6-21-609(1995).] Prohibits any person from smoking any cigarette, cigar, pipe, or other tobacco product in the Rotunda of the State Capitol Building, the Governor's Conference Room, the Old Supreme Court Room, or the cafeteria in the State Capitol Building. Violation is a misdemeanor punishable by a fine of \$25.00. [1997 Ark. H.B. 1781.]

## ARIZONA

State law prohibits smoking in state owned or leased buildings, except in areas that may be designated for smoking if Department of Administration determines that physical design of area, use of electrostatic filters, windows or venting to outside will prevent drifting of smoke to adjacent areas. Exempts inmate areas within state prisons, patients at state hospital and other residential facilities, and persons using tobacco for religious or ceremonial purposes. Prohibits discrimination against state employee on basis of use or non-use of tobacco products. [Ariz. Rev. Stat. §36-601.02 (1996)]. State law makes it a petty offense to smoke in the following public areas, except in designated and posted smoking areas: elevators, museums, lecture or concert halls, and public buses; waiting rooms, rest rooms, lobbies, and hallways of health care institutions; public waiting rooms of "health-associated laboratories or facilities" or physicians offices (including dentists, psychologists, podiatrists, chiropractors, naturopaths, optometrists, and opticians); and school buildings. [Ariz. Rev. Stat. §36-601.01 (1996)].



## CALIFORNIA

State law prohibits employers from knowingly or intentionally permitting smoking, and persons from smoking "in an enclosed space at a place of employment". [CA Labor Code s6404.5 (Deering 1996) (as amended by AB 13, effective Jan. 1, 1997).] Place of employment is defined by the areas it does NOT include, which are exempt from the smoking ban. Areas not included in the definition of place of employment are: (1) 65% of guest rooms in hotel/motels or lodging establishments; (2) 25% of floor space in hotel/motel lobby areas if floor space exceeds 2,000 square feet; (3) 50% of floor space in hotel/motel lobby areas if floor space is 2,000 or less square feet; (4) meeting rooms, banquet rooms in restaurants or convention centers (would ban smoking while food is being prepared or served); (5) retail or wholesale tobacco shops and private smokers' lounges that are attached to a tobacco shop; (6) cabs of motor trucks if no non-smoking employees are present; (7) warehouse facilities with more than 100,000 square feet and 20 or fewer full-time employees; (8) gaming clubs and bingo facilities that do not permit access to minors; (9) bars and taverns; (10) theaters and medical research or treatment sites, if smoking is integral to the function; (11) patient smoking areas in long-term health care facilities; and (12) private residences (except those licensed as family daycare centers, during hours of operation and when children are present. Employers are allowed to designate smoking breakrooms if (1) the smoke can be exhausted to the outside by an exhaust fan and the air is not recirculated; (2) standards meet those required by Occupational Safety and health Standards Board ("OSHSB") or the federal EPA; (3) room is located so that no one must enter it as a part of their work; and (4) comparable nonsmoking breakrooms exist. [CA Labor Code s6404.5(d).] Workplaces with 5 or fewer employees are allowed to designate smoking areas if (1) smoking area is inaccessible to minors; (2) all employees who would enter or work within area consent; (3) air is exhausted directly outside and not recirculated; and (4) standards meet those required by OSHSB or the federal EPA. [CA labor Code 6404.5(d).] Smoking is allowed in game rooms, bars, and taverns only until the earlier of the following occurs: (1) is adopted on or before 1/1/98; (2) if acceptable adoption of a standard of permissible employee exposure to ETS by OSHSB or the federal EPA is adopted. If acceptable regulation is adopted on or before 1/1/98, the establishment may permit smoking subject to full compliance within two years; regulation is adopted after 1/1/98, smoking is banned until adoption occurs and then establishment would have two years to comply with regulation. [CA Labor Code s64054.5(d).] From Jan. 1, 1997 through Dec. 31, 1997, smoking may otherwise be permitted in gaming clubs, bars, and taverns if: owner, if practicable establishes a designated non-smoking area, and if feasible, no employee shall be required to enter areas where smoking is permitted in the performance of his duties. Preempts new ordinances related to smoking in places of employment as long as 100% smoking ban in workplaces remains intact. Permits adoption of local restrictions in areas exempted from definition of places of employment. [CA Labor Code s6404.5(d).]

## California con't

State law prohibits smoking in state-owned, -occupied, or -leased government buildings and within five feet of main entrance or exit, and in state vehicles. [CA Govt. Code s19994.31 (Deering 1996).] Prohibition applies to state agencies, college and university campuses, legislative buildings and to the Supreme Court and Courts of Appeal, but exempts private living quarters of residential facilities and covered parking garages. [CA Govt. Code s19994.30.] Prohibits any person from smoking within 5 feet of any entrance/exit to, or within the interior of, any building or the security perimeter of any facility owned, leased, or used by the State Department of Corrections except in : 1) the private living quarters designated by each institution head for the religious purposes. Prohibits smoking in any area that may pose a safety or security risk. Allows staff to smoke in the outside area of a facility except within 5 feet of entrances and exits and in any area where smoking might present a risk to safety. Allows inmates to smoke in the prison yard. Requires signs to be posted in those prison yard areas within security perimeters not designated for smoking as well as in any other outside areas of the facility not designated for smoking, along with a citation of the authority requiring such prohibition. Prohibits correctional staff from smoking in any vehicle that is owned or leased by the state.

State law allows for the accommodation of "the smoking public where it is economically feasible, provided state employees are not required to work in enclosed areas where the probability of exposure to secondhand smoke exists," where such accommodation is provided an agency specified in Division 3 of the Food and Agricultural Code. [CA Govt. Code s19994.34.]

Other laws also regulate smoking, although it is unclear to what extent these laws are still effective in light of the broad prohibition noted above. For example, the California Indoor Clean Air Act of 1976 regulates smoking in publicly owned buildings, healthcare facilities, theaters and performance houses, certain restaurants, and retail food production and marketing establishments. [See e.g., CA Health and Safety Code ss118875 - 1188915 (Deering 1996).] Smoking is restricted in certain transportation systems. [CA Health and safety Code ss118925 - 118935.] Other statutes prohibit smoking by pupils while under the supervision and control of school district employees. [CA Educ. Code s48901 (Deering 1996)]. Smoking is also separately regulated in: (1) licensed family day care home or licensed day care centers [CA Health and Safety Code s1596.795 (Deering 1996)]; (2) certain health care facilities [CA Health and Safety Code s1286]; and (3) certain food facilities [CA Health and Safety Code s114320.]

## California con't

Prohibits any person from smoking within 5 feet of any entrance/exit to, nor within the interior of, any building or the security perimeter of any facility, with the following exceptions: 1) residential spaces; 2) in areas designated by each institution head for the purpose of religious ceremonies as specified. Prohibits smoking in any area that may pose a safety or security risk within any fire hazardous areas. Allows staff to smoke in the outside area of a facility. Allows inmates to smoking in the prison yard. Requires signs to be posted in those prison yard areas within the security perimeters not designated for smoking and any other outside areas of the facility not designated for smoking, along with a citation of the authority requiring such prohibition. Prohibits smoking in any vehicle that is state-owned or leased by staff.

## CONNECTICUT

State law requires public and private sector employers to designate one or more work areas as nonsmoking; such areas must be sufficient to accommodate nonsmokers who wish to utilize such an area. Employers may ban smoking throughout the facility. Where smoking is allowed, "existing physical barriers and ventilation systems shall be used to the extent practicable to minimize the effect of smoking in adjacent nonsmoking areas." Commissioner of Labor may grant exemptions if employer makes good faith effort to comply and further efforts would constitute "an unreasonable financial burden on the employer." No penalty provisions specified for workplace restrictions. (Conn. Gen. Stat. §31-40q (1994)] State law defines "smoking area" as a "separately designated room" that does not need to be entered to conduct business, that does not deprive employees or members of the public of a nonsmoking lounge or waiting area, and that is designated as a smoking area. Permits smoking only in "smoking areas" in (1) publicly-owned, -leased, or -operated buildings; (2) health care institutions provided the smoking area is not the only waiting area, and provided notice is posted at entrances that smoking is prohibited by state law. Prohibits smoking in public areas of retail food stores and in passenger elevators. State law prohibits passengers and operators from smoking while on public buses, passenger trains and school buses, except for "any special bus or...any compartment or part of a regular bus or passenger railroad car especially provided or set apart for smoking therein." Violations is an infraction punishable by a fine. [Conn. Gen. Stat. §53-198 (1994)]. State law prohibits smoking "in any public area of a restaurant having a seating capacity of seventy-five or more person, unless a sign is posted which indicates that smoking is permitted in such area[.]" State law further provides that: (1) restaurants with a seating capacity of 75 or more may not be designated as smoking areas in their entirety; (2) "smoking may be prohibited in rooms used for private social functions" and 93) a sign must be posted at the entrance of the restaurant indicating the availability of nonsmoking areas. [Conn. Gen. Stat. §1-21b (1994)] Smoking in violation of section 1-21b, failing to post signs, or removing signs without authorization, is an infraction punishable by a fine. Section 1-21b does not apply to correctional facilities; dormitory rooms in any public institution of higher education; psychiatric facilities; public housing projects; and classrooms where demonstration smoking is part of a medical or scientific experiment or lesson. State law requires the person in control of an area in which smoking is prohibited to post in a conspicuous place signs stating that smoking is prohibited by state law. Signs must have letters at least 4 inches high "with the principal strokes of letters not less than one-half inch wide," except for signs in elevators, restaurants and health care institutions. State law provides that "[n]othing in section [1-21b] shall be construed to require any smoking area in any building." Section 1-21b supersedes and preempts local law and ordinances relative to smoking. Violation by smoker or failure to post nonsmoking areas is subject to fine up to \$5; restaurants in violation have three demerit points deducted from inspection ratings.

**Connecticut con't**

Smoking is restricted on buses and passenger railroad cars, and is prohibited on school buses, with violation by smoker subject to maximum \$25 fine. [Conn. Gen. Stat §53-198]

## DISTRICT OF COLUMBIA

District law requires all private and public employers to maintain a written smoking policy. The policy must provide for the designation of smoking areas; require physical barriers or separate rooms to minimize smoke in nonsmoking areas; follow District laws and rules governing ventilation; apply to all persons in the workplace; and be posted in a conspicuous place. The owner or the person in charge of building is authorized to prohibit smoking throughout the building or in any part over which he has control. [D.C. Code Ann. §6-913.2]. In designated smoking areas, District law authorizes the use of physical barriers or separate rooms to minimize smoke in adjacent nonsmoking areas. Ventilation must be in compliance with District laws and rules governing indoor ventilation. [D.C. Code Ann. §6-913.1] Designation of smoking areas is subject to collective bargaining. [D.C. Code Ann. §6-913.2(b)] After March 29, 1988 restaurants with seating for 50 or more persons must designate at least 25-percent, excluding bar and lounge setting, as nonsmoking. Restaurants newly constructed or renovated with seating for 50 or more persons must designate at least 50-percent as nonsmoking. [D.C. Code Ann. §6-913.1]. Smoking is prohibited in elevators, except in single-family dwellings; public selling areas of retail stores (except tobacco stores); public assembly or hearing rooms in government-owned or -leased facilities; and in public transportation vehicles, except that smoking may be allowed by consent of all occupants in hired limousines. [D.C. Code Ann. §6-913]. Smoking is prohibited in public and private educational facilities, except for faculty lounges and properly designated smoking areas, and in; public areas of health care facilities. [D.C. Code Ann. §6-913(6)]. Violation by smoker is subject to fine of \$10 to \$50 for first offense, and \$50 to \$100 for subsequent offenses. [D.C. Code Ann. §6-916(a)(1)]. Appropriate "no smoking" signs must be posted and must clearly state maximum fine for violation. In any place where smoking is restricted, signs must also be posted stating, "Smoking causes lung cancer, heart disease, emphysema, and may cause fetal injury, premature birth, and low birth weight in pregnant women." [D.C. Code Ann. §6-914]. Failure to post required signs subject to maximum fine of \$300 per day in violation. [D.C. Code Ann. §6-916(a)(3)]. District law prohibits employment discrimination on the basis of tobacco use. [D.C. Code Ann. §6-913.3(a)].

## DELAWARE

State law prohibits smoking in public meetings; elevators; government-owned or -operated mass transit; public indoor areas of grocery stores with more than 5,000 square feet; gymnasiums; jury waiting and deliberation rooms; courtrooms; certain child day care facilities; and health care facilities. [Del. Code Ann. tit. 16, §2903 (1995)]. Restricts smoking to designated areas in public places, defined as "indoor area open to the general public, exclusive of lobbies, including but not limited to" public buildings; auditoriums; theaters; museums; libraries; public schools (exclusive of faculty lounges and private offices, except as modified by negotiated contract); other educational and vocational facilities (exclusive of faculty lounges and private offices, except as modified by negotiated contract) and food service establishments. [Del. Code Ann. tit. 16 §2903(b) (1995)] Restaurants shall designate nonsmoking areas based on customer demand, and may not determine that no such demand exists. [Del. Code Ann. tit. 16 §2903(d)(1) (1995)] Employers must have a written smoking policy that provides nonsmoking employees with nonsmoking work areas if they request it. Employers must also provide nonsmoking areas in cafeterias, lunch rooms and lounges. Employers may set aside a work area for smoking. [Del. Code Ann. tit. 16 §2903 (e) (1995)] State law does not apply to facilities where private functions are being held; limousines under private hire; enclosed private boxes in indoor arenas; hotel/motel rooms rented to guests; bars; and tobacco businesses; and private homes, residences and automobiles. [Del. Code Ann. tit. 16 §2904 (1995)] Law preempts local restrictions on smoking enacted or adopted after effective date of 6/28/94. [Del. Code Ann. tit. 16 §2908 (1995)]

## FLORIDA

State law prohibits smoking, except in designated smoking areas in government buildings, public transportation, elevators, hospitals, nursing homes, educational facilities, public school buses, libraries, courtrooms, jury rooms, museums, theaters, auditoriums, arenas, recreational facilities, restaurants with a capacity of more than 50, retail stores (except tobacco stores), grocery stores, places of employment, health care facilities, day care centers, and common areas of retirement homes and condominiums. [FL Stat. §386.203(1), §386.204 (1996), see also Fla. Stat. ch. 823.12]. State law authorizes the designation of smoking areas in public places, so long as (1) existing physical barriers and ventilation systems are used to minimize smoke in adjacent nonsmoking areas; (2) smoking areas are not designated in elevators, school buses, public transportation, restrooms, hospitals, doctors' or dentists' waiting rooms, jury rooms, county public health units, day care centers, educational facilities, or "common areas" such as hallways, corridors, lobbies, aisles, water fountain areas, stairwells, entryways, or conference rooms; (3) no more than one-half the rooms in a health care facility are designated as smoking areas; (4) in workplaces, the designation is agreed to by all workers routinely assigned to work in the area; and (5) no more than one-half the total square footage of a public place is designated a smoking area. Private offices not ordinarily accessible to public are not included in the square footage requirement. [FL Stat. §386.205 (1996)]. Restaurants with seating for more than 50 persons must provide nonsmoking areas of at least 35-percent of seating. [FL Stat. §386.203(1)(p), 386.205(4) (1996)]. Signs must be posted in a conspicuous place in designated smoking areas stating that smoking is permitted in that area. [FL Stat. §386.206 (1996)]. Announcements of smoking policy must be made regularly (at least every 30 minutes) over public address systems in public transportation terminals in major metropolitan areas. Violation by smoker subject to maximum fine of not more than \$100 for first offense and maximum \$500 for subsequent offenses. [FL Stat. §386.207, 386.208, (1996)]. Preempts local ordinances on smoking. [FL Stat. §386.209 (1996)]. State law makes it unlawful for any person under 18 years of age 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, except in moving vehicles and private residences. [FL Stat. §386.212(1) (1996)]. Violation is punishable by a civil penalty of up to \$25, or 50 hours of community service, or a school-approved "alternative to suspension" program. [FL Stat. §386.212(3) (1996)].



**GEORGIA**

State law prohibits smoking in: (1) enclosed elevators which are used by or open to the public and posted with a no-smoking sign; (2) public transportation vehicles that are posted with a sign; (3) areas that are used by or open to the public and posted with a sign; and (4) areas that are real property upon which is operated a daycare center, group daycare home, or family daycare home, during the hours of operation of such facilities. Violation by smoker subject to fine of \$10 to \$100. Allows local governments to adopt more restrictive measures. [Ga. Code Ann. §16-12-2 (1996)]

## HAWAII

With respect to workplaces, state law requires state and county agencies and any private corporation or association which receives state funds to restrict smoking in office workplaces. [Haw. Rev. Stat. §328K-13 (Michie 1996)] Requires such employers to accommodate preferences of nonsmoking and smoking employees, but if accommodation satisfactory to all affected employees cannot be reached, preferences of a simple majority of employees in affected area shall prevail. A simple majority of nonsmoking employees can appeal employer's decision to the Director of Health, who will determine a reasonable accommodation. [Haw. Rev. Stat. Ann. §328K-13] Exempts office workplaces occupied exclusively by smokers (unless otherwise prohibited by local ordinance) and property owned or leased by the federal government [Haw. Rev. Stat. Ann. §328K-14 (Michie 1996)] Violation by employer subject to fine not to exceed \$500 for each day in violation. [Haw. Rev. Stat. Ann. §328K-15] With respect to public places, restaurants with seating for more than 50 persons shall provide nonsmoking areas reasonably proportionate to preferences of users, or designate the entire restaurant as a nonsmoking area. [Haw. Rev. Stat. Ann. §328K-2(3) (Michie 1996)] Restaurants may be designated entirely as a smoking area if appropriately posted at all public entrances. [Haw. Rev. Stat. Ann. §328K-4(c) (Michie 1996)] All dining areas on cruise ships must meet similar requirements. [Haw. Rev. Stat. Ann. §328K-2(10) (Michie 1996)] State law also prohibits smoking in elevators used by the public (including those in residential buildings); certain health care facilities and doctors offices (except in private patient rooms or semi-private rooms with no objections); theaters and auditoriums; museums, libraries and galleries; public areas of retail stores and financial institutions; public restrooms; taxicabs carrying nonsmoking passengers; meeting or conference rooms; enclosed auditorium or sports areas. community centers; waiting areas and check-in counters of airports; and all service counters and areas open to the public in facilities owned or controlled by the state or counties. Smoking is also prohibited in any other area open to the public and posted by the person in charge as a nonsmoking area. [Haw. Rev. Stat. Ann. §328K-2 (Michie 1996)] Businesses with five employees on premises per shift and retail stores with less than 5000 square feet of floor space are exempt; provided, however, that the public areas of such facilities still may be designated and posted as non-smoking by the owner. [Haw. Rev. Stat. Ann. §§328K-2(11), 328K-3 (Michie 1996)] Violations are subject to maximum \$20 fine and possible court costs up to \$25. [Haw. Rev. Stat. Ann. §328K-5] State law provides that nothing "shall prohibit a county from enacting ordinances more stringent..." [Haw. Rev. Stat. Ann. §328K-6 (Michie 1996)]

## IOWA

State law allows smoking only in designated areas in public places and workplaces with 250 square feet or more of floor space, including but not limited to, restaurants with seating for more than 50 persons; retail stores, lobbies, and malls; offices, including waiting rooms, public conveyances operating entirely within the state; educational facilities; health care facilities, including nursing homes; auditoriums, concert halls, and theaters; libraries and museums; indoor arenas; and meeting rooms. Exempts tobacco stores; enclosed residents' rooms in health care facilities, offices occupied entirely by smokers; rooms in student residence halls; patient rooms in health care facilities; guest rooms of hotels and motels; rooms being used for private social functions; and factories, warehouses and other similar places of work not usually frequented by the public, except that nonsmoking areas must be provided in employee cafeterias. [IA Code §142B.1(3), 142B.2 (1995)]. Smoking areas may be designated; no place other than a bar may be entirely a smoking area. Smoking is prohibited in elevators. [IA Code §142B.1(3), 142B.2(1) (1995)]. State law requires the person having custody or control of a public place or public meeting to post signs "advising patrons of smoking and no-smoking areas." Signs at major entrances must bear the statement "Smoking prohibited except in designated areas." [IA Code §142B.4 (1995)]. Department of Inspections and Appeals to include smoking designation on inspections. Violation by smoker or proprietor subject to \$25 fine. State law supersedes all inconsistent local regulations. [IA Code §142B.6, 805.8(11) (1995)].

## IDAHO

State law prohibits smoking, except in designated smoking areas, in all public places, such as restaurants with a seating capacity of 30 or more, retail stores, grocery and other food stores, public transportation (including buses for hire but excluding charter buses [ID Code §39-5510 (1996)], educational facilities, hospitals, nursing homes, auditoriums, arenas, and meeting rooms. Bars, bowling alleys, and rooms or halls used for private social functions may be designated as smoking areas in their entirety. [ID Code §39-5502, 39-5503 (1996)] In all other public places, smoking areas may be designated by the proprietor, except to the extent that the fire marshal or other law prohibits the designation of a smoking area. State law requires "good faith" efforts to minimize the effect of smoke in adjacent nonsmoking areas. [ID Code §39-5504 (1996)]. State law prohibits smoking in elevators. [ID Code §39-5507 (1996)]. Violation is an infraction subject to a fine of up to \$50. [ID Code §39-5507 (1996)]. State law requires the proprietor or other authorized person to "make reasonable efforts to prevent smoking in the public place by posting appropriate signs designating smoking and nonsmoking areas." [ID Code §39-5506(1) (1996)]. State law prohibits smoking during public hearings and meetings, and requires the display of "no smoking" signs in the place where the meeting is being held. [ID Code §18-5904, 18-5905 (1996)]. Upon request, a nearby area may be designated for smoking so long as the area is outside the room where the public meeting is being held. [ID Code §18-5905 (1996)]. Violation is subject to a fine of \$5-10. [ID Code §18-5906 (1996)].

## ILLINOIS

State law allows smoking only in designated areas in office workplaces and in places open to the public, including but not limited to hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, art museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, arenas and meeting rooms. [410 IL Comp. Stat. §80/3(c), 80/4 (West 1996)]. Person in charge may designate a smoking area by utilizing existing physical barriers, ventilation systems, and other physical elements to "minimize the intrusion of smoke" into nonsmoking areas. [410 IL Comp. Stat. §80/5 (West 1996)]. Exempts bowling alleys, bars and taverns, hotel/motel sleeping rooms, private offices occupied solely by smokers, private social functions, and factories, warehouses, and similar places of work not usually frequented by the public. [410 IL Comp. Stat. §80/3(c), 80/4 (West 1996)]. Violation by smoker is petty offense subject to a fine. [410 IL Comp. Stat. §80/7; 730 IL Comp. Stat. §5/5-1-17 (West 1996)]. State law also prohibits smoking in elevators, subject to fine of \$25 to \$250. School boards are required to prohibit use of tobacco products on school property, without exceptions. [105 IL Comp. Stat. §5/10-20.5(b), 5/34-18.11 (West 1996)] Prohibits smoking in child day care centers in areas in which children are allowed on any day when the center is in operation. [410 IL Comp. Stat. §10/5.5 (West 1996)]. Preempts local regulation of smoking, except for local governments that passed ordinances prior to October 1, 1989. [410 IL Comp. Stat. §80/11 (West 1996)].

[N.B. 1997 Il. HB 1386 concerns the conduct of rulemaking proceedings by state environmental protection agency. It changes none of the above requirements]

## INDIANA

State law makes it a Class C infraction subject to penalties up to \$500 to smoke outside of a designated smoking area in public buildings, including health care facilities, public schools and classroom buildings at state educational institutions, and areas occupied by agencies of state or local government. [IN Code ss16-41-37-2, 16-41-37-4 (1996)]. Requires designation of Department nonsmoking areas; allows designation of smoking areas. [IN Code s16-41-37-5 (1996)]. State law requires the official in charge of the public building to post conspicuous signs that read "SMOKING IS PROHIBITED BY STATE LAW EXCEPT IN DESIGNATED SMOKING AREAS" or other similar language. [IN Code s16-41-37-6 (1996)]. State Board of Health may adopt rules to restrict or prohibit smoking in public buildings where close proximity of workers "causes smoking to affect the health and comfort of nonsmoking employees." [IN Code ss16-18-2-339, 16-41-37-7 (1996)]. State law specifically allows local governments to adopt more restrictive ordinances. [IN Code s16-41-37-9 (1996)].

Authorizes the Superintendent of a State Institution to regulate smoking within that state institution. [S.B. 66 OF 1997.]

Adds stations used for paid firefighters and paid police officers to the definition of "public buildings." [S.B. 66 OF 1997.]

Establishes that a person commits a Class C Infraction if they smoke: 1) in a public building, except in an area designated as a smoking area; 2) in the retail area of a grocery store or drug store that is designated as a nonsmoking area by the store's proprietor; or 3) in the dining area of a restaurant that is designated and posted as the restaurant's nonsmoking area by the restaurant's proprietor. [S.B. 106 OF 1997]

Requires the official in charge of a public building to do the following: 1) post conspicuous signs that read "Smoking Is Prohibited By State Law Except In Designated Smoking Areas" or other similar language; 2) request persons who are smoking to refrain from smoking; 3) remove a person who is smoking and fails to refrain from smoking after being requested to do so. Requires the proprietor of a restaurant shall post conspicuous signs at each entrance to the restaurant, informing the public of the establishment's smoking policy. [S.B. 106 OF 1997]

## KANSAS

State law restricts smoking to areas which may be designated by persons in charge of indoor areas used by the general public, including but not limited to restaurants; retail stores; health care facilities; educational facilities; libraries; courtrooms; government buildings; restrooms; museums; theaters; auditoriums; arenas and recreational facilities. Smoking is prohibited by all persons in passenger elevators, school buses, public transportation, and other areas prohibited by local ordinance. [Kan. Crim. Code Ann. §21-4009, 21-4010(b) (West 1996)] Prohibits smoking inside day care homes, group day care homes, and family day care homes, when children who are not related to person managing the home are present; does not apply to outside areas. [Kan. Stat. Ann. §65-530] Smoking is prohibited in medical care facilities, except in "well-ventilated" areas that may be designated for smoking (effective 7/1/94). [Kan. Stat. Ann. §21-4017] Until 7/1/95, smoking is prohibited in state capitol, except in offices which have been designated as smoking areas; after 7/1/95, smoking is prohibited entirely in state capitol. [Kan. Stat. Ann. §21-4016] State law allows local governments to adopt more stringent restrictions on smoking. [Kan. Stat. Ann. §21-4013] Violation by smoker is subject to maximum \$20 fine; violation by person in charge of public places subject to maximum \$50 fine. [Kan. Stat. Ann. §21-4012]

## KENTUCKY

State law preempts existing and subsequently adopted local limitations on the use of tobacco products. [KY Rev. Stat. Ann. §438.300 (Michie 1996)]. State law authorizes state and local governments to adopt smoking policies for government buildings and workplaces, except state universities, jails and detention facilities, and state-operated hospitals, veterans' nursing homes, and mental health facilities, so long as the policies (1) provide for accessible indoor smoking areas in buildings where smoking is otherwise restricted and (2) favor allowing smoking in well-ventilated outdoor areas. Any policy adopted by local governments must be in writing and adopted by the legislative body of the government. [KY Rev. Stat. Ann. §61.165]. State law prohibits smoking on school premises, except in designated areas. Violation is punishable by a fine of \$1-5. [KY Rev. Stat. Ann. §438.050]. State law authorizes the commissioner of corrections to permit or prohibit smoking by inmates. [KY Rev. Stat. Ann. §196.245 (Michie 1996)]

Under administrative regulation, smoking is limited to designated areas in buildings under control of state Executive Branch. Smoking areas are not to be designated, "unless special circumstances exist" in areas that are used by all employees and visitors. Private offices may be designated as smoking areas if there is no smoking when non-smokers are present and air cleaning devices are installed. Smoking and nonsmoking areas shall be designated in state owned or operated dining facilities. No employee may be involuntarily assigned to a work station in a smoking area. Devices designed to remove secondary smoke shall be installed in designated smoking areas. [1993. Emergency Regulation 200 KAR 6:045E, Finance & Administration Cabinet.]



## LOUISIANA

State law requires employers with 25 or more full-time workers to adopt, implement, maintain, and post a written smoking policy. The policy must, at minimum, require the employer to accommodate the preferences of smokers and non-smokers. [LA Rev. Stat. Ann. §40:1300.23, 40:1300.24(A)(1)&(B) (West 1996)]. Persons in charge of state, parish, or municipal buildings shall designate a smoking area in a separate room for employees, if allowable under lease, fire and other safety regulations. [LA Rev. Stat. Ann. §40:1300.24(c)(1) (West 1996)]. State educational and health care facilities are not required to designate smoking areas. [LA Rev. Stat. Ann. §40:1300.24(c)(2) (West 1996)]. This section does not apply to courtrooms or other areas used by the judicial branch of state government; or private, enclosed offices. [LA Rev. Stat. Ann. §40:1300.24(c)(3), 40:1300.25 (West 1996)]. Prohibits agencies or political subdivisions from imposing more stringent restrictions on office workplaces (except those adopted prior to September 1, 1993). [LA Rev. Stat. Ann. §40:1300.26 (West 1996)]. Smoking is prohibited in passenger elevators; public transportation vehicles that are not privately chartered; and child care facilities. [LA Rev. Stat. Ann. §40:1300.42(A) (West 1996)]. Allows smoking to be designated in a separate room on each floor of a public place, including places that are privately owned but open to the public, such as theaters, public transportation facilities, public access areas of buildings and offices, bowling alleys, arenas, hotels and motels, convention halls, auditoriums, public meeting rooms, taxis, and limousines. [LA Rev. Stat. Ann. §40:1300.41, 40:1300.43(A) (West 1996)]. A business or location that derives more than 50% of gross revenues from sale of alcoholic beverages may designate itself smoking in its entirety. LA. Rev. Stat. Ann. §40:1300.43(D) (West 1996)]. Restaurants may maintain flexible smoking and nonsmoking areas based on customer demand. [LA Rev. Stat. Ann. §40:1300.43(E) (West 1996)]. Violation is subject to a fine of \$25-50. [LA Rev. Stat. Ann. §40:1300.45(B) (West 1996)]. Prohibits smoking in hospitals, but smoking may be permitted in a well-ventilated area designated by the hospital's governing board, and in patient rooms upon order of physician and agreement by all patients in room and in accordance with standards of accreditation commission. [LA Rev. Stat. Ann. §40:2115(A)&(C) (West 1996)]. Smoking areas shall be provided for mental patients and jail inmates. Smoking is prohibited in elementary and secondary public school buildings, except in designated areas on school grounds. [LA Rev. Stat. Ann. §17:240 (West 1996)]. State law prohibits smoking in the arena of the Louisiana Superdome, but expressly permits it in all other areas of the Superdome. Violation is subject to warning, then ejection from the Superdome. [LA Rev. Stat. Ann. §40:1261 (West 1996)].

## MAINE

Smoking is prohibited in enclosed public areas and public restrooms, except designated smoking areas. "Enclosed area" must "extend from the floor to ceiling" ; a short partition does not qualify. Designated smoking areas must be designed to "minimize smoke escaping" into public place, and cannot be located where sales, services or other commercial or public activities are conducted. Exemptions exist for enclosed public areas when the facility is closed to the public; private residences, unless used as a licensed daycare or baby-sitting service (discussed further below), smoking as part of theater performance; religious ceremony; in taverns or lounges; hotel/motel rooms rented to guests; private offices not open to public; public places where beano or bingo games are being conducted; retail tobacco stores with less than 2,000 square feet; and privately chartered buses. Smoking is not prohibited in a private residence unless the private residence is used as a day care or baby-sitting service, in which case those portions of the private residence used to care for children and adjacent areas from which smoke could enter the areas used to care for children are public places for the period of time that children who are being cared for are present in that portion of the residence. State law requires all employers to establish or negotiate through collective bargaining written and posted policies on smoking and nonsmoking in workplaces. Must restrict smoking to designated areas and may prohibit smoking throughout the facility. Failure to implement a policy is subject to fine up to \$100. Law prohibits discrimination against an employee for assisting in the supervision or enforcement of workplace policy requirements. Exempts workplaces where policies are based on mutual agreement between employers and all employees, or if workplace is employee or employer's residence. "Enclosed indoor" restaurants must provide nonsmoking areas reasonably calculated to address needs of the nonsmoking public as defined by regulation of Department of Human Services (regulation was to be submitted for legislative review by 1/1/91 but no final action has been taken). Restaurants may designate entire facility as nonsmoking. Restaurant must tell customers verbally or through a sign of its seating policy. Violation by restaurant proprietor subject to fine of \$100 to \$500 and licensing sanctions. Smoking is prohibited in public schools, except in areas which may be designated for employees by the school board or negotiated through collective bargaining. Any school employee smoking area must be located away from areas frequented by students. Smoking is allowed as a part of a bonafide school demonstration or class lesson. Smoking is prohibited in enclosed areas of ferries under jurisdiction of State Department of Transportation; violation subject to fine up to \$100 for smoker or operator. Smoking is prohibited in the enclosed area of hospitals, and is restricted to designated areas in licensed nursing homes; patients may smoke in designated areas with written order of physician. Residents of psychiatric or substance abuse facilities must have access to enclosed and adequately ventilated smoking areas. Smoking is prohibited in publicly-

## Maine con't

owned buildings, except in areas used for non-public purposes, designated smoking areas in hallways or lobbies of civic auditoriums, and in cafeterias where nonsmoking areas are provided. Smoking is prohibited in juryrooms unless all members consent to allow smoking and at meetings of public bodies unless all members present consent to allow smoking. Smoking is restricted in any building where a no smoking notice is posted; violators subject to a \$5 fine.

Human Rights Act does not preclude prohibition of smoking in places of employment, transportation, or public accommodation. [5 MRS s4554]. [Maine Revised Statutes, Section 1825. 1981, Chapter 338; 1983, Chapter 226, Chapter 293 and Chapter 816; 1985, Chapter 115 and Chapter 126; 1987, Chapter 191, Chapter 332 and Chapter 687; 1989, Chapter 210, Chapter 241, Chapter 314 and Chapter 451; 1990, Chapter 743; 1991, Chapter 501; 1993, Chapter 342. 22 MRS s1541, 1545, 1542, 1578B, 1579A, 1580, 1580A, 1825, 25 MRS s2433].

The chief of state police shall adopt rules that allow a licensee to establish as nonsmoking area within the room or outdoor area where the operator calls the numbers. Visibility and access between the smoking and nonsmoking areas may not be impeded except that a doorway may be installed, both the smoking and nonsmoking areas must have a public address system and a master board, electric flashboard or chalkboard visible to all players. A member of the licensee must be present during the game in both the smoking and the nonsmoking areas. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, Chapter 375, Subchapter II-A [L.D. 1275 of 1997].

The Bureau of Health has issued rules to assist Businesses in developing written smoking policies or to enforce provisions of the Workplace Smoking Act of 1985. The rules provide that each employer (*i.e.*, a person who has one or more employees) shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and nonsmoking by employees. The policy may prohibit smoking, and the employer has the right to establish policies concerning smoking and nonsmoking any members of the public who have access to the business facility. The rules separately provide requirements and give guidelines for permissible indoor designated smoking areas. [10-144A CMR Chapter 250: Rules Relating to Smoking in the Workplace.]

## MASSACHUSETTS

State law prohibits smoking in public elevators, retail food stores, mass transit conveyances and their enclosed waiting areas, and public meetings of governmental bodies. Smoking is allowed in completely enclosed private offices in non-smoking buildings. Restaurants with seating capacity for 75 or more persons must provide nonsmoking areas of sufficient size to accommodate nonsmokers and no smaller than 200 square feet of floor space. Nonsmoking areas of sufficient size and capacity to accommodate nonsmokers are required in public areas of publicly-owned buildings, courthouses, higher education facilities, museums, libraries, trains, airplanes, airport waiting areas and health care facility waiting areas. Smoking is prohibited in juryrooms unless majority of members of the jury consent to allow smoking. Public and private nursing homes are required to designate nonsmoking areas in certain common-use areas, including lobbies, cafeterias and employee lounges; smoking by staff is prohibited in all patient care areas. Health care facilities must assign patients, upon request, to nonsmoking rooms. Public institutions of higher learning are required to reserve dormitory rooms for nonsmokers and to request a preference on applications for student housing. Smoking is prohibited in polling places and town meetings, subject to a charge of disorderly conduct and a fine up to \$20. Violation of smoking ban in conveyances or terminals of Massachusetts Bay Transportation Authority subject to fine up to \$100 and/or up to 10 days in prison. [Mass. Ann. Laws, Chapter 15A, §16A, §27; Chapter 54, §73; Chapter 111, §72X, Chapter 234, §34C; Chapter 270, §21 and 22; Chapter 272, §43A.

## MARYLAND

State law modifies authority of Secretary of Licensing & Regulation and Commissioner of Division of Labor & Industry to adopt regulations on smoking. Prohibits regulations that prohibit smoking in the following areas: private residences not open to public for business; establishments that possess liquor licenses for on-premises consumption and that are generally recognized as bars or taverns, except for restaurants and hotels; hotel/motel bars; clubs as defined in Article 2B, that possess liquor licenses for on-premises consumption; up to 40% of sleeping rooms in hotels/motels; in enclosed rooms in other kinds of establishments that possess liquor licenses for on-premises consumption; and up to 40% of premises used by fraternal, religious, patriotic, or charitable organization, corporation, fire company or rescue squad to hold event open to public on its own property. In restaurants that do not possess liquor licenses, smoking may be allowed in separate enclosed rooms that comprise up to 40% of the total area. In restaurants with liquor licenses, smoking is allowed in bar areas or enclosed rooms comprising up to 40% of total area, or a combination of both. Bar area is defined as an area devoted to consumption of alcoholic beverages where serving of food is incidental, including immediate adjacent seating area. Does not require specially modified ventilation systems for smoking areas. The proprietor of any of these establishments may prohibit smoking. Bill states that this act is not intended to preempt local restrictions on smoking. [1995, House Bill 1368.] Regulation by Dept. of Licensing & Regulation, as proposed by Commissioner of Labor & Industry, prohibits smoking in indoor places of employment, including restaurants, bars and hotel/motel sleeping rooms. Requires the posting of signs where smoking is prohibited. Smoking areas can be designated if entirely enclosed, under negative pressure, and exhausted directly outdoors. Regulation requires cleaning of designated areas to be done while no one is smoking. Regulation exempts tobacconist shops, vehicles occupied by one person, areas where scientific research is conducted into health effects of tobacco smoke. Other regulation by Dept. of Transportation prohibits smoking in main terminal of Baltimore-Washington International Airport, except in bars, cocktail lounges, airline or airport clubs, and other tenant areas not accessible to the public. Nursing homes, health clinics, and physicians' offices must regulate smoking to protect health of non-smokers. State law prohibits smoking in hospitals. Mental hospitals and long-term care facilities and acute care hospitals are exempted. Smoking is prohibited in public areas of retail stores with 20 or more full-time employees. Persons failing to post signs are subject to a \$25 fine. Statute exempts restaurant areas or lavatories of retail stores and physically isolated, non-public work areas. Adoption of more stringent restrictions is preempted only in Charles County and St. Mary's County. Smoking must be prohibited in elevators available to the general public; violation by smoker or failure to post sign subject to maximum \$25 penalty.

## **Maryland con't**

Smoking is prohibited on buses used in intrastate transportation, subject to maximum \$25 fine. Governor's Executive Order bans smoking in all State buildings and facilities and in shuttle buses under Executive branch control; smoking is to be prohibited or restricted by heads of facilities housing inmates and patients. Order urges that smoking be prohibited in buildings under Judicial and Legislative branch control. [Md. Code Ann. Health-General, §24-205 and §24-501 through 24-505; Article 78, §35A; Article 89, §64; Governor's Executive Order 01.01.1992.20.]

## MICHIGAN

State law requires restaurants and common eating areas of food establishments in shopping malls to designate nonsmoking areas. If seating capacity is less than 50 (not counting seating at bars) or restaurant is owned by a private club, at least 25-percent of seating must be nonsmoking. If seating capacity is more than 50 and restaurant is not owned by a private club, at least 50-percent must be nonsmoking. Smoking must be prohibited in restrooms, coatrooms, entrances, and other areas used by patrons when not seated, but may be allowed in lobbies, separate waiting rooms, lounges, and hallways. Failure to designate such areas subjects establishment to licensing sanctions. Smoking is prohibited in health care facilities, including homes for the aged and hospices, except in designated patient rooms and in designated areas that are enclosed and ventilated to "ensure a smoke-free environment" in other areas. Smoking is prohibited in public meetings. Smoking is prohibited in passenger elevators, subject to fine of \$50 or 90 days in prison. This waving must be posted in each elevator. Nonsmoking areas must be designated in public and office areas of state and local government buildings, educational facilities of private schools and of all colleges and universities, auditoriums, arenas, theaters, museums, public conveyances, and concert halls, used for a private function. In such places consisting of a single room, at least one half the room must be designated as nonsmoking, Nonsmokers must be located closest to the source of fresh air and consideration must be given to the hypersensitivity to tobacco smoke. Violation by smoker or proprietor is subject to fine up to \$100 for first offense and up to \$500 for subsequent offenses. Smoking must be restricted to designated areas in retail food stores; violators are subject to fine up to \$100. Smoking is prohibited in child day care centers and their grounds; group day care homes during hours of operation; and in family day care homes during hours of operation. If smoking is permitted during non-operating hours in group or family day care facilities, then notification is required. Smoking is prohibited in buildings and real property owned or used by school districts, except that smoking is not banned in outdoor areas during Saturdays and Sundays and after 6 p.m. on weekdays, when there are no regularly scheduled school hours. Does not apply to buildings used for private functions or private educational facilities after hours. Violation is subject to fine up to \$50. [Michigan Compiled Laws, §333.12601 through 333.12617, 333.12905, and 333.12907; §333.21333 and 333.21733; §289.701 through 289.727; §408.820; 750.473. Sections 722.113B, 722.113C, 722.113D.

## MINNESOTA

State law restricts smoking to designated areas in workplaces and all places open to the public, including restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, health care facilities, auditoriums, arenas, meeting rooms, and common areas of rental apartment buildings. Smoke effect must be minimized. Exception if entire room is used for private function and for "places of work not usually frequented by the general public". Commission of health may establish rules on such places of work. No place other than a bar may be designated entirely as a smoking area. Regulations provide that smoking areas may be no larger than can be demonstrated to be proportional to the preferences of the users; a restaurant will be deemed to be in compliance if 30 percent of seating is designated nonsmoking. Public conveyances with seating for fewer than ten persons may be designated entirely as a smoking area if all occupants consent. Regulations also restrict smoking to designated areas in hotels, motels and resorts, except in sleeping rooms. Violation by smoker is a petty misdemeanor; repeated violations by proprietor subject to injunction. Law prohibits smoking in hotel sleeping rooms designated as nonsmoking. Violation is petty misdemeanor, and innkeepers are allowed to require reimbursement up to \$100 to restore room to pre-violation condition. Smoking is prohibited in licensed day care centers and licensed family day care providers during hours of operation. Smoking is prohibited in health care facilities, clinics and doctors' offices, except in nursing homes, well-ventilated areas of chemical dependency units, pursuant to a policy. In buildings managed or leased by the state government, smoking is banned entirely except for designated areas or in veteran's homes, providing that existing physical barriers and ventilation systems can be used to prevent the presence of smoke in adjacent nonsmoking areas. No employee complaining of "a smoke-induced discomfort" may be subject to disciplinary action as a result of the complaint. Smoking is prohibited in state government office buildings. State law prohibits use of tobacco products in public schools and all facilities controlled by a school district, except in technical colleges. Exemption from school smoking ban is also provided for Indian or other cultural groups, including minors, who may smoke or otherwise use tobacco products for bona fide artistic, spiritual or cultural purpose. Proprietors must make reasonable efforts to prevent smoking in a public place. Smoking is prohibited in state prisons. Persons smoking in building area or common carrier where "no smoking" is posted are guilty of a misdemeanor. [Minnesota Statutes, §144.412, 144.414, 144.415, 144.4165, 243.555, 144.416, 327.742, 609.681]



## MISSOURI

State law requires smoking to be restricted to areas that may be designated in workplaces, restaurants seating more than 50 persons, and other public places. No public place may provide more than 30-percent of entire space as a smoking area; except that in restaurants, proprietors shall designate areas of sufficient size to accommodate usual demand for nonsmoking areas. Indoor smoking areas must be provided for employees in state executive departments and institutions of higher learning, so long as the area can be adequately ventilated at minimum cost. Designated smoking areas shall be provided in theater lobbies. Exempted: private functions, limousines and taxis where all occupants agree to allow smoking, stores doing 50-percent or more sales in tobacco products; bars and taverns with no more than 10% of their gross receipts in food sales, bowling alleys and restaurants with fewer than 50 seats, if sign is posted stating that nonsmoking areas are unavailable; private residences; and indoor arenas which have seating capacity of more than 15,000. Violation by smoker or person in charge is an infraction. State law also prohibits use of tobacco products in public elementary or secondary schools or on school property, excluding institutions of higher education, or on buses. Outdoor smoking areas may be provided for adult staff, faculty and visitors, and smoking areas may be designated in buildings not used by students. Smoking is prohibited in any areas of licensed child care facilities at times when children are present. Local governments and school boards are authorized to enact more stringent restrictions concerning schools and child care facilities. [Mo. Ann. Stat. §§191.765-191.777 (1995)]

## MISSISSIPPI

Employees may not be required to refrain from smoking during nonworking hours. [Miss. Code Ann. §1-7-33]. State law prohibits smoking of cigars or pipes on passenger buses, subject to fine up to \$500 and/or up to 30 days in county jail. [Miss. Code Ann. §97-35-1. Existed prior to 1942, was amended 1964, Chapter 238.] State law supersedes any local law, ordinance or regulation which relates to the use, sale, promotion and distribution of tobacco and tobacco products. [1994, House Bill 1268 (Chapter 486).] No smoking in Chancery Court, Rule 1.01.

## MONTANA

State law requires designated smoking policies for workplaces and in all enclosed public places. Proprietor must designate nonsmoking and smoking areas, designate entire area as smoking, or designate entire area as nonsmoking with a conspicuous sign as to the smoking policy in effect. Failure to do so may result in a \$25 fine. No sign is required if the establishment contains both a restaurant and a tavern. Proprietors of intrastate, non-chartered buses must prohibit smoking on the bus. Enclosed public places include, but are not limited to, places of work, restaurants, stores, offices, trains, buses, educational or health care facilities, auditoriums, arenas, and assembly and meeting rooms open to public. Restrooms, taverns or bars and vehicles seating six or fewer members of the public are exempt. Smoking must be prohibited in elevators, museums, galleries, kitchens and libraries of any establishment open to the public. Health care facilities must attempt to accommodate smoking and nonsmoking preferences of patients upon admission and must provide non-smoking areas in waiting rooms; smoking is prohibited in certain areas and by employees in patients' rooms; however, smoking may also be prohibited throughout a health care facility. Non-designated areas of health facilities may be considered smoking. In buildings owned and occupied by the state, smoking is prohibited in most areas but agency heads shall designate, provided that the building is suited by architectural design and functional purposes, and resources are available. A smoking area in a government building must be an "enclosed, comfortable area that maintains adequate ventilation to minimize the circulation of smoke to surrounding areas." Exempts university buildings, and buildings housing items of historic or artistic value. Smoking and nonsmoking areas must be provided in local government buildings, except that community college facilities may be designated entirely nonsmoking. The Boards of Trustees of school districts and community colleges may declare facilities smoke-free. The use of tobacco products is prohibited on public school property during school hours, except in areas that may be designated for smoking by nonstudent adults. [Mont. Code Ann. §20-5-411; §50-40-101 through 109; §50-40-201 through 206; Chapter 368; 1981, Chapter 460; 1985, Chapter 505; 1989, Senate Bill 426 and House Bill 346; 1991, Chapter 539; 1993, House Bill 548, Senate Bill 100]

## NORTH CAROLINA

State law allows smoking to be restricted in state government-controlled buildings and limits local restrictions on smoking. Smoking may be prohibited in state-controlled libraries; museums; auditoriums, arenas and coliseums, so long as smoking areas are designated in lobbies; educational buildings primarily involved in health care instruction; and in other areas, so long as at least 20-percent (or as near as feasible) of interior space is designated as smoking area and that area is of quality equal to the nonsmoking area. If non-smoking area is designated, no structural modification shall be required. Smoking in nonsmoking area of a state-controlled building is an infraction subject to fine up to \$25. Local governments may enact only smoking ordinances consistent with the state law after October 15, 1993; otherwise valid ordinances enacted prior to that date are not affected. New local ordinances may restrict smoking only in buildings leased by local government; public meetings; auditoriums, arenas and coliseums; libraries or museums; and public transportation vehicles owned or leased by local government. State law specifically exempts primary or secondary schools or day care centers, except in teacher's lounges; enclosed elevators; public school buses; hospitals, rest homes, nursing homes; local health departments, nonprofit organizations or corporations with primary purpose of discouraging use of tobacco products by general public; and tobacco manufacturing, processing and administrative facilities. [NC Gen. Stat. §43-595 through 143-601 (1995)].

## NORTH DAKOTA

State law restricts smoking in enclosed places open to public, defined as enclosed theaters, auditoriums, gymnasiums, elevators, libraries, public transportation vehicles and terminal waiting rooms, patient rooms and lobby and waiting areas of health care facilities and nursing homes, buildings owned or leased by state or local government, and restaurants with seating for 50 or more persons. This does not include private residences or "establishments licensed primarily or exclusively to sell alcoholic beverages for consumption on the premises". Smoking areas may be provided, except in a public place where prohibited by state fire marshal. Designated smoking areas may not occupy more than 50-percent of total area available to public. In restaurants, smoking areas may be temporarily expanded to meet need during course of daily business. Smoking is prohibited in child care facilities during times when children are present and receiving services. By executive order, smoking is banned in all state government buildings and vehicles under control of executive branch. [ND Cent. Code §23-12-09, 23-12-10, 23-12-10.1].

## NEBRASKA

State law restricts smoking in enclosed indoor workplaces, public meeting, and public places, including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas, and meeting rooms. Private enclosed offices occupied exclusively by smokers, and private functions are exempt if the entire establishment is under the control of the sponsor. Smoking must be limited to designated areas. Smoking areas may be designated, and existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoking. No place other than a bar or restaurant with less than 1200 square feet may be designated entirely as a smoking area; such places must post conspicuous notices at public entrances. Violation by smokers is Class V misdemeanor. Department of Health to promulgate rules for factories, warehouses and similar places of work not open to public and where close proximity of workers or inadequate ventilation might cause health risk, and for implementing other provisions. [1996, Legislative Bill 1044, Neb. Rev. Stat. §71-5701 through 5713 (1996)]

## NEW HAMPSHIRE

Smoking is prohibited in all enclosed public places and public buildings except in effectively segregated smoking areas. The person in charge may designate any public facility smoke free. Also prohibited in enclosed places owned by social or religious groups when made available to the public. In these areas, if smoking area cannot be segregated effectively, smoking must be entirely prohibited.

Effective 7/1/93; workplaces with four or more workers and restaurants with seating for 50 or more persons are required to either prohibit smoking entirely or limit smoking to "effectively segregated" areas, meeting specific requirements for separation from nonsmoking areas. Public educational facilities and child care agencies; hospitals and other acute care facilities; customer areas in grocery stores by customers; elevators; and all forms of public conveyances. These are exemptions for public conveyances; rented by private parties, buildings owned by social organizations when used for private functions, hotel rooms and open spaces if rented for private functions, bars, and rooms in dormitories and public housing if proper procedures are in place. "Effectively segregated" smoking areas may be designated in all other enclosed places open to public. Smoking in an enclosed public place is a violation and subject to a fine of not less than \$100, as is repeated non-compliance.

Person in charge of public place shall develop written compliance policies. Such person may also request on time extension to comply with these rules. "Effectively segregated" means that procedures for accurately determining preference have been followed; that smoking areas are designed so that smoke "does not cause harm or unreasonably intrude into" nonsmoking areas; that there is a contiguous area measuring at least 200 square feet with either a continuous physical barrier at least 56 inches high separating nonsmoking area from smoking area or a space at least 4 feet in width separating the two areas; and that smoking areas are located, where reasonably possible, proximate to exhaust vents. Persons who smoke in non-smoking areas, or persons in charge who fail to monitor or comply are guilty of a violation and subject to a \$100 fine. [N.H. Rev. Stat. Ann. §155:64-77 (1995)]

## NEW JERSEY

State law supersedes local ordinances on smoking in workplaces, restaurants, schools, and other indoor public places, except for those ordinances based on fire safety. State law restricts smoking in workplaces, restaurants, and public places. Where such restrictions exist, signs must be posted.

Enclosed places of employment not usually frequented by the public with 50 or more employees must establish smoking policies "to protect the health, welfare, and comfort of employees from the detrimental effects of tobacco smoking". Policies must include designated nonsmoking and smoking areas. State Department of Health "shall be required to provide consultation services to employers" upon request. No employer shall take adverse action against an employee, or refuse to hire an individual, because that person does not or does not use tobacco products.

Restaurants are encouraged to provide nonsmoking areas. The state or its political subdivisions "may suggest guidelines for establishing nonsmoking areas", but "in no case shall they be mandatory". Bars are exempt. Persons smoking in nonsmoking areas of restaurants are subject to a fine of \$25; restaurant owners and managers who fail to comply are subject to a fine of \$25.

In indoor enclosed places generally accessible to the public, including theaters, museums, concert halls, and auditoriums, nonsmoking areas must be provided for nonsmoking persons to conduct business or participate in pharmacies, drugstores, and areas where hearing aids are sold at retail. Smoking areas may be provided for employees in non-public areas. Gambling, racing, and other sporting events facilities, bowling alleys, dance halls, roller skating rinks, and other facilities for "ambulatory recreation" are exempt. Persons who smoke in such indoor places are subject to a fine of \$25; persons who control such indoor places but fail to comply are subject to a fine of \$25, provided that the controlling person is immune from suit under this section except for action brought by the commissioner of health or the local board of health.

The supervisor of a building or portions thereof owned or leased by a governmental entity (excluding educational and recreational facilities) must establish written rules "to protect the health, welfare, and comfort of employees from the detrimental effects of tobacco smoking". The rules must provide nonsmoking areas, and may designate smoking areas. Smoking must be prohibited in places of public assembly while a public meeting is in progress, in offices where the public does business, and in libraries, museums, concert halls, and similar facilities, except in adjacent smoking areas or if a private function or meal has been arranged.



## **New Jersey con't**

Restaurants inside government buildings with 50 seats or more must designate nonsmoking areas in accordance with patron needs. Persons smoking in such government buildings are subject to a fine of \$25.

Smoking is prohibited in public areas of retail food and marketing stores that have selling area exceeding 4,000 square feet. Persons who smoke in such food stores are subject to a fine of \$25; persons who control such stores but fail to comply are subject to a fine of \$25, provided that the controlling person is immune from suit under this section except in chartered vehicles, specially marked railroad cars, limousines, or livery services, or in cabs, if the cab driver is alone in the vehicle. A violation of the ban on smoking in public conveyances is a petty disorder. It is a petty disorder punishable by a fine of up to \$200 to smoke in public places where such prohibition has been posted by the owner or person responsible.

Every public or private educational institution, except the board of education of a school district, shall regulate tobacco smoking on their premises, and shall prohibit smoking in classrooms, lecture halls, and auditoriums except as part of the instruction. Persons who smoke on prohibited areas of educational institutions are subject to a fine of \$100; persons controlling educational institutions who fail to comply are subject to fines of up to \$25 for the first offense, \$100 for the second offense, and \$200 for the third offense.

Smoking is prohibited in the waiting rooms of doctors offices (excluding specialists in psychotherapy, dentistry, or chiropractic medicine) unless there is more than one waiting room, in which case one may be smoking. Commissioner of the Dept. of Health is authorized to adopt rules on smoking in health care facilities, except for: private rooms or rooms where all patients agree; in one of several waiting rooms, or in the only waiting room if the person in control determines that there is an adequate section for nonsmokers; in dining areas with a capacity for 50 or more persons, if the person in control determines that there is an adequate section for nonsmokers; or in totally enclosed offices used only by employees. Persons who smoke in health care facilities or offices who fail to comply are subject to a fine of up to \$25 for the first offense, \$100 for the second offense, and \$200 for the third offense.

No person shall smoke in an area controlled by the Port Authority of New York and New Jersey where smoking has been prohibited by a sign to that effect is posted.

[N.J. Stat. §C:33-13 (1996), §6:3D-3 through D-54 (1996), 26 N.J. Stat. Ann. §3E-7-12 (West 1996), 26 N.J. Stat. Ann. §3D-3-54 (West 1996)]

## NEW MEXICO

State law restricts smoking at public places and public meetings and in enclosed indoor areas of buildings owned or leased by state or local government to designated areas. Smoking is allowed in fully enclosed offices occupied entirely by smokers; rooms used by groups for nongovernmental functions; and in areas required to be designated by person in charge of public places or by government employer. Employer is someone who employs 15 or more persons. Such designated areas may not exceed 50-percent of space. Smoking must be prohibited in such buildings in elevators, infirmaries, and at least one half capacity of employee lounges and cafeterias. [N.M. Stat. Ann. §24-16 (Michie 1996)]. Employers must adopt and maintain a written smoking policy. In areas where smokers and nonsmokers work in same room, smoke-free work areas must be provided for employees who request them. Conspicuously posted signs regarding the smoking status of public areas are required. Employer is not required to make "structural modifications"; implementing program and posting a sign is sufficient. [N.M. Stat. Ann. §24-16-1-11 (Michie 1996)].

## NEVADA

State law restricts smoking in restaurants and other places open to the public. Smoking is banned in public elevators; public buildings owned or occupied by state or local governments or university system; public waiting rooms, lobbies or hallways of medical facilities or doctors' offices; public areas of food stores; child care facilities (except in separate rooms not open to children and with sufficient ventilation); buses used by general public (not chartered) and maintenance facilities; and school buses. Persons in charge of public buildings, except school district buildings, shall designate smoking areas. Smoking may be restricted in public areas of hotels and motels at proprietor's option. Restaurants with seating for 50 or more persons are required to maintain smoking and nonsmoking areas. Businesses deriving more than 50-percent of gross receipts from either the sale of alcoholic beverages or gaming may be designated entirely as smoking areas. Licensed gaming establishments may be designated entirely as smoking areas. Violation by smoker or proprietor is a misdemeanor, subject to criminal penalty. Local governments and agencies may not impose more stringent restrictions on smoking or use of tobacco than provided in state law. An additional penalty of \$100 is to be imposed, which may be collected by local health authority and credited to state account for health education for minors. Smoking law may be enforced by health authorities, police officers, and other law enforcement officials. [1975, Chapter 326; 1977, Chapter 352; 1987, Assembly Bill 155; 1989, Senate Bill 25 and Assembly Bill 728; 1991, Chapter 248 and Chapter 259; 1993, Senate Bill 421; 1995, Assembly Bill 622. Nev. Rev. Stat. §§202.249, 202.2491, 202.2492, 202.24925 (Michie 1995)].

## NEW YORK

State law restricts smoking in indoor areas open to the public. Employers must provide nonsmoking employees with smoke-free work areas, but may set aside a work area for smoking in all assigned employees agree. Smoking must be limited in workplace cafeterias and lounges (70-percent shall be deemed non-smoking to meet demand), and prohibited in common-use areas, and in company vehicles unless all occupants agree to permit smoking. [NY Pub. Health Law §1399-o(6) (Consol. 1996)]. Restaurants must provide nonsmoking areas to meet demand; 70-percent nonsmoking shall be deemed to meet demand. [NY Pub. Health Law §1399-o(5)(Consol. 1996)]. Smoking is prohibited in auditoriums, elevators, gymnasiums, enclosed indoor areas containing swimming pools, public areas of food stores, classrooms, public means of mass transportation, and ticketing and boarding areas in public transportation terminals, youth detention centers and facilities, facilities that provide child care services, child day care centers, group homes for children, public institutions for children, and residential treatment facilities for children. Except for permissible designated smoking areas, smoking also is prohibited in colleges and vocational institutions, health care facilities, publicly-owned or operated buildings, theaters, museums, libraries, retail stores, commercial establishments, indoor arenas, waiting rooms, banks, restrooms, waiting areas in transportation terminals, service areas in food establishments, and zoos. [NY Pub. Health Law §1399-o(2)(Consol. 1996)]. Bowling alleys may allow smoking in up to 75-percent of concourse areas. Bingo halls must provide a contiguous nonsmoking area to meet demand; 50-percent nonsmoking shall be deemed to meet demand. Notwithstanding any other provider of law, tobacco use is not permitted on school grounds; provided, however, that smoking by adult faculty and staff members may be permitted in designated areas during non-school hours. [NY Pub. Health Law §1399-o; NY Educ. Law §409 (Consol. 1996)]. Exempt areas: private residences and automobiles, private functions, convention or trade shows if notice is given that smoking will not be restricted, hotel/motel guest rooms, tobacco businesses, limousines under private hire, private boxes in indoor arenas, and bars. Violations are subject to civil penalty. [NY Pub. Health Law §1399-s, t, u, v, w(Consol. 1996)]. More stringent regulations are allowed. [NY Pub. Health Law §1399-r(3)(Consol. 1996)].

Smoking is banned or restricted in various transportation conveyances and terminals based on policies adopted by respective authorities. No person may smoke in a factory. [NY Labor Law §283 (Consol. 1996)]. No person may smoke in any voter registration place in a church or a school. [NY Elec. Law §5-204 (1996)]. Smoking is restricted in courts and court-related agencies. [NY Stand. and Adm. Policies, Rule 39.1 (1996)]. Smoking is restricted in boxing training areas. [NY Unconsol., ch. 7, §8 (1996)].

## OHIO

State law restricts smoking in child day care facilities during working hours to either an indoor area that is separately-ventilated from the rest of the home, or an outdoor area that is so far removed that children being cared for cannot inhale any smoke. [OH Rev. Code Ann. §5104.014(c) (Anderson 1996)]. Pre-college students are prohibited from using or processing tobacco on any school property or during any school activity. [OH Rev. Code Ann. §3313.751(b) (Anderson 1996)]. State law requires nonsmoking areas to be designated in places of public assembly, including seating of theaters, auditoriums, classrooms, elevators, health care facilities, rest homes, buildings owned by state or local governments (including colleges, but not their residential rooms), vehicles of public transportation, and any other place of public assembly with a public seating capacity of 50 or more. Restaurants, bowling alleys, and bars are exempt. No more than half the rooms in a health care facility may be designated as smoking rooms. Violation by smoker or person in charge is a minor misdemeanor. [OH Rev. Code Ann. §3791.031 (Anderson 1996)]. By Executive Order, smoking is prohibited in all buildings owned or leased by state agencies, except for residential areas in universities or colleges, and other state institutions. Smoking is prohibited in all official vehicles. Order expires on last day of Governor Voinovich's term in office. [1993. Executive Order 93-01V.] Smoking is prohibited in any underground coal or gaseous mine. [Ohio Rev. Code Ann. §1567.65 (Anderson 1996)] Smoking is prohibited on or in any public transportation facility or vehicle. [OH Rev. Code Ann. §2917.41].

## OKLAHOMA

State law prohibits smoking in designated nonsmoking areas in public places, meetings of public bodies, licensed nursing facilities, and child care facilities, including home childcare facilities during hours of operation. Licensed nursing facilities may designate smoking areas for residents and/or for employees if separate. [OK Stat. Tit. 63, §1-1523(A) (1996)]. Smoking and nonsmoking areas shall be designated in public places [Okla. Stat. tit. 63 §1-1524(A) (1996)]; state and local government offices and buildings; public meeting rooms; public conveyances; auditoriums; museums; concert halls; and licensed premises, but exempting separate bar areas and such premises in bowling alleys and racetracks [Okla. Stat. Attn. tit. 63 §1-1523(B)]. Restaurants may have designated smoking and nonsmoking areas or may be designated entirely smoking or nonsmoking [Okla. Stat. tit. 63 §1-1524(A) (1996)]. Exempts areas where prisoners are held in jails and correctional institutions [Okla. Stat. tit. 63 §1-1523(D) (1996)]. Health care facilities and educational facilities may prohibit smoking entirely, or may designate smoking and nonsmoking areas. If an elementary or secondary school designates smoking areas for adult staff, the smoking area must be separately ventilated, and the school must also designate nonsmoking areas [Okla. Stat. tit. 63 §1-1523(B) (1996)]. Local smoking ordinances and penalties are preempted unless provisions are same as state law [Okla. Stat. tit. 63 §1-1527 (1996)]. Smoking is prohibited in elevators and buses. Smoking is prohibited in theaters, libraries, museums, art galleries, and roller rinks, unless in a designated area. {OK Stat. tit. 21, §1247 (1996)}.

## OREGON

Smoking is restricted to designated areas in public places, including restaurants, bowling centers, retail stores, banks, commercial establishments, educational facilities, nursing homes, auditoriums, arenas, meeting rooms and grocery stores. [OR Rev. Stat. §33.845, 433.850 (1995)]. Only cocktail lounges, taverns, offices occupied by smokers, private functions and retail tobacco business may be designated entirely as smoking areas. Restaurants with seating for 30 or fewer persons and those that have air filtration systems meeting standards set by Health Division may also allow smoking throughout the facility. Restaurants and bowling centers may expand or contract size of smoking area to meet demand. [OR Rev. Stat. §33.845, 433.850 (1995)]. Violation by smoker or person in charge is subject to fine or fines totaling up to \$100 in any 30-day period. In state government buildings, Personnel Division sets standards for smoking restrictions, may totally prohibit smoking in employment areas. [OR Rev. Stat. §92.710, 243.350, 441.815 (1995)]. Smoking is restricted in health care facilities; violation by smoker is subject to fine of \$10, violation by hospital administrator is subject to \$100 fine. Smoking in public meetings and in elevators used by public is prohibited, subject to fine of \$10. [OR Rev. Stat. §92.710, 243.350, 441.815 (1995)]. Regulations adopted in 1983 by State Health Division.] Smoking is prohibited in hospital rooms and patient care facilities unless designated. Waiting rooms and lobbies must have non-smoking areas. [OR Rev. Stat. §92.710, 243.350, 441.815 (1995)].

## PENNSYLVANIA

State law prohibits smoking in designated nonsmoking areas. Employers must implement policy on smoking in workplace, but collective bargaining rights are not affected. Restaurants must provide smoking and nonsmoking areas meeting needs of clientele. Persons in charge of other public places (buildings and public conveyances owned or operated by state or local government; other educational or health care facilities; and auditoriums, arenas, theaters, museums or concert halls) must implement policy on smoking. Exempts restaurants with seating for fewer than 75 persons, if policy is posted at entrances; private social functions; factories, warehouses, and similar places of work not frequented by public; bar areas in a licensed establishment; lobbies and hallways; hotel and motel rooms; and, retail tobacconist shops. Violation by smoker or person in charge is subject to fine up to \$50. [35 PA Cons. Stat. §1223.5 (1996)] Law prohibits use of any tobacco products in school buildings or other property owned by or leased to a school district, except that smoking areas may be designated for employees. Tobacco use by pupils is prohibited in schools, on buses, or on school property. [35 PA Cons. Stat. §1230.1 (1996)]. State law preempts and supersedes any local ordinance or rule relating to smoking, except in Pittsburgh. Smoking is prohibited on commuter conveyances operated by Second Class County Port Authorities, except in rail cars that may be designated for smoking, or in other conveyances while being chartered. Violation by smoker is subject to fine of \$50 and court costs [55 Pa. Cons. Stat. §560.1 (1996)] Smoking is prohibited in hospital patient rooms and public areas. Violators are subject to a \$10 fine and the cost of prosecution. [35 Pa. Cons. Stat. §361 (1996)].



## RHODE ISLAND

With respect to workplaces, state law requires employers to implement written policies which accommodate nonsmoking employees or prohibit smoking in areas "where nonsmoking employees may reasonably be expected to be adversely affected by passive cigarette smoke." [R.I. Gen. Laws §23-20.7-5 (1995)] Violation by employer is subject to fine of \$50 to \$500 per day. [Id. §23-20.7-7] These workplace restrictions do not apply to private homes, office spaces rented by a sole independent contractor, and private enclosed workplaces occupied exclusively by smokers (except where prohibited by local ordinance). [Id. §23-20.7-6] With respect to public places, restaurants with seating for 50 or more persons are required to have separate seating for nonsmokers and smokers, and must ask patrons for preferences before seating. [Id. §23-20.6-2] Smoking is limited to designated areas in the state house; in elevators; indoor movie theaters; libraries; art galleries; museums; auditoriums; concert halls; buses; colleges, including dormitories; hallways of elderly housing complexes; public hallways in court buildings; supermarkets; medical offices; hospitals; and primary, secondary or postsecondary school buildings. [Id. § 23-20.6-2] Violation is subject to fine of \$50 to \$500 . Smoking also is restricted in nursing homes, except for residents who may smoke in rooms designated by administration as smoking, in private rooms, or in semi-private rooms when both residents smoke. The smoking rooms must be "ventilated in such a way that the air there shall not enter other parts of the nursing home." [Id. § 23-17.5-26] Signs prohibiting smoking also must be prominently displayed at tents used as a place of assembly. [Id. § 23-28.19-11] Similar signs must be posted in horse stables. [Id. 23-28-31-2] Finally, the Town of East Greenwich has prohibited smoking in all municipal buildings. [Id. § 45-2-42]

Authorizes cities and towns to establish adult designated smoking areas along the state coastline in their community for the purpose of reducing cigarette litter and pollution. [H.B. 6090 OF 1997.]

## SOUTH CAROLINA

South Carolina law provides that it is unlawful to smoke in certain public indoor areas, except where a smoking area has been designated. Regulated spaces include: (1) public schools and preschools, (excluding private offices and teacher lounges which are not adjacent to classrooms or libraries; this exclusion does not apply, however, if a local school board decides otherwise; schools also may be declared smoke-free by local officials); (2) other indoor facilities providing children's services, as specified; (3) health care facilities, except where smoking areas are designated in employee break rooms (however, nothing prohibits a health care facility from being smoke-free); (4) government buildings, except that smoking may be allowed in enclosed private offices and designated break areas; (5) elevators; (6) public transportation vehicles, except taxicabs; and (7) arenas and auditoriums of public theaters or performing art centers (however, smoking areas may be designated in foyers, lobbies or other common areas). [SC Code Ann. §44-95-20 (1996) (as amended by 1996 S.C. Acts 445 §1, effective June 18, 1996)] Smoking is also prohibited on school buses. [Id. §59-67-150]

## SOUTH DAKOTA

State law restricts smoking or the carrying of any lighted tobacco product to areas that may be designated in hospitals, medical clinics, dental clinics, nursing facilities, public libraries, public museums, public indoor theaters, public concert halls, elementary or secondary school buildings, public conveyances, jury rooms, and elevators. This also applies to registered or unregistered day care programs, day care centers, day care cooperatives, or family day care homes during time children who are not family members are receiving care. Violation is a petty offense. State ADAMHA law establishes the state legislature as exclusive regulator of all matters relating to the distribution, marketing, promotion, and sale of tobacco products; state law provides that the state legislature is the exclusive regulator of all matters relating to the use of tobacco products, provided, however, that nothing prohibits a person or a public entity from voluntarily regulating the use of tobacco products on the person or entity's property. [SD Codified Laws §22-36-2, 34-46-6, 10-50-64 (1996)].

## TENNESSEE

Smoking is not permitted in: (1) Child day care centers (i.e., facilities serving 13 or more children for less than 24 hours per day); provided, however, that this restriction does not apply to private homes. Adult staff may smoke in designated areas where children are denied access; if smoking area is indoors, written notification must be provided upon enrollment. (2) Any room or area in a community center while the space is being used for children's activities. (3) Group care homes (i.e., facilities receiving 7 or more children for full-time care); provided, however, that adults smoke in fully enclosed adult residential quarters, but not in the presence of children. (4) Health care facilities, excluding nursing home facilities; provided, however, that adult staff may smoke in designated areas to which children are denied access and outside. (5) Museums (except when used for private functions after-hours when children are not in attendance); provided, however, that adult staff may smoke in designated areas to which children are denied access. (6) All public and private kindergarten, elementary, and secondary schools; provided, however, that adult staff may smoke outdoors, but not within 50 feet of an entrance. Adults also may smoke in any fully enclosed residential quarters, but not in the presence of children. (7) Residential treatment facilities for children and youth; provided, however, that adult staff may smoke in designated areas to which children are denied access. (8) Zoos. (9) Youth Development Centers (10) School grounds; provided, however, that after regular hours, adults may smoke on surrounding property, but not blocking any entrance to any building (such property shall not include any public seating areas, including but not limited to, bleachers or public restrooms). [TN Code Ann. §9-17-1604 (1996)]. State law allows government agencies and public institutions of higher education to establish smoking policies; each policy must protect the rights of smokers and non-smokers, and provide at least one indoor smoking area. [TN Code Ann. §4-4-121 (1996)]. State law occupies and preempts the entire field of legislation concerning the regulation of tobacco products; however, certain local governments, airport authorities, utility districts and special school districts retain residual authority to regulate their facilities. Individual owners and operators of retail establishments in enclosed shopping malls also may establish tobacco use policies [TN Code Ann. §39-17-1551 (1996)].

## TEXAS

State restricts smoking to areas that may be designated in public primary or secondary schools, elevators, enclosed theaters and movie houses, libraries, museums, hospitals, transit system buses, intrastate buses, planes or trains which are public places. Violations are a Class C misdemeanor, but it is a defense that an area did not have a "no smoking" notice prominently displayed (a reasonably sized notice that smoking is prohibited by law and that an offense is punishable by a fine not to exceed \$500). It is also a defense if the area is not equipped with facilities for extinguishment of smoking materials. [TX Penal Code Ann. §48.01 (West 1997)]. Each school district also must: (1) prohibit smoking or the use of tobacco products at a school-related or school sanctioned activity on or off school property; (2) prohibit students from possessing tobacco products at a school-related or school-sanctioned activity on or off school property; and (3) ensure that such policies are enforced. [TX Educ. Code Ann. §38.006 (West 1997)].

## UTAH

Unless otherwise excepted, smoking in all enclosed indoor "places of public access" and publicly owned buildings and offices. "Places of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity (including both public and private, and profit and non-profit) to which persons not employed at the place have "general and regular access" or "which the public uses, including: (1)offices and elevators; (2)means of transportation; (3)restaurants; (4)taverns; (5)malls; (6)libraries and concert halls; (7)barber shops; (8)sports or fitness facilities; (9)common areas of resorts, hotels, and motels; (10)certain childcare facilities; (11)certain schools; and (12)any area where the owner or manager has posted a conspicuous sign stating "no smoking". [UT Code Ann. §26-38-2 (1996)]. Exceptions to this prohibition include: (1)certain private clubs; (2)workplace smoking areas, if in existence pursuant to a workplace policy; (3)guest rooms in hotels and motels; (4)certain taverns; and (5)separate enclosed smoking areas of international airport passenger terminals, if specific requirements are met. [UT Code Ann. §26-38-3.5 (1996)]. grandfather provisions apply to specific adjoining private clubs and public places which were in operation on January 1, 1995. [UT Code Ann. §26-38-4 (1996)]. This detailed regulatory regime "supersedes any ordinance enacted by the governing body of a political subdivision that restricts smoking and that is not essentially identical..." [UT Code Ann. §26-38-6 (1996)]. Another law prohibits smoking on buses, except chartered buses. [UT Code Ann. §76-10-1506 (1996)].

Separately, the Legislature has determined that ETS is an actionable nuisance under specified circumstances. Residential unit rental and purchase agreements may prohibit the generation of tobacco smoke. [UT Code Ann. §§ 57-8-16, 57-22-5, 78-38-.5, 78-38-1 (1997)].

## VIRGINIA

State law requires state and local government buildings to provide reasonable nonsmoking areas; non-public areas of Department of Corrections buildings are exempt. [Va. Code Ann. §15.1-291.2.A (Michie 1996)] Restaurants with seating capacity of 50 or more persons, excluding bar seating and private rooms, must have nonsmoking areas sufficient to meet customer demand. [Id. §15.1-291.2.c] Smoking is prohibited in elevators, except for open freight elevators not used by public; in public school buses; hospital emergency rooms; local and district health departments; polling rooms; indoor service and cashier lines; and in restrooms of state-owned or leased buildings as well as public restrooms in healthcare facilities. [Id. §15.1-291.2.B] Smoking is also prohibited in the interior areas of public elementary, intermediate and secondary schools, except for designated smoking areas in non-common areas to be used after regular school hours as long as all student activities have concluded. [Id.] Smoking is prohibited in the interior of a licensed child day care center that is not also used for residential purposes; "however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited." [Id.] Reasonable nonsmoking areas must be designated in certain educational facilities; health care facilities; retail establishments with 15,000 square feet or more serving the public; and recreational facilities. [Id. §15.1-291.2(D)] Failure by proprietor to post appropriate signs is subject to fine of not more than \$25; a summons may be issued by any law enforcement officer. [Id. §§15.1-291.2.E and G] Retail tobacco stores, tobacco warehouses and tobacco manufacturing facilities are exempt. [Id. §15.1-291.2.H] Designated smoking areas must be separate to the extent reasonably practicable from those areas entered by the public in normal course of using that particular business or institution. [Id. §15.1-291.3.2] Local ordinances adopted before January 1, 1990 may remain in effect; ordinances adopted after this date must prohibit smoking in elevators, common areas of certain schools, restaurant nonsmoking areas, indoor service lines and cashier areas, and school buses and public conveyances. [Id. §15.1-291.4 and 5] Such local ordinances provide for the designation of reasonable non-smoking areas in: public meeting places; places of entertainment and cultural facilities; indoor recreational facilities; restaurants with seating for 50 or more; other public places; certain retail and service establishments. [Id. § 15.1-291.6] Local ordinances may not regulate smoking in bars and lounges; retail tobacco stores; restaurants, conference or meeting rooms, and public and private assembly rooms while they are being used for private functions; office or work areas not entered by general public; common areas of shopping malls; and lobby areas of hotels and motels. [Id. §15.1-291.7] Local ordinances may provide that employers may regulate smoking in the private workplace if designation of smoking and nonsmoking areas is subject of written agreement, and smoking may be totally banned only by affirmative vote of majority of affected employees voting, unless a smoking ban is part of contract of employment. [Id. §15.1-291.8]

**Virginia con't**

Local ordinances may not affect smoking policies previously established by employers. [Id.] Local ordinances may provide a civil penalty of not more than \$25. [Id. §15.1-291.10]



## VERMONT

State law prohibits smoking in the common areas of all enclosed indoor public places of public access and in publicly-owned buildings and offices, except that restaurants, bars, cabarets, hotels and motels may choose to designate all or part of the public areas of the facilities as smoking areas until 7/1/95. After that date, only facilities with "cabaret" licenses may designate smoking areas. [Vt. Stat. Ann. tit. 18, §§1742, 1744 (1995)] "Cabarets" are business which are "devoted primarily to providing entertainment, dancing and the sale of alcoholic beverages to the public and not the service of food" where "the sale of food shall be less in amount or volume than the sales of alcoholic beverages and the receipts from entertainment and dancing." [Vt. Stat. Ann. tit. 7 § 2(5) (1995)] Municipal smoking ordinances may be more "protective of the rights of nonsmokers" than state law. [Vt. Stat. Ann. tit. 18, §1746 (1995)] The state law exempts: (1) certain social, fraternal or religious organizations; (2) designated workplace smoking areas; (3) areas not commonly open to the public of owner-operated businesses with no employees; and (4) other designated smoking areas under Section 1744. [Vt. Stat. Ann. tit. 18, §1743 (1995)] With respect to workplaces, state law requires employers to establish or negotiate through collective bargaining written policies on smoking; school boards are deemed "employers." [Vt. Stat. Ann. tit. 18, §1422 (1995)] Policy may prohibit smoking entirely or restrict it to designated areas. Smoking areas may be unenclosed only "if the layout of the workplace is such that smoking will not be a physical irritation to any nonsmoking employee in the workplace and three-fourths of the employees in the workplace agree." [Vt. Stat. Ann. tit. 18, §1423(a) (1995)] A copy of the smoking policy must be posted in a conspicuous location. [Vt. Stat. Ann. tit. 18 §1424 (1995)] Violation by employer is subject to fine of \$100. [Vt. Stat. Ann. tit. 18, §1426(c) (1995)] Municipal governments are authorized to adopt ordinances that are at least as stringent as state law. [Vt. Stat. Ann. tit. 18, §1428 (1995)]

## WASHINGTON

Regulation prohibits smoking in indoor office workplaces effective 9/1/94. Prohibits smoking, except in designated enclosed smoking rooms that may be provided where nonsmokers are not required to enter. No smoking is allowed in such areas when cleaning or maintenance work is performed. Smoking rooms must be ventilated at a rate of at least 60 cfm; sufficient negative pressure must be maintained to prevent smoke migration to nonsmoking areas; and, separate mechanical exhaust system must exhaust air directly outdoors. Employers must also use engineering or administrative controls to minimize infiltration of smoke from sources outside the buildings. Rule does not preempt any federal, state or local regulations that are more stringent. [Department of Labor & Industries regulation adopted 3/15/94, effective 10/10/94.]

Smoking is restricted to areas that may be designated in places open to the public. [Wash. Rev. Code § 70.160.030 (1995)] No person may smoke in a public place except in designated smoking areas. [Wash. Rev. Code §70.160.030 (1995)] Smoking areas may be designated in: (1) elevators, certain buses, taxis, public areas of retail stores and similar areas; and (2) hallways of health care facilities, with the exception of nursing homes, and lobbies of concert halls, theaters, auditoriums, and similar areas. Except as otherwise provided, no public place--other than a bar, tavern, bowling alley, tobacco shop, or restaurant--may be designated as a smoking area in its entirety. Managers of restaurants who choose to provide smoking areas must designate an adequate amount of seating to meet the demands of smokers. [Wash. Rev. Code §70.160.040 (1995)] Appropriate signs must be posted. [Wash. Rev. Code §70.160.050 (1995)] Violations are subject to a civil fine of up to \$100. [Wash. Rev. Code §70.160.070 (1995)]

Requires each school district board of directors to have a written policy mandating a prohibition on the use of all tobacco products on public school property. The policy shall include a requirement that students and school personnel be notified of the prohibition, the posting of signs prohibiting the use of tobacco products, sanctions for students and school personnel who violate the policy, and a requirement that school district personnel enforce the prohibition. [Wash. Rev. Code § 28A. 210.310 (1997)]

WYOMING

No state laws restrict smoking.



51826 1795

**STATE PROFILE**

**OF**

**CIGARETTE EXCISE TAXES**

**AND**

**EARMARKING**

March 31, 1998

EARMARKED USE OF  
STATE CIGARETTE EXCISE TAXES

States that earmark cigarette tax revenues to special programs may allocate revenues on cents-per-pack basis, by percentages, or by specific annual amounts. Some states take funds for enforcement of tax laws "off the top" of incoming revenues; amounts that are specified as less than 1% are not included here. Current state tax rates are given in cents-per-20-pack.

<u>State &amp; Tax</u>	<u>Amount</u>	<u>Current Uses</u>
<b>ALABAMA</b>	30.30%	Special Education
16.5 cents	21.21%	Debt Retirement and Mental Health
	6.06%	Welfare
	6.06%	State Parks
	36.37%	General Fund
 <b>ALASKA</b>	5 cents	School Facilities
\$1.00	24 cents	General Fund
	71 cents	Children's Health Program Account
 <b>ARIZONA</b>	2 cents	Corrections
58 cents	3.5 cents	School Aid
	12.5 cents	General Fund
	40 cents	Tobacco Tax & Health Care Fund
	- 70%	-Indigent medical care/Health Crisis Fund
	- 23%	-Tobacco use prevention
	- 5%	-Research/treatment "tobacco-related diseases"
	- 2%	-Adjustment to Dept of Corrections
		[Actual amounts are subject to annual appropriation]

ARKANSAS  
34 cents

\$3 million.....Elderly Transportation  
2.5 cents.....General Revenue(10%), Breast Cancer  
(not yet collected) Research & Control Funds(90%)  
Remainder.....General Fund (but 1992's 9.5-cent  
permanent increase was "designed" to fund  
Medicaid)

CALIFORNIA  
37 cents

25 cents.....Prop 99 Programs  
- 45% Indigent Health Care  
- 20% Anti-Tobacco Education  
- 5% Tobacco-Related Research  
- 5% Public Resources  
- 25% Any of Above Programs  
[Actual amounts are subject to  
appropriation]  
10 cents.....General Fund  
2 cents.....Breast cancer prevention and treatment

COLORADO  
20 cents

As required.....Old Age Pension Fund  
27%.....Cities & Counties  
Remainder.....General Fund

CONNECTICUT  
50 cents

100%.....General Fund

DELAWARE  
24 cents

100%.....General Fund

DISTRICT of  
COLUMBIA  
65 cents

100%.....General Fund

FLORIDA  
33.9 cents

41.1%.....Local Government Aid  
29.3%.....Indigent Health Care  
Remainder.....General Fund

GEORGIA  
12 cents

100%.....General Fund

HAWAII  
80 cents/\$1.00 (7/1/98)

100%.....General Fund

IDAHO  
28 cents

5 cents.....Substance abuse education in public schools  
5 cents.....County juvenile probation services  
(until 7/1/97, then to school substance abuse education above)  
43.3% of 18 cents.....Building Fund  
6.7%.....Water Pollution  
2.5%.....Cancer Control  
1.0%.....Tumor Registry  
Remainder.....General Fund

ILLINOIS  
58 cents

1 cent.....Fair & Exposition  
\$108 million.....Common School Fund  
Remainder of \$300 million minus above....General Fund  
\$114,540,000.....Long-term Care Provider Fund  
Remainder.....Hospital Provider Fund  
14 cents.....School Financing Package



INDIANA  
15.5 cents

29.0%.....Pension Fund  
15.1%.....Local Government Aid  
7.5%.....Natural Resources  
3.2%.....Mental Health Centers  
45.2%.....General Fund (appropriations  
made to WIC and similar  
programs for 1988-93)

IOWA  
36 cents

100%.....General Fund

KANSAS  
24 cents

100%.....General Fund

KENTUCKY  
3 cents

0.5 cents.....Tobacco Research Center  
0.1 cents.....Dept of Agriculture's Youth Tobacco  
Enforcement Program (in cooperation  
with Alcoholic Beverage Control)  
2.4 cents.....General Fund

LOUISIANA  
20 cents

75%.....Local Government Aid  
(includes \$1 million to  
Louisiana State University)  
25%.....General Fund (includes  
\$1 million to Cancer & Lung  
Trust Fund)

MAINE  
74 cents

100%.....General Fund

MARYLAND  
36 cents

23%.....Local Government Aid  
77%.....General Fund

0081 9285

MASSACHUSETTS

76 cents

25 cents.....Health Protection Fund  
 [Includes anti-tobacco programs and health care, insurance for uninsured children; amounts subject to appropriation]

40% of excess of  
 \$169.8 million.....Local Government Aid

19.23% remainder.....Highway Fund

80.77% remainder.....General Fund

MICHIGAN

75 cents.

19 cents.....General Fund

3 cents.....Wayne County deficit reduction;  
 county governments

2 cents.....Public Schools

1 cent.....Local Public Health

50 cents.....Public Education

6% all tobacco revenue...Health Care

MINNESOTA

48 cents

2 cents.....Natural Resources

As needed.....Debt Retirement

Remainder.....General Fund  
 [From 7/1/92 through 12/31/93, 5 cents was earmarked to health care access]

MISSISSIPPI

18 cents

100%.....General Fund

MISSOURI

17 cents

4 cents.....Health Care

13 cents.....Public Schools

MONTANA

18 cents

88.89%.....Building Fund

11.11%.....Veterans Facilities



NEW MEXICO  
21 cents

9.5%.....Local Government Aid  
4.75%.....Local Recreation Fund  
4.75%.....Cancer/Health Research  
7.125%.....University Cancer Center  
Remainder.....General Fund

NEW YORK  
56 cents

\$2,500,000.....Cigarette Tax Enforcement Fund/  
Youth Smoking Awareness Account  
Remainder.....General Fund

NORTH CAROLINA  
5 cents

100%.....General Fund

NORTH DAKOTA  
44 cents

3 cents.....Local Government Aid  
Remainder .....General Fund

OHIO  
24 cents

100%.....General Fund

OKLAHOMA  
23 cents

5 cents.....Building Fund  
Remainder.....General Fund

OREGON  
68 cents

61 cents.....General Fund  
2.35 cents.....Cities/Counties/DoT (each)  
(31.67 cents of General Fund monies goes to state health  
plan; 3.52 cents of General Fund monies earmarked for  
Tobacco Use Reduction Fund)

PENNSYLVANIA  
31 cents

2 cents.....Children's Health Care  
2 cents.....Farmland Preservation  
Remainder.....General

Fund

RHODE ISLAND 71 cents	100%.....General Fund
SOUTH CAROLINA 7 cents	100%.....General Fund
SOUTH DAKOTA 33 cents	100%.....General Fund
TENNESSEE 13 cents	96%.....Education 4%.....Collection/Enforcement
TEXAS 41 cents	Unknown.....Education Remainder.....General Fund [earmarking of 2 cents per pack to State & Local Parks expired 9/1/95]
UTAH 51.5 cents	\$250,000.....Tobacco/substance abuse prevention and control media campaign Remainder.....General Fund
VERMONT 44 cents	24 cents.....Health Care Access Fund 20 cents.....General Fund
VIRGINIA 2.5 cents	100%.....General Fund
WASHINGTON 82.5 cents	10.5 cents.....Alcohol/Drug Abuse 8 cents.....Water Quality 40 cents.....Health care +1 cent effective 7/1/96 Remainder.....General

Fund

WEST VIRGINIA  
17 cents

100%.....General Fund

WISCONSIN  
59 cents

100%.....General Fund

WYOMING  
12 cents

74.5%.....Local Government Aid  
25.5%.....General Fund

1950

1951



51826 1806

**STATE PROFILE**  
**OF**  
**EMPLOYMENT DISCRIMINATION**

51826 1807



ARIZONA

State law prohibits discrimination by state government employers against employees or other persons "on the basis of the use or nonuse of tobacco products." [1991. Chapter 284. Section 36-601.02.]

CONNECTICUT

State prohibits employers from requiring as a condition of employment that employee or prospective employee refrain from smoking or using tobacco products outside course of employment, or otherwise discriminating against an individual with respect to compensation, terms, conditions or privileges of employment for smoking or using tobacco products outside course of employment. Exempts nonprofit organization or corporation whose primary purpose is to discourage use of tobacco by the general public. Also exempts municipal hiring practices or collective bargaining agreements involving paid firefighters and paid police officers. [1991, Public Act No. 91-271. New Section.]

DELAWARE

Governor's Executive Order restricts smoking in state-owned or operated facilities but provides that executive branch employees may not be discriminated against as a result of smoking habits. [1989, Executive Order, Governor Michael N. Castle.]

LOUISIANA

State law prohibits discrimination with respect to discharge, compensation, promotion, any personnel action or other condition, or privilege of employment because an individual is a smoker or nonsmoker, so long as the employee complies with applicable law or any adopted workplace policy regulating smoking. Prohibits requiring, as a condition of employment that an individual abstain from smoking or using tobacco products outside course of employment. [R.S. 23:966. 1991, Act 762, effective 9/6/91.]

MAINE

State law prohibits employers from requiring as a condition of employment that an employee or prospective employee refrain from using tobacco products outside the course of employment, or otherwise discriminating with respect to compensation, terms, conditions or privileges of employment for using tobacco products outside the course of employment, so long as the employee complies with any workplace policy concerning use of tobacco. [1991, Chapter 366. Title 26, Section 597.]

NEW HAMPSHIRE

Effective 1/1/92, state law prohibits employers from requiring as a condition of employment that employees or applicants abstain from using tobacco products outside course of employment, so long as they comply with any workplace policy. [1991, Chapter 274. RSA 275:37-a.]

## NEVADA

State law prohibits discrimination in hiring, discharge or conditions of employment because an individual "engages in the lawful use in this state of any product outside the premises of the employer during his nonworking hours, if that use does not adversely affect his ability to perform his job or the safety of other employees." [1991, Chapter 359. New section in Chapter 613 of NRS.]

State law requires designation of smoking areas in buildings or offices occupied by state or local governments or University of Nevada System (other than school district buildings) and in restaurants with seating for 50 or more persons. Although county boards of health are charged with enforcing state smoking laws, local governments may not impose more stringent restrictions on smoking of tobacco. [1989, Senate Bill 25; 1991, Chapter 248 and Chapter 259. NRS 202.249 and 202.2491.]

RHODE ISLAND

State law prohibits employers from requiring as a condition of employment that an employee or prospective employee refrain from smoking or using tobacco products outside course of employment, or otherwise discriminating against employee with respect to compensation, terms, conditions, or privileges of employment for smoking or using tobacco products outside course of employment. Exempts any non-profit organization which as one of its primary purposes or objectives discourages use of tobacco products by general public. [1990, House Bill 8768. Section 23-20.7.1-1.]



51826 1816

**STATE PROFILE**  
**OF**  
**ASHRAE STANDARDS**

51826 1817

## CONNECTICUT

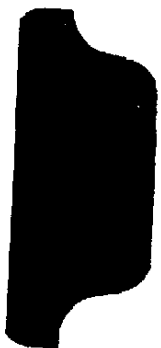
State legislature mandated a study of the need and feasibility of heating, air conditioning and ventilation standards for places of business and buildings owned or leased by state. Study is to be undertaken by Commissioner of Labor in consultation with Commissioner of Health Services. Report to Joint Committee on Labor & Public Employees is due by 2/1/92. [1991, Special Act 34.]

## MAINE

State law requires buildings occupied by state government employees to meet ASHRAE 1989 minimum ventilation standards, with certain exceptions. [1988, Chapter 733. Title 5, Section 1742-24.] School buildings are also required to meet ventilation standards. [1991, Chapter 181. Title 20-A, Section 6302]

## NEW HAMPSHIRE

State government buildings constructed or acquired after 1/1/89 are required to meet standards for clean indoor air as set by Division of Public Health Services in consultation with Department of Labor. [1988, Senate Bill 269. RSA Chapter 10-A.]



51826 1819

**STATE PROFILE**  
**OF**  
**INGREDIENTS LEGISLATION**

51826 1820

## MASSACHUSETTS

Massachusetts has proposed regulations covering ingredients disclosure and nicotine yield rating. Under the ingredient disclosure provisions, tobacco manufacturers would be required, in an annual report, to identify any added constituent other than tobacco, water, or reconstituted tobacco sheet made wholly from tobacco. Information in the annual report may be made public if the Department of Health determines that there is reasonable scientific basis for concluding that the availability of the information could reduce risks to the public health, and if the Attorney General advises the Department that such disclosure would not constitute an unconstitutional taking. These provisions have been stayed by the trial court hearing the industry's challenge to the regulations.

Separately, the regulations establish a nicotine yield rating which is a composite of information intended to show the range of nicotine that a cigarette brand can be expected to provide to the average consumer. A similar requirement applies to smokeless tobacco products. These regulatory provisions went into effect on December 15, 1997. [M.G.L., Chapter 94, Section 307B.]

## MINNESOTA

State law requires each manufacturer of tobacco products sold in Minnesota to provide the Commissioner of Health with an annual report, either on paper or by electronic means, identifying, for each brand of such product, any of the following substances present in detectable levels in the product in its unburned state, and if the product is typically burned when consumed, in its burned state:

- (1) ammonia or any compound of ammonia;
- (2) arsenic;
- (3) cadmium;
- (4) formaldehyde; and
- (5) lead.

The form for annual reports under this section is not a rule for purposes of Chapter 14, including section 14.386.

Upon request, the Commissioner shall provide a local government unit with a copy of reports filed under this section to assist in the enforcement of local ordinances.

Reports under this section are public data.

[Minnesota H.F. 117 of 1997]

## TEXAS

Requires each tobacco manufacturer to file with the department an annual report for each cigarette or tobacco product distributed in the state, stating: 1) the identity of each ingredient in the cigarette or tobacco product, listed in descending order according to weight, measure, or numerical count, other than tobacco, water, or a reconstituted tobacco sheet made wholly from tobacco; and, 2) a nicotine yield rating for the cigarette or tobacco product. Does not require a manufacture to disclose the specific amount of any ingredient in a cigarette or tobacco product if that ingredient has been approved as safe when burned and inhaled by the United States Food and Drug Administration or successor entity. The department by rule shall established the time for filing an annual report.

Each manufacturer shall assign a nicotine yield rating to each cigarette or tobacco product distributed in this state. The rating shall be assigned in accordance with standards adopted by the department. The department standards must be developed do that the nicotine yield rating reflects, as accurately as possible, nicotine intake for an average consumer of the cigarette or tobacco product.

Provides that the information in and report filed under this law is public information and is not confidential unless it is determined to be confidential. The department may not disclose information until the department has obtained the advice of the attorney general with respect to the particular information to be disclosed. If the attorney general determines that the disclosure of particular information would constitute an unconstitutional taking of property, the information is confidential and the department shall exclude that information from disclosure. Information included in a report filed is confidential if the department determines that there is no reasonable scientific basis for concluding that the availability of the information could reduce risks to public health. Information included in a report filed is confidential if the information would be excepted from public disclosure as a trade secret under state or federal law.

A district court, on petition of the department and on a finding by the court that a manufacturer has failed to file the report required by law may by injunction: 1) prohibit the sale or distribution in this state of a cigarette or tobacco product manufactured by the manufacturer; or 2) grant any other injunctive relief warranted by the facts.

The attorney general shall institute and conduct a suit authorized by this section at the request of the department and in the name of the state. A suit for injunctive relief must be brought in Travis County. [H.B. 119 OF 1997]