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\$9.47  
PER PACK  
WHEN YOU BUY 2

100  
POINTS  
WITH EVERY  
STAMPED PACK

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REWARDS  
**ENROLL TODAY**  
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POINTS  
WITH EVERY  
STAMPED PACK

WARNING: This product contains nicotine.  
Nicotine is an addictive chemical.  
SATISFACTION  
ANYTIME ANYWHERE  
**on!** NICOTINE POUCHES  
2mg | 4mg | 8mg

CLASSIC FLAVOR

RICH SMOOTH FLAVOR

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TOBACCO.  
WATER.  
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WHERE BOLD  
FLAVOR IS

BUY 1 GET 1  
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\$4.99  
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# BEST PRACTICES FOR TOBACCO RETAIL LICENSING ENFORCEMENT



# THE PUBLIC HEALTH LAW CENTER



# LAND ACKNOWLEDGEMENT

We acknowledge our presence in the tribal and treaty homelands of the Dakota Oyate since time immemorial. These lands are home to the Sisseton, Wahpeton, Mdewakanton and Wahpekute Dakota peoples. There are four Tribal Nations who remain in these lands as tribal governments, the Lower Sioux Indian Community, the Prairie Island Indian Community, the Shakopee Mdewakanton Sioux Community, and the Upper Sioux Community. We acknowledge and respect the Dakota Oyate as part of the larger Sioux Nation, traditionally known as the Seven Council Fires, the Oceti Sakowin. We also acknowledge the regional territory of the Ojibwe/Chippewa/Anishinaabe peoples in these tribal homelands. There are seven Tribal Nations who remain in these lands as tribal governments, the Bois Forte Band of Chippewa, the Leech Lake Band of Ojibwe, the Fond du Lac Band of Lake Superior Chippewa, the Grand Portage Band of Lake Superior Chippewa, the Mille Lacs Band of Ojibwe, the Red Lake Band of Chippewa Indians, and the White Earth Nation. We also acknowledge the ancestral connection of the Ho-Chunk Nation to this region. In these tribal lands, Indigenous peoples have joined together in community, stewardship, and spirituality upholding traditional values and legal principles.

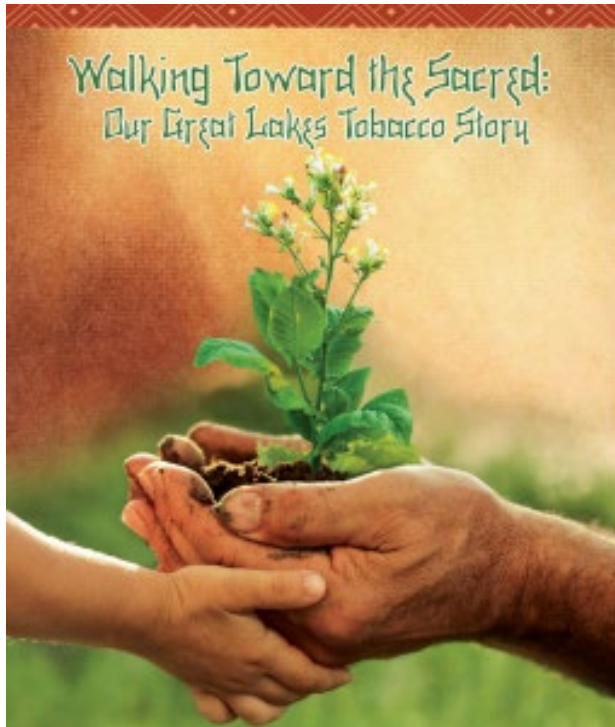
Developed by:

**Native American Law and Sovereignty Institute (NALS Institute)**

at Mitchell Hamline School of Law, used here with permission.

<https://mitchellhamline.edu/native-american-law-and-sovereignty/>

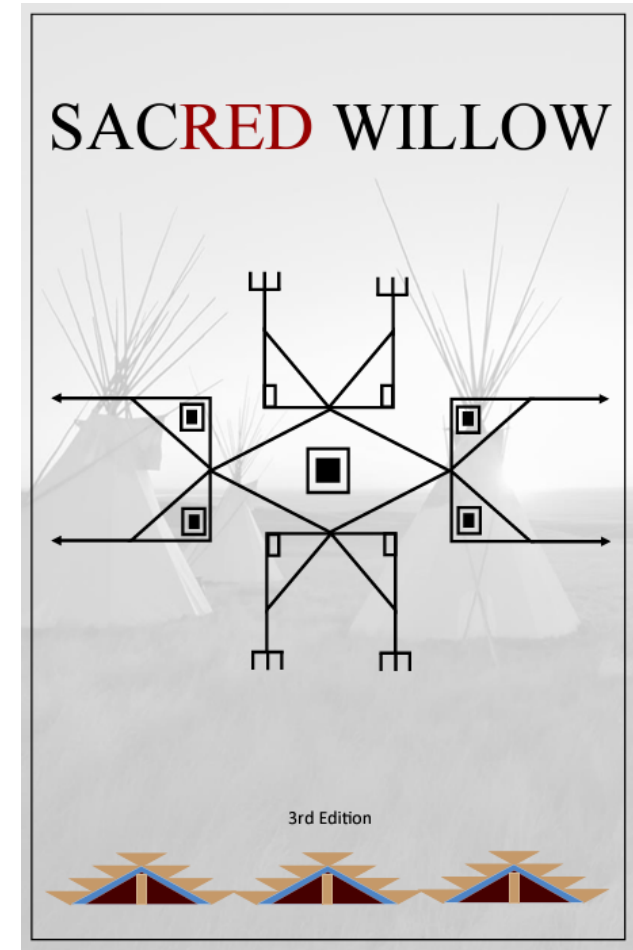
# COMMERCIAL TOBACCO IS NOT TRADITIONAL TOBACCO



[Resource: Walking Toward the Sacred](#)



Top: Red Willow, Sacred Willow Publication.  
Bottom: *Nicotiana rustica*, Solanaceae, Mapacho, flower.  
Botanical Garden KIT, Karlsruhe, Germany. Wikimedia Commons.



[Resource: Sacred Willow](#)



**EQUALITY:**

Everyone gets the same – regardless if it's needed or right for them.









**EQUITY:**

Everyone gets what they need – understanding the barriers, circumstances, and conditions.



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# LEGAL TECHNICAL ASSISTANCE

-  Legal Research
-  Policy Development, Implementation, Defense
-  Publications
-  Trainings
-  Direct Representation
-  Lobby

# **YOUR MODERATOR AND PRESENTER**

**Julie Amajuoyi, J.D.**



**Rachel Callanan, J.D.**





# ENFORCEMENT BEST PRACTICES

## PLAN & PREPARE

Pre-enactment or amendment of an ordinance



## PROVISIONS

Enforcement-related provisions included in the ordinance



## SUSTAIN

Post-enactment and ongoing support for retailers

# STATE AND LOCAL TRL ENFORCEMENT FOCUS

## NOT FOCUSING ON:



Home / Tobacco Products / Compliance, Enforcement & Training

### Compliance, Enforcement & Training

Subscribe to Email Updates   [Share](#)   [Post](#)   [LinkedIn](#)   [Email](#)   [Print](#)

## [FDA Enforcement of Federal Tobacco Regulations](#)



## [SAMHSA's Synar Program Inspections](#)

# CAVEATS



Check state and local laws



This webinar and content are not legal advice.





# PLAN & PREPARE: PRE-ENACTMENT OR ADOPTION OF AN ORDINANCE



# **PLAN & PREPARE:** **IDENTIFY RETAILERS, OUTREACH, EDUCATION, NOTICE**

- Identify all commercial tobacco retailers in the jurisdiction (city/county administrator, business licensing)
- Conduct outreach and education for retailers
- Identify and follow procedural requirements for new or amended ordinances (notice, hearings, etc.)



# ENFORCEMENT BEST PRACTICE – EDUCATION FIRST: THIS IS OUR WATCH



## FDA Educational Program

- Voluntary Program
- Toolkit of Resources for Retailers



# PLAN & PREPARE: PLANNING FOR ENFORCEMENT

- Identify who will be in charge of enforcement
  - Local public health, licensing department, law enforcement, outside contractor
- Plan for enforcement protocol for all aspects of the ordinance
  - Minimum legal sales age
  - Flavor prohibition
  - Coupon/price promotion restriction
  - Minimum clerk age
- Use the license fee worksheet or calculator to quantify costs of enforcement

# PLAN & PREPARE: CALCULATE APPROPRIATE FEES

- Covers all cost of licensing
- Administration
  - Licensing applications and renewals
  - Retailer education
  - Compliance checks and inspections
  - Enforcement and penalties
    - Alternative penalties
  - Misc. costs—notices and publications

[PHLC Resource: Tobacco Retail Licensing Calculator](#)



[PHLC Resource: Retail License Fees](#)

# PHLC ONLINE FEE CALCULATOR & EXCEL WORKSHEET

Category	Description/Examples	DETAILED option (staffing)	SIMPLIFIED option (staffing)
<b>Licensing Program Applications and Renewals</b>			
<b>Staffing costs</b>	<i>Staff training, drafting and reviewing license applications, conducting background checks, issuing licenses</i>		\$
Staff training		\$ -	
Developing, updating and reviewing license applications		\$ -	
Conducting background checks		\$ -	
Developing and updating protocols and communications		\$ -	
Entering data in and maintaining database of tobacco retailers; running monthly reports		\$ -	
Monitoring license expirations		\$ -	
Verifying tobacco retailer information		\$ -	
Reviewing and signing applications		\$ -	
Preparing reports, communicating with City/County Staff		\$ -	
Maintaining financial records		\$ -	
	<b>Staffing subtotal</b>	\$ -	
<b>Equipment and supplies</b>	<i>Paper, computers, printing</i>	\$ -	\$
<b>Printing and mailing</b>	<i>USB drives, envelopes, paper, postage</i>	\$ -	\$
<b>Meeting costs</b>	<i>Non-staff costs associated with meetings specific to the application and renewal process</i>	\$ -	\$
<b>Processing payments</b>	<i>Non-staff costs associated with implementing a system to process fees (licensing and administrative)</i>	\$ -	\$
<b>Filing and recordkeeping/ database development</b>	<i>Database IT development and maintenance of database and reporting systems</i>	\$ -	\$
<b>Other costs</b>		\$ -	\$
	<b>Licensing Program Apps and Renewals</b>	\$ -	\$
<b>Mandatory Retailer Education</b>			
<b>Staffing costs</b>	<i>Costs associated with educational meetings and resource development</i>		
Developing/updating educational materials			\$ -
Scheduling and confirming educational presentations			\$ -
	<b>Staffing subtotal</b>		\$ -
<b>Resource development</b>	<i>Non-staffing related costs associated with developing FAQs and information packets for retailer education</i>		\$ -
<b>Printing and mailing</b>	<i>USB drives, envelopes, paper, postage, printing, etc. for application packets, educational resources, and physical Tobacco Retailer License to be displayed by retailers</i>		\$ -
<b>Meeting costs</b>	<i>Costs associated with mandatory meetings, including food, beverages, and any rental costs</i>		\$ -
<b>Filing and recordkeeping</b>	<i>Costs associated with tracking, filing, and recording status of retailer education</i>		\$ -
<b>Other costs</b>			\$ -
	<b>Mandatory Retailer Education</b>		\$ -
<b>Compliance Checks and Inspections</b>			
<b>Staffing costs</b>	<i>Costs associated with elements of compliance checks and inspections (employees and independent contractors)</i>		
Conducting site visits			\$ -
Developing and updating protocols and communications			\$ -
Recruiting compliance check volunteers and training decoys and/or chaperones			\$ -
Preparing data collection forms and routes, reserve vehicles			\$ -
Training and coordinating with enforcement agency			\$ -
Conducting undercover buy operations			\$ -
Entering data and maintaining records for			\$ -





# PROVISIONS: ENFORCEMENT-RELATED PROVISIONS INCLUDED IN THE ORDINANCE



# MODEL COMMERCIAL TOBACCO RETAIL LICENSING ORDINANCES

## MINNESOTA COUNTY TOBACCO RETAIL LICENSING

### Model Ordinance



Through licensing and related regulations, Minnesota counties have the opportunity to address the sale of commercial\* tobacco and related devices and products in the retail environment.

This model ordinance includes all the minimum retail tobacco sales restrictions required by Minnesota state and federal law. It also includes several additional provisions a county may choose to adopt to further advance public health. A county planning to adopt this model ordinance, in whole or in part, should first review it with a county attorney to determine suitability for the county's circumstances. While the model ordinance language can be modified by adding or omitting content concerning activities that a county does or does not seek to regulate, doing



### [Minnesota County Model Ordinance](#)

## COMPREHENSIVE TOBACCO RETAILER LICENSING ORDINANCE

### Introduction

This Comprehensive Tobacco Retailer Licensing Ordinance was prepared to assist California cities and counties interested in establishing or strengthening a local tobacco retailer licensing ("TRL") program and further regulating the tobacco retail environment. Communities adopt TRL laws to ensure compliance with local business standards, reduce youth access to tobacco products, limit the negative public health and equity impacts associated with tobacco use, and enforce local, state, and federal tobacco control laws.

The Public Health Law Center revised and updated this 2020 model ordinance, which was originally developed by ChangeLab Solutions and released in 2018. The Center acknowledges the excellent work done by ChangeLab Solutions in creating the original ordinance. This revised model ordinance takes a comprehensive approach to regulating the sale of tobacco products and the tobacco retail environment. It builds on core provisions such



as requiring a local tobacco retailer license by incorporating several innovative policy options. It also reflects changes to state and federal tobacco control laws such as Tobacco 21 and the federal Food and Drug Administration's ("FDA") Deeming Rule that expands the FDA's regulatory

### [California Model Ordinance](#)

## COMPREHENSIVE TOBACCO RETAILER LICENSING

### Model Ordinance



This Comprehensive Tobacco Retailer Licensing Ordinance was prepared to assist New York municipalities and counties interested in establishing or strengthening a local commercial tobacco\* retailer licensing ("TRL") program and further regulating the tobacco retail environment.

Communities adopt TRL laws to ensure compliance with local business standards, reduce youth access to tobacco products, limit the negative public health and equity impacts associated with tobacco use, and enforce local, state, and federal tobacco control laws.

<sup>1</sup> The Public Health Law Center recognizes that traditional and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous and tribal communities for centuries. Commercial tobacco is manufactured with chemical additives for recreational use and profit, resulting in disease and death. For more information, visit <http://www.keepsacred.itcmi.org>. When the word "tobacco" is used throughout this document, a commercial context is implied and intended.



### [New York Model Ordinance](#)

# ENFORCEMENT-RELATED COMMERCIAL TOBACCO: RETAIL LICENSING PROVISIONS

- Licensing fee
- Require instruction for clerks and employees
- Specify which city/county department is responsible for compliance checks and inspections

ORDINANCE NO. [ \_\_\_\_\_ ]

AN ORDINANCE REGULATING THE SALE OF  
TOBACCO AND RELATED DEVICES AND PRODUCTS  
WITHIN [ \_\_\_\_\_ ] COUNTY, MINNESOTA

THE COUNTY BOARD OF  
[ \_\_\_\_\_ ] COUNTY DOES ORDAIN:

Section 1. Findings of Fact and Purpose.	5
Section 2. Applicability and Jurisdiction.	6
Section 3. Definitions.	7
Section 4. License.	10
Section 5. Fees.	16
Section 6. Basis for Denial of License.	17
Section 7. Prohibited Sales.	18
Section 8. Responsibility.	24
Section 9. Compliance Checks and Inspections.	24
Section 10. Exceptions and Defenses.	26
Section 11. Violations and Penalties.	26
Section 12. Severability.	29
Section 13. Effective Date.	29

# ENFORCEMENT-RELATED COMMERCIAL TOBACCO: RETAIL LICENSING PROVISIONS

- Limit the number of licensees through caps or proximity restrictions (fewer stores to inspect)
- Require sales age/age verification signage and provide signage to retailers for free
- Comprehensive compliance checks and inspections
- Require penalties that focus on the acts of the retailer

ORDINANCE NO. [ \_\_\_\_\_ ]

AN ORDINANCE REGULATING THE SALE OF  
TOBACCO AND RELATED DEVICES AND PRODUCTS  
WITHIN [ \_\_\_\_\_ ] COUNTY, MINNESOTA

THE COUNTY BOARD OF  
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Section 13. Effective Date.	29



# LIMIT THE NUMBER OF LICENSEES



- Limit the number of licenses issued for retailers (capping)
- Limit proximity to other retailers
- Limit proximity to youth-oriented facilities
- Limit proximity to residential zones

[PHLC Resource: Regulating the Location, Density, and Type of Tobacco Retailers](#)

# STORE SIGNAGE

## NO SALE



The Sale of all Tobacco Products, Including Electronic Delivery Devices, to Persons Under **21** Is Prohibited and subject to penalty.

IDs will be checked by vendor.

MINNESOTA STATUTES 144.4167, 609.685, 609.6855, 461.22



**WE DO NOT ACCEPT COUPONS OR DISCOUNTS FOR ANY TOBACCO OR VAPE PRODUCTS**



Ordinance 324 prohibits price discounts and the redemption of coupons for any tobacco or vape products in the City of Saint Paul

# COMPREHENSIVE COMPLIANCE CHECKS

- Require at least one underage sales compliance check per year, per retailer
- Multiple compliance checks and inspections are a best practice
  - Require 2 or more annual inspections
  - Require a follow up check/inspection after any violations to verify compliance





# **ENFORCEMENT FOCUSED ON RETAILERS: RETAILER RESPONSIBILITY PROVISION**

## Section 7. Responsibility.

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee.



# ENFORCEMENT FOCUSED ON RETAILERS PENALTIES

Penalty provisions primarily focus on the acts of the retailer

- Retailer penalties
  - Civil fines
  - License suspension or revocation
- If clerks are penalized, then retraining should be the penalty instead of a fine
- Do not allow penalties for underage purchase/use/possession (PUP)



Photo credit: Nina Gregerson Wis. 2016

# ENFORCEMENT BEST PRACTICES: AVOIDING PURCHASE, USE, POSSESSION PENALTIES

- Can result in discriminatory enforcement
- Fines can be more difficult to afford
- Citations can lead to other consequences







# SUSTAIN: POST-ENACTMENT AND ONGOING SUPPORT FOR RETAILERS



# POST-ENACTMENT AND ONGOING SUPPORT: RETAILER EDUCATION

- Proactive outreach for retailer education—make resources easy to find and offer assistance
- Send letter outlining any new provisions and plain language description of all requirements of the ordinance with a copy of the ordinance
- Specify implementation date

[Benton County Implementation Guide DRAFT \(ansrmn.org\)](https://ansrmn.org)

## Compliance guide for Benton County's amended tobacco chapter 475

*Information regarding amended chapter 475, to include but not limited to: restriction on the sales of flavored tobacco products, and changes in penalties for violations*

As of January 1, 2023 the following change to Benton County's tobacco ordinance will take effect:

- The sale of flavored tobacco products (including menthol) is only allowed at Tobacco Products Shops (700.03-A)
- Penalties for violations of the tobacco ordinance are increased (1200.01)

Details and examples of these changes are listed below:

### Types of Licenses and Restrictions on Flavored Tobacco Sales

There are two classes of licenses to sell tobacco. A "Tobacco Shop" license and a "Retail Establishment" license. A Retail Establishment license may not sell flavored tobacco or flavored vaping products.

**RETAIL ESTABLISHMENT**  
(Includes convenience stores,  
grocers, and liquor stores)

Less than 90% of sales are of tobacco products

 **ALLOWED**



Non-flavored tobacco and vaping products

 **NOT ALLOWED**

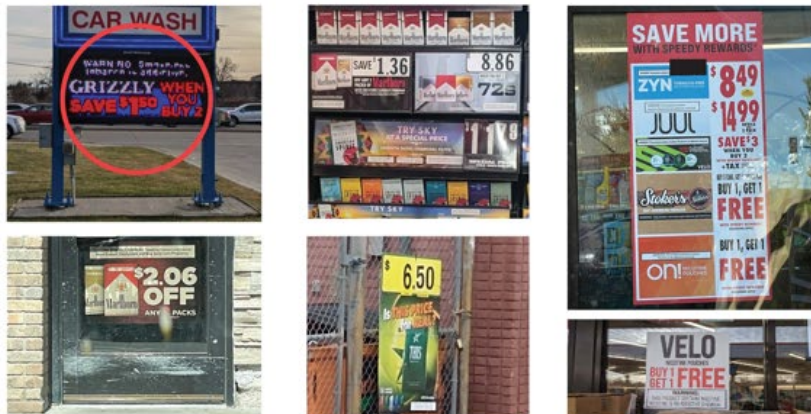


Flavored tobacco and vaping products, including menthol

## Price Promotions Not Allowed

The use of price promotions (e.g. \$1 off or buy 2 get 1 free) for all tobacco and vaping products is not allowed. This does not prohibit communication of pricing information.

### NOT ALLOWED



## Coupons Not Allowed

The use of coupons for all tobacco and vaping products is not allowed.

### NOT ALLOWED




## Minimum Price of Cigars


The sales of packs of cigars in less than seven is prohibited unless the price of each cigar is at least \$2.60. A pack of six or more cigars must be sold for at least \$15.60. If you sell cigars in Benton County, cigars must be sold at the following prices:



**1 Cigar** for at least \$2.60 plus sales tax



A pack of **2 cigars** for at least \$5.20 plus sales tax



A pack of **3 cigars** for at least \$7.80 plus sales tax

- A pack of 4 cigars for at least \$10.40 plus sales tax
- A pack of 5 cigars for at least \$13.00 plus sales tax
- A pack of 6 or more cigars for at least \$15.60 plus sales tax

## Penalties

The penalty matrix reflects current Benton County ordinance language (1200.01).

- **First Violation:** \$500 penalty
- **Second violation within 36 months:** \$1,000 penalty
- **Third Violation within 36 months:** \$1500 penalty and suspension for not less than 30 consecutive days and may be revoked
- **Fourth Violation:** License revocation

# POST-ENACTMENT AND ONGOING SUPPORT: RETAILER EDUCATION

- Web-based resources:
  - Consider an easy to find “landing page” for commercial tobacco retailer information
  - Post easy to read resources online:
    - Link to the ordinance
    - Overview of licensing requirements in easy-to-read format
    - Contact information for any follow up questions
- Host a webinar explaining the requirements and post as a recording online



# BEST ENFORCEMENT PRACTICES: NEW YORK CITY RETAILER EDUCATION TOOLKIT

## Education Toolkit for Tobacco and E-Cigarette Retailers

- [Commissioner Letter](#) (PDF)  
This letter includes information in Spanish, Arabic, Bengali, Korean, Hindi, Simplified Chinese and Traditional Chinese.
- [Overview of Major NYC and NYS Tobacco Laws](#) (PDF)  
Other Languages: [Español](#) | [繁體中文](#) | [简体中文](#) | [العربية](#) | [한국어](#) | [বাংলা](#) | [हिन्दी](#)
- [NYC and NYS Underage Violation Penalties](#) (PDF)  
Other Languages: [Español](#) | [繁體中文](#) | [简体中文](#) | [العربية](#) | [한국어](#) | [বাংলা](#) | [हिन्दी](#)
- [Public-Facing Tobacco Laws Poster](#) (PDF)  
Other Languages: [Español](#) | [繁體中文](#) | [简体中文](#) | [العربية](#) | [한국어](#) | [বাংলা](#) | [हिन्दी](#)
- [Is Your Customer Old Enough to Buy Tobacco Products?](#) (PDF)  
Other Languages: [Español](#) | [繁體中文](#) | [简体中文](#) | [العربية](#) | [한국어](#) | [বাংলা](#) | [हिन्दी](#)
- [Get Certified: Training for Businesses that Sell Tobacco](#) (PDF)  
Other Languages: [Español](#) | [繁體中文](#) | [简体中文](#) | [العربية](#) | [한국어](#) | [বাংলা](#) | [हिन्दी](#)
- [NYC Age Restriction Sign](#) (PDF)
- [Tax Stamp Sign](#) (PDF)

## In Accordance With New York State and New York City Laws, This Store Will:



Only sell e-cigarette products **if they are tobacco-flavored or unflavored.**



Only sell tobacco or e-cigarette products for the **required price.** No coupons or discounts.



Only sell tobacco or e-cigarette products **in person** to individuals in NYC (no delivery).



Only sell tobacco products in the **required package sizes.** No "loosies."



Only sell tobacco or e-cigarette products to people who are **at least 21 years old** and show valid ID.



For more information, call 311 or visit [nyc.gov](http://nyc.gov) and search for tobacco laws.



Updated March 2024

8/15/2024

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<https://www.nyc.gov/site/doh/business/food-operators/smoking-legislation.page>

<https://www.nyc.gov/site/doh/business/food-operators/smoking-legislation.page#toolkit>

# POST-ENACTMENT AND ONGOING SUPPORT LICENSE APPLICATION/RENEWAL PROCESS

- Comprehensive license application and renewal with no transfers allowed
- Require a signed attestation form—retailer attests they will comply with all licensing requirements
- Require proof of retailer and clerk education program



# **POST-ENACTMENT AND ONGOING SUPPORT: COMPLIANCE CHECKS AND INSPECTIONS**

## **Testing compliance with minimum legal sales age of 21 best practices**

- Know the community and tailor the compliance check accordingly:
  - What are the demographics of the customers for this store?
  - What are the products most frequently purchased? (Tip: ask schools what products they are most frequently confiscating)
  - What time of day would underage people most likely be shopping?
- Follow protocol for training underage shoppers used in the compliance checks
- Checks are unannounced.
- Checks are staggered in time for different stores to avoid retailers tipping off other retailers



# POST-ENACTMENT AND ONGOING SUPPORT: COMPLIANCE CHECKS AND INSPECTIONS

## Inspections for provisions other than underage sales

- Inspector training – all components
- Inspection check list
- Unannounced checks
- Staggered checks



# POST-ENACTMENT AND ONGOING SUPPORT

## DUE PROCESS AND ONGOING RELATIONSHIPS



DUE PROCESS AND APPEALS  
PROCESS FOR VIOLATIONS



ONGOING EDUCATION AND  
RELATIONSHIP BUILDING

# QUESTIONS & DISCUSSION





# RESOURCES:

- [Tobacco Retail Compliance Checks Best Practices](#) (PHLC, 2022)
- [Using Retail AVCs as a Tool in Tobacco Control](#) (PHLC, 2022)
- [Tobacco Retail Licensing Enforcement Guide for New York State](#) (PHLC, 2024)
- [Tobacco Retail License Enforcement Guide for California](#) (PHLC/ALA of California, 2022)
- [Flavored Tobacco Sales Prohibitions: Enforcement Options](#) (PHLC, 2022)
- [Minnesota Commercial Tobacco Point-of-Sale Toolkit: Violations and Penalties](#) (PHLC, 2022)
- [Minnesota Commercial Tobacco Point-of-Sale Toolkit: Compliance and Local Enforcement Programs](#) (PHLC, 2022)
- [Youth Purchase, Use, Or Possession \(PUP\): Commercial Tobacco Laws And Penalties](#) (PHLC, 2024)

# CONTACT US



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