



How Do Your Tobacco Retail Laws Stack Up?

Key components of a comprehensive program to regulate tobacco and nicotine sales at retail

This checklist is a guideline that includes multiple criteria for a strong and enforceable Tobacco Retail License program. Please see <https://tobacco21.org/tobacco-21-model-policy/> for recommended legislative language and additional provisions that can help reduce youth access and exposure to tobacco and nicotine products.

DEFINITIONS

- ✓ Includes a comprehensive definition of commercial “tobacco products” that includes cigarettes, cigars and smokeless tobacco, chewing tobacco, e-cigarettes, smoking devices, and all products containing nicotine derived from any source, written to capture known and future products.

LICENSING

- ✓ Outlines the application process and criteria for a retailer to obtain a license to sell nicotine and tobacco products. Alternatively, the ordinance may provide that the enforcement agency has the authority to promulgate rules for what will be required for a tobacco retail license application.
- ✓ Stipulates that no person or business shall sell or offer to sell or distribute any nicotine or tobacco product without having obtained a license from the jurisdiction (city, county, or state).
- ✓ Provides the grounds for administering agency to deny the issuance or renewal of a license, which may include: (1) applicant is under 21 years of age; (2) prior suspensions or revocation of license; (3) failure to provide information required on the licensing application/providing false or misleading information, (4) applicant was convicted within past 5 years of any violation of a federal, state or local law, ordinance provision or other regulation relating to nicotine or tobacco products, etc.
- ✓ Provides that the license issued is valid only for the premises for which the license was issued and is non-transferable, and the transfer of any license to another location or person is prohibited.
- ✓ Requires that all licenses are valid for one year and must be renewed annually.
- ✓ Sets an annual license fee and allows it to be periodically adjusted. Fee should be adequate to cover license administration, education/training, and enforcement.

- ✓ Designates local health department or civil enforcing agency to carry out license administration and enforcement.
- ✓ Outlines the hearing and/or administrative process for violation disputes, including the appeals process.
- ✓ Requires licensed retailers and their employees complete a training program on the legal requirements related to the sale of nicotine and tobacco products and penalties for violations. Licensees should be required to document this training and provide this documentation at the time of renewal or whenever requested during the license term.
- ✓ Restricts sale of nicotine and tobacco products by delivery/internet sales and provides that all sales of nicotine and tobacco products be conducted in person, in a licensed retail establishment, in an over-the-counter sales transaction.
- ✓ Prohibits the issuing of a new license to a nicotine or tobacco retail establishment that is less than 1,000 feet of any youth-oriented facility (grade school, library open to the public, playground or park open to the public, licensed child-care facility or preschool, youth center, or recreation facility open to the public).
- ✓ Restricts or caps the number of licenses issued within a community to prevent the over-proliferation of nicotine and tobacco outlets.

ENFORCEMENT

- ✓ Prohibits the sale of nicotine or tobacco products to persons under the age of 21; requires tobacco retailers post signs stating sales to persons under the age of 21 are prohibited.
- ✓ Prohibits the sale of nicotine or tobacco products banned or denied authorization by the U.S. Food and Drug Administration (FDA) or any local, state or federal law.
- ✓ Requires age verification for all transactions by means of a government-issued photo ID containing the bearer's date of birth.
- ✓ Mandates a minimum number of compliance checks to be conducted for each licensed retailer every year, and mandatory follow-up checks to occur within 3 months of a violation.

PENALTIES

- ✓ Establishes penalties for selling or distributing nicotine or tobacco products without a license.
- ✓ Establishes a civil (not criminal) penalty structure for violations, including substantial and graduated monetary fines and mandatory license suspension or revocation for repeated violations.
- ✓ Establishes penalties for selling banned or unauthorized nicotine or tobacco products or those produced or imported illegally.
- ✓ Ensures that penalties and fines are imposed on the license holder and not the youth purchaser or non-management employee.
- ✓ Stipulates that any violation of local, state or federal law is a violation of the license.