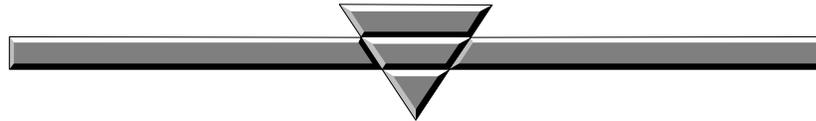


DUNSTABLE



BOARD OF HEALTH DUNSTABLE, MASSACHUSETTS

EFFECTIVE DATE: MARCH 6, 1999

Revision Date: March 27, 2000

Revision Date: October 16, 2001

SECTION I—PURPOSE AND AUTHORITY

Whereas, there exists conclusive evidence that tobacco causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and

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

Whereas, nicotine in tobacco has been found by the United States Surgeon General to be a powerfully addictive drug; and

Whereas, despite the state laws prohibiting sale of tobacco products to minors, access by minors to tobacco products is a major problem; and

Whereas, a board of health regulation requiring proof of age in order to purchase tobacco products is necessary in order to restrict the access of minors to tobacco products in the interest of public health;

Therefore, it is the policy of the Dunstable Board of Health to discourage minors from experimenting with tobacco and to make tobacco products less accessible to minors

Therefore, this regulation is promulgated under the authority granted to the Dunstable Board of Health under Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations" designed to protect and improve the health of the people of the Town of Dunstable.

SECTION II—DEFINITIONS

As used in this regulation:

Business Day means any day the business is open to the public

Carton means any packaging that includes two or more packages of tobacco products or any single package of tobacco product combined with another product.

Employee means any individual who performs services for an employer in return for wages or profit, or who performs service as a volunteer.

Employer means any individual, partnership, association, corporation, trust, or other organized group of individuals, including the Town of Dunstable or any agency thereof, which regularly uses the services of two (2) or more employees.

Minor means a person less than eighteen (18) years of age.

Premises mean sales area where public has access.

Self-Service Display means any displays or devices which individual packages or cartons of tobacco products may be selected by the customers, without the assistance of the clerk (with the exception of vending machines.)

Smoking means the lighting of any cigar, cigarette, pipe or other tobacco product or having possession of any lighted cigar, cigarette, pipe, or other tobacco product.

Tobacco Product means cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or tobacco in any of its forms.

Vending Machine means any self-service device, which upon insertion of money, tokens or any other form of payment, dispenses tobacco, cigarettes, or any other tobacco product.

Volunteer means a person who is engaged in a service by his own will.

SECTION III – USE OF TOBACCO

Use of Tobacco is prohibited inside public buildings or outdoors at recreational fields owned by the Town of Dunstable. Recreational fields include ball fields, the Town green and other open lands set aside for sporting events or other public gatherings.

SECTION IV—TOBACCO SALES TO MINORS PROHIBITED

A. Sales to Minors

In conformance with Massachusetts General Laws Chapter 270, Section 6, the sale of cigarettes, chewing tobacco, snuff, or any tobacco in any of its forms to any person under the age of eighteen (18) shall be prohibited in the Town of Dunstable. Similarly, no person in the Town of Dunstable shall give a cigarette, chewing tobacco, snuff, or tobacco in any of its forms to any person under the age of eighteen (18), unless that person is the parent or legal guardian of said minor.

B. Posting State Law

In conformance with Massachusetts General Laws, Chapter 270, Section 7, a copy of Massachusetts General Laws Chapter 270, Section 6 shall be posted conspicuously by the owner, or other person in charge, thereof in the shop or other place used to sell tobacco products at retail. The notice to be posted shall be that notice provided by the Massachusetts Department of Public Health. Such notice shall be at least forty eight (48) square inches and shall be posted at the cash register, which receives the greatest volume of single cigarette package sales in such a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than six (6) feet from the floor. All cash registers that sell tobacco products shall post a notice no smaller than nine (9) square inches, which is the size of the sign provided by the Massachusetts Department of Public Health. Such notice must be posted in a manner so that it may be readily seen by a person standing at or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of no less than four (4) feet or more than six (6) feet from the floor

C. Sales Permit Required

No person or entity shall sell tobacco products at retail within the Town of Dunstable without a tobacco sales permit issued by the Board of Health.

- The fee for this permit is \$20, renewable annually for a \$20 fee per calendar year on or before January 2.
- The tobacco sales permit shall not be issued until the applicant reads the Board of Health regulations and Mass. General Law C. 270 S.6 &7 regarding the sale of tobacco. The applicant shall then sign a statement on the application stating that s/he has read the regulations. It shall be the responsibility of the permittee to instruct all employees on the illegality of selling tobacco products to minors.
- The tobacco sales permit must be displayed no higher than six (6) feet and no lower than four (4) feet, in clear and unobstructed view, behind the cash register receiving the highest volume of tobacco product sales.

D. Penalties and Suspension of Permit

A permit shall be suspended after notice and opportunity to be heard as follows:

- In the case of the **first violation of any provision** of Section 3, the permittee shall receive a written warning within a twelve (12) month period.
- In the case of the **second violation of any provision** of Section 3 within a twelve (12) month period, the permit shall be suspended for seven (7) consecutive calendar days.
- In the case of a **third violations of any provision** of Section 3 within a twelve (12) month period, the permit shall be suspended for fourteen (14) consecutive calendar days.
- In the case of a **fourth or subsequent violation of any provision** of Section 3 within a twelve (12) month period, the permit shall be suspended for thirty (30) consecutive calendar days for each additional violation.

In the case of a persistent pattern of violations any merchant who violates this law four (4) or more times in two (2) successive one (1) year periods, the permit will be permanently revoked.

- In addition to the penalties above, whoever violates Section IIIB and IIIC of this provision shall be punished by a fine of fifty dollars (\$50.00). Any person unlawfully removing a copy so posted in accordance with Section IIIB of this law, while said premises are used for the sale of tobacco products shall be punished by a fine of ten dollars (\$10.00).

A permit shall be suspended after notice and opportunity to be heard as follows:

The Board of Health shall provide written notice to the permittee of the violation regulation and of the intent of the Board to suspend the tobacco sales permit. The notice shall be sent by registered mail, return receipt requested or served by a constable. The notice shall contain the reasons for the suspension and establish a date and time for a hearing. The date of the hearing shall be no earlier than seven (7) days after the date of said notice. The permittee shall be notified of the date of the hearing and shall have an opportunity to be heard at such a hearing. The permittee shall be notified of the Board of Health's decision and reasons in writing within two (2) business days after the close of the hearing.

All tobacco products shall be removed from the premises on the day succeeding the suspension of the tobacco sales permit or prior to the opening on the next business day.

E. Identification Required

No person or entity shall sell or permit cigarettes or other tobacco products to be sold to an individual without requesting and examining photographic identification establishing the purchaser's age as eighteen (18) years or greater except that no such verification of age is required for any purchaser over the age of twenty-six (26) or mail-order purchase.

F. Self-Service Displays

Self-service displays of tobacco products, from which individual packages or cartons may be selected by the customer, are prohibited. All tobacco products are to be kept behind the counter and accessible to store personnel only.

G. Individual Cigarette Sales

The sale of individual cigarettes is prohibited in the Town of Dunstable. Sale or distribution of tobacco products in any form other than an original factory-wrapped package is prohibited.

H. Free Distribution/Sampling

No manufacturer, distributor or retailer may distribute or cause to be distributed any free sample of cigarettes or smokeless tobacco products in the Town of Dunstable.

I. Vending machines

Cigarette vending machines or any other device for the sale or distribution of tobacco products are prohibited in the Town of Dunstable.

J. Inspections/Enforcement

The Board of Health shall enforce this regulation through periodic inspections and/or the use of compliance checks conducted by the Board of Health or its enforcement officer(s) or designee(s), or the Dunstable Police Department. Inspections may be conducted each quarter or more frequently at the discretion of the Board of Health and, if possible, in cooperation with the Dunstable Police Department.

K. Severability

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

L. Effective Date

These regulations shall be effective sixty (60) days after adoption by the Board of Health.

Board of Health
Dunstable, Massachusetts

MEMBERS:

Maria Amodei

William Moeller

Robert Parkin



LEGAL NOTICE

NOTICE IS HEREBY GIVEN THAT THE BOARD OF HEALTH WILL HOLD A PUBLIC HEARING ON __ (DAY) __, __ (DATE) __ AT __ (TIME) __ IN THE TOWN HALL ON THE DRAFT PROPOSAL FOR REGULATIONS PROHIBITING TOBACCO SALES TO MINORS. A COPY OF THE DRAFT PROPOSAL WILL BE AVAILABLE __ (DATE) __ FOR REVIEW AT THE OFFICE OF THE TOWN CLERK.

_____, CHAIRMAN

DUNSTABLE BOARD OF HEALTH

____ (DATE) _____