



TOWN OF ROCKLAND

Board of Health

242 Union Street Rockland, MA 02370

Tel 781-871-1874 X1350 Fax 781-871-2644

Chairman:
Stephen Nelson

Vice Chairman:
Victoria Deibel

Member:
Scott Margolis

REGULATIONS OF THE ROCKLAND BOARD OF HEALTH SALE OF TOBACCO PRODUCTS TO MINORS

Section 1

Declaration of Findings and Policy

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

Whereas at least one-half of all smokers begin smoking before the age of twenty-one (21), and

Whereas an estimate 3,000 minors 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 state laws prohibiting the 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,

Whereas the Institute of Medicine (IOM) concludes that raising the minimum age of legal access to tobacco products to 21 will likely reduce tobacco initiation, particularly among adolescents 15-17, which would improve health across the lifespan and save lives;

Now, therefore, it is the policy of the Rockland Board of Health to discourage minors from experimenting with tobacco and to make tobacco products less accessible to minors.

Section 2

Authority

This regulation is promulgated under the authority granted to the Rockland Board of Health under the Massachusetts General Laws Chapter 111, Section 31 which states that “Boards of Health may make reasonable health regulations.”

Section 3

Definitions

For the purpose of this regulation, the following words shall have the meanings respectively ascribed to them by this section:

Minor shall mean any individual less than 21 years of age.

Person shall mean any natural person or any firm, partnership, company, corporation, or other entity.

Tobacco product shall mean any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, liquid nicotine, “e-liquids” or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. “Tobacco Product” includes any component or part of a tobacco product. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed for the approved purpose.

Self-Service Display shall mean any display of tobacco products which is so located that products are accessible to customers without assistance from some employee or store personnel excluding vending machines.

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

Permit Holder shall mean an owner or operator of any establishment engaged in the sale of tobacco products that applies for and receives a tobacco sales permit.

Business Agent shall mean an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of the establishment.

Section 4

Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited

- 1) *No person shall sell or provide a tobacco product, as defined herein, to a minor under the legal sales age. The minimum legal sales age in Rockland is 21.*
- 2) **Required Signage:**
 - a. *In conformance with and in addition to Massachusetts General Law, 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 shall be provided by the Massachusetts Department of Public Health and made available from the Rockland Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 feet or greater than 9 feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health. The owner or other person in charge of a shop or other place used to sell hand rolled cigars must display a warning about cigar consumption in a sign at least 50 square inches pursuant to 940 CMR 22.05(2)(e).*
 - b. *The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post signage provided by the Rockland Board of Health that discloses current referral information about smoking cessation.*
 - c. *The owner or other person in charge of a shop or other place used to sell tobacco products that rely on vaporization or aerosolization, as defined herein as "Tobacco Products, at retail shall conspicuously post a sign stating, "The sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age of 21 years is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that a person standing at or approaching the cash register may readily see it. The 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 nine (9) feet from the floor.*
- 3) *Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older. Verification is required for any person under the age of 27.*
- 4) *All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.*

Section 5

Tobacco Sales Permit

- 1) No person shall sell or otherwise distribute tobacco or tobacco products within the Town of Rockland without first obtaining a tobacco sales permit issued by the Rockland Board of Health.
- 2) As part of the application process, the applicant will be provided with instructions on compliance with M.G.L. Ch. 270, Sec. 6 (sales of tobacco products to minors and penalties for violation thereof) and compliance with the Rockland Board of Health regulations.
- 3) Each applicant is required to sign a statement declaring that the applicant has read said instructions and that the applicant is responsible for instructing all employees who will be responsible for tobacco sales regarding the law.
- 4) The fee for a tobacco sales permit shall be One Hundred Twenty-Five Dollars (\$125.00) annually. All such permits shall be renewed annually on January 1.
- 5) A separate permit is needed for each location.
- 6) Each tobacco sales permit shall be displayed on the premises in a conspicuous place.
- 7) Issuance of a tobacco sales permit shall be conditioned on the applicant's consent to unannounced periodic inspections of his or her establishment to ensure compliance with this regulation.
- 8) A tobacco sales permit is non-transferable except a new permit will be issued to a retailer who changes location.

Section 6

Distribution

No person in the business of selling or otherwise distributing tobacco products for commercial purposes or any business agent or employee of such person shall distribute a cigarette(s) or other tobacco product free to any person.

Section 7
Packaging

No manufacturer, distributor, or retailer shall sell or cause to be sold, or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes including single cigarettes.

Section 8
Self-Service Displays

All self-service displays of tobacco products are prohibited.

Section 9
Tobacco Product Vending Machines

No person shall install or maintain a cigarette vending machine, or sell or distribute cigarettes by vending machine in the Town of Rockland unless the following stipulations are met:

- 1) The vending machine shall be equipped with a lock out device approved by the Board of Health. Said device shall lock out sales from the vending machine unless an employee releases the locking mechanism. The release mechanism must not allow continuous operation of the vending machine and must not be accessible to customers. The lock out device must be operable at all times.
- 2) Vending machines must be posted with a sign stating that the machine is equipped with a lock out device and identifying the person(s) to contact to purchase tobacco products from the machine.
- 3) The vending machine must be located inside the main premises within clear view of the operator of the lock out device and at least fifteen (15) feet from any entrance or exit.
- 4) All tobacco product vending machines must display a conspicuous sign stating that it is illegal for minors to purchase tobacco products as defined in Section 3.
- 5) No sales of tobacco products are permitted from a vending machine which also offers for sale any non-tobacco products.
- 6) It shall be a violation of these rules and regulations for anyone to tamper with or willfully disconnect a lock-out device on a cigarette vending machine.

- 7) If, for any reason, the cigarette vending machine and/or lock-out device become inoperable, the machine must be made inaccessible for use, disconnected and/or removed immediately.

Section 10

Violations and Penalties

It shall be the responsibility of the permit holder where tobacco products are being sold to ensure compliance with all sections of this regulation pertaining to their place of business. The permit holder involved in violation of any of the provisions of this regulation will receive:

In the case of the first violation, a written warning will be issued, and the holder of the permit shall be required to have all of the employees of the establishment directly involved in the sale of tobacco products, attend a tobacco sales educational program approved by the Board of Health and will be fined \$100.00.

In the case of a second violation within twelve months of a subsequent offense, the holder of the permit shall have the permit suspended for a period of three (3) consecutive days and the permit holder will be fined \$300.00.

In the case of a third offense within twelve months of a subsequent offense, the permit holder shall have the permit suspended for no less than ten (10) days and no more than thirty (30) days and will be fined \$500.00.

In the case of a fourth offense in a twelve-month period, the permit holder shall have the permit revoked. Re-application for a permit may be submitted after one year.

The Rockland Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which shall be no earlier than seven (7) days after the date of said notice. The permit holder will have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. The Rockland Board of Health, after a hearing, may suspend the tobacco sales permit.

During such time that a permit for tobacco products sales has been suspended for continuous violations of this regulation, all tobacco products must be removed from the sale floor and secured so as not to be available for sale. There must be signage placed on the entry ways and at all registers stating that tobacco product sales have been suspended and showing the dates of said suspension. Any person or entity selling any tobacco products without said permit shall be fined five hundred dollars (\$500.00) per day until said permit is re-instated by the Rockland Board of Health or its designated agent(s).

Any permit holder who does not have an appeal pending and does not pay a fine within twenty-one (21) days may be subject to the suspension of the tobacco sales permit granted pursuant to this regulation.

Each day any violation exists shall be deemed to be a separate offense as listed in the previous section.

Section 11 Enforcement

As an alternative to initiating criminal proceedings, violations of this regulation may be enforced in the manner provided in M.G.L. Ch. 40, Sec. 21D by the Rockland Board of Health or their designee. Any fines imposed under the provisions of this regulations shall inure to the Board of Health.

Section 12 Severability

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining section being in force.

This amended regulation will take effect December 20, 2018
Regulation initially passed June 1, 1999.

Approved by
ROCKLAND BOARD OF HEALTH