

**BOLTON HEALTH REGULATIONS CONCERNING
THE SALE OF TOBACCO AND
THE ESTABLISHMENT OF DRUG-FREE SCHOOLS**

CONCERNING THE SALE AND DISTRIBUTION OF TOBACCO

Section 1: Findings and Purposes:

Whereas there exists substantial evidence that tobacco is the major cause of preventable deaths in the United States, and

Where as nicotine is an addictive drug and addiction to nicotine usually begins during childhood and adolescence, and

Whereas, the free distribution of tobacco provides and the availability of self service tobacco products have been demonstrated to results in the unlawful distribution of tobacco to minors,

The Bolton Board of Health adopts these regulations pursuant to Massachusetts General Laws, Chapter 111, sections 31 and 31A, to protect and improve the health of the residents of the Town of Bolton and to prevent violations of Massachusetts state law prohibiting the provisions of tobacco products to minors.

Section 2: Definitions

- a. Minor shall mean any individual under 18 years of age.
- b. Person shall mean any natural person or any firm, partnership, company, corporation or other entity.
- c. Tobacco product shall mean any product containing tobacco, including, but not limited to, cigarettes, cigars, chewing tobacco, snuff, pipe tobacco and smokeless tobacco.
- d. Vending machine shall mean any self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco, cigarettes or any other tobacco product.

Section 3: No person shall sell any tobacco product unless that person holds a valid retail tobacco sales permit obtained from the Bolton Board of Health. Such permit shall be renewed annually at a cost of ten dollars (\$10). Before a tobacco permit is issued to an individual, that individual must first read and understand all of the provisions of these regulations. A separate permit shall be required for each place of business. A permit is not required to sell

tobacco products from a vending machine, however all such machines must be permitted with the Board of Health by their owner.

Section 4: It shall be unlawful to sell, give, or furnish tobacco in any form to any individual under 18 years of age.

Section 5: No free or nominal cost samples of tobacco or tobacco products shall be distributed or sold. No person shall distribute any coupons or vouchers redeemable for tobacco or tobacco products for either free or at a reduced cost within the town of Bolton. An exception is made for coupons appearing in newspapers and periodicals printed outside of Bolton.

Section 6: No person shall sell tobacco by use of vending machine, or install, or maintain, a tobacco vending machine with the intent of making such sales except as provided in the following subsections:

- a. Vending machines are permitted if they are equipped with a lock-out device which prevents the machine from being operated until the person responsible for monitoring sales from the machine disables the lock. The locking device must be of a design which prevents it from being left in an unlocked condition, and which will allow only single sale when it is unlocked.
- b. In addition, a vending machine is allowed only in establishments where a responsible person will be present to monitor the machine when the establishment is open.
- c. Any vending machine permissible under subsections a., and b. must be located such that it is within 15 feet of the person who is responsible for determining the age of any person requesting permission to use the machine.
- d. No sales of tobacco are permitted from a vending machine which also offers for sale any non-tobacco product.

Section 7: Any person who sells tobacco products, or who is responsible for monitoring sale from a tobacco vending machine, shall request of any customer who is not obviously 18 years of age or older, or who is not already known to be 18 years of age or older, a photographic identification establishing their age. Positive proof of age must be established before any sale of tobacco is made.

Section 8: Tobacco sales permit holders shall conspicuously post and reasonably maintain a notice at each cash register where tobacco products are sold which informs the clerk that it is illegal to sell tobacco products to minors. Tobacco vendors who sell tobacco products from a vending machine must

maintain such a sign at the location where the device which operates the locking device is located. Such signs prepared by the Mass. Dept. of Public Health shall be available from the Board of Health at no charge.

- Section 9: Tobacco sales permit holders shall conspicuously post and reasonably maintain a notice at each cash register where tobacco products are sold which informs customers that it is the store's policy to refuse to sell tobacco products to minors.
- Section 10: No person shall sell tobacco products to a person under 18 years of age who has a note from an adult requesting such a sale.
- Section 11: Tobacco products must be kept where they can only be obtained from the store clerk. Self-service displays are not permitted. Broken pack sales of cigarettes are prohibited. Cigarettes must be sold in their original sealed packaging.
- Section 12: Tobacco permit holders shall be responsible for properly training all employees regarding their responsibilities under these regulations. Permit holders shall obtain a written statement from each employee acknowledging that the employee has been given and has read and understands these regulations.
- Section 13: These regulations shall be enforced through periodic inspections conducted by the Health department, the police department, constables or agents thereof. These inspections shall include attempted purchase of tobacco products by individuals under 18 years of age under the supervision of an agent of the enforcing agency. Such inspections shall not be considered "entrapment". Inspections will be conducted once each quarter or more frequently at the discretion of the enforcing agency.
- Section 14: Violations of sections 3,4,5,6 & 10 shall be punishable by a fine and/or a suspension or revocation of the violator's tobacco sales permit. A first offense is punishable by a fine of \$100 or a suspension of the tobacco permit for a period of one day, a second offense within a two year period shall be punishable by a fine of \$200 or a one week permit suspension, a third offense within a two year period shall be punishable by a fine of \$300 or a permit suspension of 30 days, any subsequent offenses may be punishable by a \$300 fine or a revocation of the tobacco permit. A revoked permit may not be reinstated for a period of one year. A merchant's tobacco permit may be suspended or revoked for a period determined by, and at the discretion of, the Board of Health. The Board of Health may, at its discretion, issue a warning in lieu of either a fine or permit suspension. Any fine will be assessed against the person who holds the tobacco permit unless that person can demonstrate that the employee who violated these regulations was properly trained as per section 12. Violations of section 6 shall be assessed

against the permit holder for the establishment where the vending machine is sited. If such evidence is presented to the Board of Health the Board may require that the employee pay up to half of the fine.

- Section 15: Violations of sections 8, 9 and 11 shall be punishable by a fine of \$50. The Board of Health may, at its discretion, issue a warning in lieu of a fine.
- Section 16: The Health Department and the Police Department shall have jurisdiction to enforce these regulations. Such authority may be delegated to agents working under their authority in either a paid or voluntary capacity.
- Section 17: The Health Department shall respond to any request from tobacco retailers for assistance in training sales personnel. The Health Officer shall provide copies of these regulations to tobacco retailers for the purpose of training their employees.
- Section 18: If any provision of these regulations is declared invalid the other provisions shall not be affected thereby but shall continue in full force and effect.
- Section 19: These regulations will go into effect 30 days after being approved by the Board of Health with the exception of section 6 shall go into effect 90 days after being approved.

Effective 4/13/95

**BOLTON BOARD OF HEALTH
REGISTRATION TO SELL TOBACCO PRODUCTS**
(Please Print or Type)

NAME OF BUSINESS: _____

OWNERS NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

CONTACT PERSON: _____
(if different than owner)

VENDING MACHINE SALES: _____

OVER THE COUNTER SALES: _____

DATE: _____

OWNER'S SIGNATURE: _____

Each individual and/or business must be registered if there is tobacco products on the premise. Failure to register may result in a fine under Section 15 of Bolton Health Regulation concerning the Sale of Tobacco.

Return this registration to: **Bolton Board of Health**
P.O. Box 278
Bolton, MA 01740

Date of Registration:

Expiration Date:

Amount Paid: