

Ohio Tobacco Retail License Landscape

The Preventing Tobacco Addiction Foundation has analyzed Ohio's statewide tobacco control laws to provide local advocates with a summary of the current landscape. This document highlights the opportunities and best practice methods that exist under Ohio statute in order for local jurisdictions to create a more robust and comprehensive system through the adoption of a local Tobacco Retailer Licensing Program.

RETAIL LICENSE

While Ohio law does require retail dealers of cigarettes to obtain a simple tax permit, it does not require retailers of tobacco products (electronic cigarettes, cigars, hookah, etc.) to obtain any kind of permit or license. The state has no systematic way to know who is selling tobacco and nicotine products.

Opportunity:

Tobacco Retail License should include all tobacco products.

DEFINITIONS

Ohio law does include a comprehensive definition of tobacco products – “tobacco products” includes electronic smoking devices.

Tobacco Product - Any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco product” also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. “Tobacco product” does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

AGE RESTRICTION

Consistent with federal law, Ohio law prohibits sales of all nicotine and tobacco products to persons under the age of 21.

ENFORCEMENT AGENCY

Ohio's Investigative Unit, an arm of the Ohio State Highway Patrol, is the designated enforcement agency. This unit is understandably designed to prioritize enforcement of criminal law.

Opportunity:

Tobacco sales are a critical health issue and local health departments are better equipped to work with local retailers to ensure compliance.

COMPLIANCE CHECKS

Ohio does not mandate a minimum number of annual compliance checks for underage sales. In the absence of a mandate, historically few checks are ever done.

Opportunity:

Without adequate enforcement, noncompliant retailers take full advantage of this loophole, putting both kids and law-abiding retailers at risk. Each tobacco retailer shall be subject to at least two unannounced compliance checks per year. The health department/designated authority shall conduct compliance checks by engaging persons between the ages of 18 and 20 to enter the tobacco retail establishment to attempt to purchase tobacco products.

PENALTIES

Penalties for violation of selling to underage youth are not clearly defined in state code. Nor does state code indicate that selling privileges may be suspended or revoked for repeated underage tobacco sales.

Opportunity:

A TRL (Tobacco Retail License) ordinance should establish a civil penalty structure that holds the retailers accountable; not the clerk or the underage buyer.

Any tobacco retailer found to have violated this [statute/ ordinance] shall be subject to:

- (1) For a first violation, a fine no less than \$500;
- (2) For a second violation within a 36-month period, a fine no less than \$750 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of seven days;
- (3) For a third violation within a 36-month period, a fine no less than \$1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of 30 days; and
- (4) For a fourth and any subsequent violations within a 36-month period, a fine no less than \$1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a period of three years.

AGE VERIFICATION

Identification verification is not required in state code.

Opportunity:

Before distributing any tobacco product, the tobacco retailer or the tobacco retailer's agent or employee shall verify the purchaser is at least 21 years of age by examining the purchaser's government-issued ID if the purchaser appears to be under 30 years of age.

SIGNAGE

Ohio law does require retail establishments to "have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law."

PURCHASE, USE OR POSSESSION

Under O.R.C. 2151.87, youth under the age of 18 are prohibited from purchase, use or possession of tobacco products.

Opportunity:

Purchase, use, or possession laws are unlikely to reduce youth smoking significantly. Also, they may undermine other conventional avenues of youth discipline, divert attention from more effective tobacco control strategies and relieve the tobacco industry of responsibility for its marketing practices. Some communities are concerned that these provisions may be enforced inconsistently with respect to youth from certain racial and ethnic groups, resulting in their introduction into the criminal justice system.

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