

# How Does Your Current Law Stack Up?



Key components of a comprehensive Tobacco Retail License ordinance:

## DEFINITIONS

Includes a comprehensive definition of “tobacco products” that includes cigarettes, cigars and smokeless tobacco, pipes, rolling papers, electronic smoking devices, related liquids and other related devices, written to capture all known and future products.

## LICENSING

Outlines the application process and criteria for a retailer to obtain a license to sell tobacco products. Alternatively, the ordinance may provide that the enforcement agency has the authority to promulgate rules for what may be required for a Tobacco Retail License application.

Stipulates that no person shall sell or offer to sell or distribute any tobacco product without having obtained a license from the jurisdiction (city or county).

Provides the grounds for the administering agency to deny the issuance or renewal of a license (these circumstances may include, (1) applicant is under 21 years of age; (2) prior suspensions or revocation; (3) failure to provide any of the information required on the licensing application or provision of 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 tobacco products, etc.).

Provides that the license issued is valid only for the premises for which the license was issued and shall be 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 must be adequate to cover license administration, education/training and enforcement. Note: An annual fee lower than \$300 is generally inadequate to fund a licensing program; many jurisdictions have fees that are much higher.

Designates a civil enforcing agency to carry out license administration and enforcement.

Provides for the hearing and administrative process, including the appeals process.

Requires that licensed retailers complete and ensure that all employees complete a training program on the legal requirements related to the sale of tobacco products and penalties upon 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 tobacco products by delivery/internet sales and provides that all sales of tobacco products must be conducted in person, in a licensed retail establishment, in over-the-counter sales transactions.

Prohibits the issuing of a new license to a 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).

## ENFORCEMENT

Prohibits the sale or tobacco products to persons under the age of 21.

Requires age verification by means of a government-issued photo ID, containing the bearer's date of birth, for any purchaser appearing to be under the age of 30 (Notes that a person appearing to be over the age of 30 shall not constitute a defense to a violation).

Requires that all tobacco retailers post signs stating that sales to persons under the age of 21 are prohibited.

Mandates a minimum number of at least two unannounced compliance checks to be conducted for each licensed retailer every year, and a mandatory follow-up check to occur within 3 months of a violation.

## PENALTIES

Establishes penalties for selling or distributing tobacco products without a license.

Establishes a civil (not criminal) penalty structure for violations, including graduated monetary fines and mandatory license suspension or revocation for repeated violations.

Ensures that penalties and fines are imposed on the license holder and not the youth purchaser or non-management employee.

States that any violation of local, state or federal law is a violation of the license.