



Washington Grade Card
Population Covered: 7,614,893
Tobacco 21 Since: April 5, 2019

TOBACCO
~~eighteen~~ twenty-one

The Preventing Tobacco Addiction Foundation evaluated all current statewide Tobacco 21 laws for their alignment with best practices that lead to effective prevention of youth initiation of tobacco and nicotine products.

ENFORCEMENT

GRADE: C

Designated Enforcement Agency

Best Practice: Health Department or Designated Agency

Washington Enforcement: Washington's Department of Health may enter into interagency contracts for enforcement. The liquor and cannabis board manage license administration and license suspension/revocation, including penalties.

Age Verification

Best Practice: Before distributing any tobacco product, the tobacco retailer or the tobacco retailer's agent or employee shall verify that the purchaser is at least 21 years of age. Each tobacco retailer or tobacco retailer's agent or employee shall examine the purchaser's government-issued photographic identification if the purchaser appears to be under 30 years of age.

Washington Enforcement: ID check only required where there may be a question of a person's right to purchase or obtain tobacco products

Who is the Penalty Placed on?

Best Practice: The primary burden for sales to underage purchasers should fall on the retailer who is profiting from the sales of the product and not the purchaser or non-management employee.

Washington Enforcement: Penalty placed on the retailer and clerk

Number of Compliance Checks

Best Practice: Provide authority for the state, county, or municipality to inspect tobacco retailers for compliance with MLSA 21 and a mandated minimum number of annual compliance checks. Model recommends two per year for every tobacco retail establishment.

Washington Enforcement: Washington law does not provide for a minimum number of compliance checks that must be conducted

Compliance Checks Done With Underage Decoys Aged 18-20

Best Practice: The designated agency 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.

Washington Enforcement: Decoy age is not specified

LICENSING

GRADE: B

Statewide Tobacco Retail License

Best Practice: A comprehensive tobacco retail license allows states and municipalities to regulate all tobacco retailers, fund enforcement programs, and create a penalty structure that suspends or revokes a license for retailers that continue to violate a MLSA 21 law.

Washington Licensing: Washington has multiple licenses that covers all tobacco products

Tobacco Retail License Program Funds Enforcement

Best Practice: The fee for a tobacco retail sales license shall be set and used to cover the administrative cost for licensing administration, education and training, retail inspections, and unannounced compliance checks. The tobacco retail sales license fee should not exceed the cost of the regulatory program authorized beyond the statute/ordinance.

Washington Licensing: Washington's license fees partially fund enforcement

Tobacco Retail License Fee

Best Practice: An effective licensing system requires tobacco retailers to pay an annual license fee and allows it to be periodically adjusted. Fee must be adequate to cover License administration, education/training, and enforcement. An annual fee of lower than \$300 is generally inadequate to fund a licensing program.

Washington Licensing: Washington's retailer license fees are:

\$175 to sell vapor products

\$175 to sell cigarettes

\$175 to sell non-cigarette tobacco products

If Cigarette Retailer, Tobacco Product Retailer, and Vapor Product Retailer licenses are all applied for at the same time and business location, the license fees will be \$250. All licenses are renewed annually.

PENALTIES

GRADE: B

Penalty Type

Best Practice: Establish a civil penalty structure for violations rather than a criminal penalty structure.

Washington Penalties: Penalties can be either civil or criminal

Violation Accrual Period

Best Practice: 36 months

Washington Penalties: Washington has a 36-month violation accrual period

Monetary Penalty and Suspension Structure

Best Practice: 1st violation = \$500

2nd violation = \$750 and (7) day suspension

3rd violation = \$1,000 and (30) day suspension

4th violation = \$1000 and (3) year suspension

Washington Penalties: 1st Violation = \$200 fine

2nd Violation = \$600 fine

3rd Violation = \$2,000 fine and license suspension for 6 months

4th Violation = \$3,000 fine and license suspension for 12 months

5th Violation = Revocation of license for 5 years

Does the Law Penalize Youth for Purchase, Use or Possession

Best Practice: An evidence-based, best practices tobacco MLSA 21 policy should focus penalties on the tobacco retailer who profits from the illegal sale rather than the youth who is likely addicted to the product. PUP laws may be unlikely to reduce youth smoking significantly.

Washington Penalties: Washington penalizes youth under 18 years of age for purchase, use, or possession (PUP) of tobacco products

PREEMPTION

GRADE: C

Does Preemption exist, was it added, or expanded

Best Practice: Local governments have a critical role in reducing the deadly toll of tobacco by regulating sales and restricting youth access to these products to prevent use and addiction. Tobacco 21 legislation should not introduce new tobacco control preemption, nor expand existing tobacco control preemption, and instead should be used as an opportunity to assert local authority or repeal existing tobacco control preemption.

Washington Preemption: Preemption regarding the licensure and regulation of vapor and tobacco product promotion and sales at retail existed in Washington prior to the passing of the Tobacco 21 law

DEFINITIONS

GRADE: F

Definitions

Best Practice: A comprehensive definition will cover all current, known tobacco and nicotine products, which include not only cigarettes, cigars, and smokeless tobacco, but also products like pipes, rolling papers, electronic smoking devices, and other related devices. A strong definition will also be broad enough to capture future products.

Washington Definitions: Washington's Tobacco 21 law does not include a single comprehensive definition of tobacco, but does define products separately and regulates all products within their minimum legal sales age