



## Nebraska Grade Card

Population Covered: 1,934,408

Tobacco 21 Since: August 15, 2020

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: F

#### Designated Enforcement Agency

**Best Practice:** Health Department or Designated Agency

**Nebraska Enforcement:** Nebraska does not have a designated enforcement agency

#### 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.

**Nebraska Enforcement:** Identification verification is not required in state code

#### 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.

**Nebraska Enforcement:** Penalty is placed on Retailer or "Person"

#### 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.

**Nebraska Enforcement:** Nebraska law does not provide for a minimum number of compliance checks per retailer that must be conducted every year

#### 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.

**Nebraska 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.

**Nebraska Licensing:** Nebraska has a statewide comprehensive Tobacco Retail License

#### 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.

**Nebraska Licensing:** Nebraska's Tobacco Retail License fee does not 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.

**Nebraska Licensing:** Nebraska's Tobacco Retail License fee is \$10-25 and renews annually

## **PENALTIES**

**GRADE: F**

### **Penalty Type**

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

**Nebraska Penalties:** Nebraska has a criminal penalty structure

### **Violation Accrual Period**

**Best Practice:** 36 months

**Nebraska Penalties:** Nebraska does not specify length of 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

**Nebraska Penalties:**

Violators can be charged with a misdemeanor for selling to underage buyers and possible suspension of their license to be determined by the local courts

### **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.

**Nebraska Penalties:** Nebraska penalizes youth for possession of tobacco products

## **PREEMPTION**

**GRADE: A**

### **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.

**Nebraska Preemption:** Nebraska does not have existing preemption

## **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.

**Nebraska Definitions:** Nebraska's Tobacco 21 law does not include comprehensive definitions