



Florida Grade Card

Population Covered: 21,477,737

Tobacco 21 Since: October 1, 2021

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.

With no enforcement provisions whatsoever, Florida's SB 1080 established a Tobacco 21 law for the state that protects only tobacco industry profits. Through added preemption language in the bill, local legislators will no longer be permitted to pass ordinances to safeguard their communities and address tobacco industry tactics that target youth. This is not in the best interest for public health. The law also directly violates the federal Tobacco 21 law and brazenly contradicts U.S. Department of Defense initiatives to reduce tobacco use among troops by allowing an exemption to the tobacco purchase and sales age of 21 for members of the military in Florida. Overall, Florida's Tobacco 21 law is one of the worst in the nation.

ENFORCEMENT

GRADE: C

Designated Enforcement Agency

Best Practice: Health Department or Designated Agency

Florida Enforcement: The Florida Division of Alcoholic Beverages and Tobacco is the 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.

Florida Enforcement: ID check is required for any purchaser that appears to be under 30 years of age

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.

Florida Enforcement: Penalty is placed on the retailer, clerk, and "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.

Florida Enforcement: Florida 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.

Florida 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.

Florida Licensing: Florida has multiple licenses that cover all 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.

Florida Licensing: Florida's Tobacco Retail License fee is only \$50 and partially covers 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.

Florida Licensing: Florida's Tobacco Retail License fee renews annually, but is only \$50 which is not adequate to fund enforcement

PENALTIES

GRADE: F

Penalty Type

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

Florida Penalties: Florida has a criminal penalty structure

Violation Accrual Period

Best Practice: 36 months

Florida Penalties: Length of violation accrual period not specified

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

Florida Penalties: 1st Violation = \$1,000 fine when the conviction is of a misdemeanor of first degree or \$500 fine with the conviction is a misdemeanor of the second degree or noncriminal violation.

Fines do not increase unless a violation happens twice in a year. It is not specified in the penalty structure if or when a retailer's violation would result in a license suspension and/or revocation.

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.

Florida Penalties: Florida penalizes youth for purchase, use, or possession (PUP) of tobacco products

PREEMPTION

GRADE: F

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.

Florida Preemption: Florida's Tobacco 21 added preemption to preclude local authority to pass more stringent tobacco control laws

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.

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