



North Dakota Grade Card

Population Covered: 762,062
Tobacco 21 Since: August 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.

ENFORCEMENT

GRADE: F

Designated Enforcement Agency

Best Practice: Health Department or Designated Agency

North Dakota Enforcement: No 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.

North Dakota Enforcement: Age verification is not required

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.

North Dakota Enforcement: "Person" (seller and purchaser)

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.

North Dakota Enforcement: North Dakota 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.

North Dakota Enforcement: Decoy age is not specified

LICENSING

GRADE: F

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.

North Dakota Licensing: North Dakota has a \$15 annual license exists however there is no potential suspension, revocation, or regulation of license holders. Therefore, in practice the current retail license functions as a permit.

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.

North Dakota Licensing: North Dakota does not have an enforcement program

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.

North Dakota Licensing: North Dakota has a \$15 annual license exists however there is no potential suspension, revocation, or regulation of license holders. Therefore, in practice the current retail license functions as a permit.

PENALTIES

GRADE: C

Penalty Type

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

North Dakota Penalties: Civil

Violation Accrual Period

Best Practice: 36 months

North Dakota Penalties: North Dakota does not specify 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

North Dakota Penalties: North Dakota does not have a comprehensive penalty structure and there is not risk for the retailer to lose their license/permit to sell tobacco products when they violate the law and sell to underage purchasers – no matter how many times the retailer violates the law.

Violators are fined up to \$500 and a person under the age of 21 who purchases will be fined \$25.

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.

North Dakota Penalties: North Dakota does penalize youth for purchase, use, and possession 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.

North Dakota Preemption: North Dakota already had preemption in place for local ordinances could pass if it included penalties for purchase and use of tobacco products. This law retained that preemption and expanded it to persons under the age 21.

“Stronger local laws/ordinances further restricting youth access to tobacco products, electronic smoking devices and alternative nicotine products are generally allowed; however, the penalties for purchase and use of these products by a person under age 21 must be as indicated in the statute below.”

DEFINITIONS

GRADE: A

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.

North Dakota Definitions: North Dakota’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.