



MERRIMAC BOARD OF HEALTH

Rules and Regulations

For

Sale of Tobacco Products to Minors

Adopted: March 2, 2000



Regulations of the Merrimac Board of Health

Sale of Tobacco Products to Minors

Adopted on March 2, 2000

A. Declaration of Findings & Policy:

Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat and whereas at least one-half of all smokers begin smoking before the age of eighteen (18); and whereas an estimated three thousand (3,000) minors begin smoking every day in the United States; and whereas nicotine in tobacco has been found by the United States Surgeon General to be a powerfully addictive drug; and whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; and whereas a board of health regulation requiring proof of age in order to purchase tobacco products is necessary in order to restrict the access of minors to tobacco products in the interest of public health; now, therefore it is the policy of the Merrimac Board of Health to discourage minors from experimenting with tobacco and to make tobacco products less accessible to minors.

B. Authority:

This regulation is promulgated under the authority granted to the Merrimac Board of Health under the Massachusetts General Laws Chapter 111, Section 31: "Boards of Health may make reasonable health regulations."

C. Definitions:

For the purpose of this regulation, the following words shall have the meanings respectively ascribed to them by this section:

1. **Minor:** Any individual who is under the age of eighteen (18).
2. **Person:** A person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale of tobacco products.
3. **Retail Tobacco Stores:** A retail store whose primary business or one of its primary businesses includes the sale of tobacco products.
4. **Self Service Display:** Any display of tobacco products which is so located such that said products are accessible to customers without assistance from an employee or store personnel.
5. **Tobacco Product:** Cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.
6. **Vending Machine:** Any automated or mechanical, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

D. Sales to Minors Prohibited:

1. No person shall sell tobacco products or permit tobacco products to be sold to a minor or not being the minor's parent or guardian, give tobacco products to a minor,
2. No person shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with a notice which is clearly visible to anyone purchasing such products and which states: "Massachusetts state law prohibits the sale of tobacco products to any person under the age of eighteen (18) years of age. See M.G.L. Ch. 270, Sect. 6." Said notice shall be that notice provided by the Massachusetts Department of Public Health and available from the Merrimac Board of Health.
3. **Identification:** Each retailer shall verify, by means of photographic identification containing the bearer's date of birth (including but not limited to government identification), that no person purchasing the product is younger than eighteen (18) years of age. No such verification is required for any person over the age of 26.

E. Tobacco Sales Permit:

1. No person shall sell or otherwise distribute tobacco within the town of Merrimac without first obtaining a tobacco sales permit issued by the Merrimac Board of Health.
2. As part of the application process, the applicant will be provided with instructions on compliance with M.G.L. Ch. 270 Section 6 (sales of tobacco to minors and penalties for violation thereof) and compliance with the Merrimac Board of Health Regulations.
3. Each applicant is required to sign a statement declaring that the applicant has read said instructions and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding the law.
4. The fee for a tobacco sales permit will be determined by the Merrimac Board of Health. All such permits shall expire annually on December 31.
5. A separate permit is needed for each location.
6. Each tobacco sales permit shall be displayed on the premises in a conspicuous place.

F. Free Distribution:

No person or entity shall knowingly distribute or furnish without charge or at less than full retail price, or cause to be furnished or distributed without charge or at less than full retail price for the purpose of commercial promotion, cigarettes or any other tobacco products, or coupons for cigarettes or other tobacco products, in any public place or at any event open to the public, except in retail tobacco stores.

G. Packaging:

No manufacturer, distributor or retailer may sell or cause to be sold, or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes.

H. Self Service Displays:

All self-service displays of tobacco products are prohibited. Exceptions include: self-service displays that are located in facilities where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter at any time; and advertising displays in which tobacco products are accessible only by an employee.

I. Tobacco Products Vending Machines:

No person shall distribute or sell tobacco products by the use of a vending machine.

J. Violations and Penalties:

1. Any person who violates the provisions of this regulation shall be subject to a fine of twenty-five dollars (\$25.00) for the first offense, seventy-five dollars (\$75.00) for the second offense and one hundred fifty dollars (\$150.00) for the third and each subsequent offense within a twelve month period.
2. The Merrimac Board of Health may suspend a tobacco sales permit granted pursuant to this regulation upon determination that a permit holder has committed three (3) violations of this regulation within twelve months, calculated from the date of the first offense. The Merrimac Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefor in writing. The Merrimac Board of Health, after a hearing, may suspend the tobacco sales permit for a period of time not exceeding thirty (30) days. All tobacco products shall be removed from the premises upon suspension or revocation of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.
3. Any permit holder who does not have an appeal pending and does not pay a fine within twenty-one days may be subject to the suspension of the tobacco sales permit granted pursuant to this regulation. The Merrimac Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing. The permit holder shall have

shall have an opportunity to be heard at such hearing and shall be notified of the Board's decision and the reasons therefor, in writing. The Merrimac Board of Health, after a hearing, may suspend the tobacco sales permit until the fine is paid. All tobacco products shall be removed from the premises upon suspension or revocation of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

K. Enforcement:

As an alternative or in addition to initiating criminal proceedings, violations of this regulation may be enforced by the Health Agent through the use of non-criminal disposition in the manner provided in M.G.L. Chap. 40, Sect. 21D and Merrimac General By-laws Chapter XVII. Any fines imposed under the provisions of this regulation shall enure to the Town of Merrimac. Any permit holder who does not have an appeal pending and does not pay a fine within twenty-one days may be subject to the suspension of the tobacco sales permit granted pursuant to this regulation.

L. Severability:

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining section being in force.

Implementation of this regulation will occur on April 1, 2000.

Signed in approval this 2nd day of March, 2000.



MERRIMAC BOARD OF HEALTH

Laura Weaver

Laura Weaver, Chairperson

Deborah Ketchen

Deborah Ketchen

Gerald Cleversey

Gerald Cleversey