

# **What you should know**



## **about Missouri's tobacco youth access and possession laws**

# Introduction

**T**obacco use, particularly smoking, has been cited by the U.S. Surgeon General as the number one cause of preventable death and disease in the United States. In Missouri, almost one-third of our high school students smoke. Missouri has the third highest adult smoking rate in the nation.

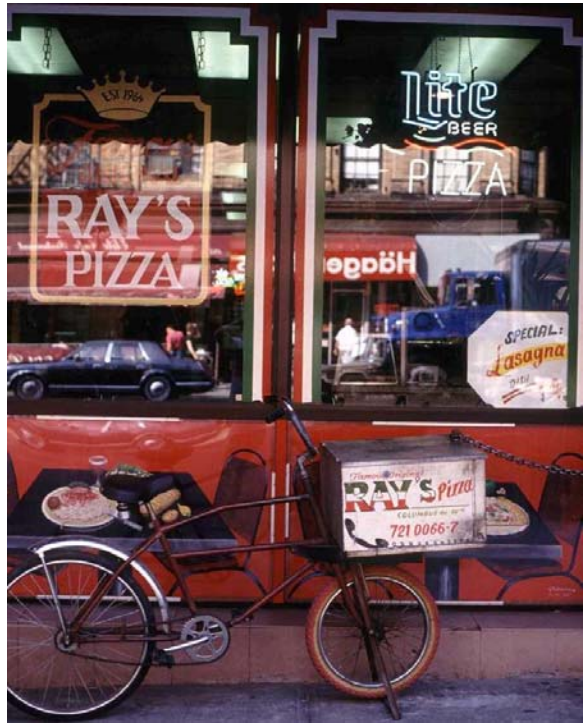
Approximately 80 % of adult smokers started before the age of 18. Data shows that Missouri ranks well above the national average in the diseases related to smoking—including heart and cancer.

A strategy to reduce youth tobacco use is to restrict or prevent their ability to purchase and possess tobacco products. The Missouri Clean Indoor Air Act that became effective August 28, 1992, made it illegal to sell or distribute tobacco products to individuals under the age of eighteen. On August 28, 2001, legislation was enacted that made it illegal for individuals under the age of eighteen to purchase, attempt to purchase, or possess tobacco products.

This document details the provision of the laws, including penalties and enforcement responsibilities. It is provided to inform

retailers, youth, parents, and local law enforcement of the Missouri laws that are intended to prevent youth access and use of tobacco products.

Prohibiting sales of tobacco to minors, and minors' possession of tobacco products are only part of a comprehensive approach to reducing



tobacco use among youth. Other important strategies that have been shown to reduce youth use are increasing the price of tobacco products and conducting mass media campaigns to counter the influence of tobacco industry advertising on youth.

# The Law

## I-a. No Sales to Minors (Retailers Laws)

**T**he law makes it unlawful for any person to sell, provide or distribute tobacco products to persons under eighteen years of age. (RSMo 407.931).

**T**he law states that all vending machines that dispense tobacco products shall be located within unobstructed line of sight and under direct supervision of an adult responsible for preventing persons less than eighteen years of age from purchasing any tobacco product from such machine. The vending machine must be equipped

proper signage prohibiting sales of tobacco products to minors. (RSMo 407.927)

**N**o persons or entity shall sell, provide or distribute any tobacco product or rolling papers to any minor, or sell any individual cigarettes to any person in Missouri. This subsection of the law does not apply to the distribution by family members on property that is not open to the public. (RSMo 407.931)

**N**o person or entity shall sell individual packs of cigarettes or smokeless tobacco products unless such packs prior to the time of sale are: sold through a vending machine ; or are displayed behind the check-out counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the checkout counter. (RSMo 407.928)



with a lock-out device to prevent machines from being operated.

**A**ll vendors to which tobacco products or rolling papers are sold at retail or through vending machines shall prominently display in a conspicuous place at every display from which tobacco products are sold and on every vending machine where tobacco products are purchased shall exhibit

**A** person or entity selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen. (RSMo 407.929)

# The Law

## I-b. Enforcement Authority

The Division of Liquor Control within the Department of Public Safety has the authority for implementing and enforcing the provisions of the law (RSMo 407.925 to 407.934).

The Division of Liquor Control will submit an annual report to the Missouri General Assembly on the effectiveness of tobacco use prevention laws in reducing tobacco possession by minors and the enforcement activities.

In Missouri, all vendors selling cigarettes or tobacco products must have a retail sales tax license and register with the Department of Revenue. (RSMo 407.934)

The Division of Liquor Control has the authority to inspect stores and tobacco outlets for compliance with all laws related to access of tobacco products to minors. The Division may employ a person seventeen years of age, with parental consent, to attempt to purchase tobacco for the purpose of inspection or enforcement of tobacco laws.



# The Law

## I-c. Violations

**A**ny person or entity who sells or distributes tobacco products by mail or the Internet in Missouri to any person under eighteen years of age shall be assessed a fine of two hundred fifty dollars for the first violation and five hundred dollars for each subsequent violation. (RSMo 407.926)

**A**ny person including, but not limited to, a sales clerk, owner or operator who unlawfully sells or distributes tobacco products to minors shall be penalized as follows:

**1st offense,  
\$25;**

**2nd offense,  
\$100;**

**3rd,  
and subsequent, offense,  
\$250.**  
(RSMo 407.931)

**O**wners of establishments where tobacco products are sold who unlawfully sell or distribute tobacco products to minors shall be reprimanded for the first violation within two years and will receive citations and be banned from selling tobacco for subsequent violations. (RSMo 407.931)

**M**unicipalities and counties may pass more stringent laws and ordinances for tobacco prevention. (RSMo 407.932)





## II-a. Wholesaler's Licensure Requirements and Annual Fees

Every wholesaler of cigarettes or tobacco products in the state of Missouri, as a condition of carrying such business, shall annually on or before February 15<sup>th</sup> of each year, secure from the Director of the Department of Revenue, a written license, and pay an annual fee of one hundred dollars for the twelve-month period.

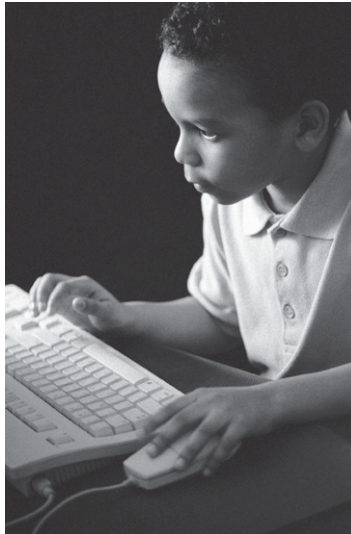
The license must be kept on public display in the wholesaler's place of business at all times. The license is not assignable or transferable.

The Director of Revenue shall refuse a license to any wholesaler of cigarettes or tobacco products from another state if that wholesaler's state refuses to license wholesalers of cigarettes or tobacco products from Missouri.

Every person making a first sale of tobacco products in Missouri, who does not have a wholesaler license, must apply for such license to the Director of Revenue.

The individual applying for a wholesaler's license, as a condition of acquiring a license, must file an instrument which may be cash or surety bond, letter of credit, or other instrument approved by the Director of Revenue, shall be in the amount of three times the average tax liability. The minimum bond is five hundred dollars.

A tobacco products license cannot be used as a substitute or in place of a cigarette wholesale license.



## II-b. Violations

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Any person who violates any provisions of this section or any rules and regulations issued pursuant to such provisions, the Director shall refuse to issue or shall revoke or suspend any license issued hereunder for such a period of time not to exceed one year.

A person may ask for a review of the decision by the Director of Revenue by administrative hearing.

## III-a. Retail Licensure Requirements

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No person shall sell cigarettes or tobacco products unless they have a retail sales tax license. (RSMo 407.934)

The Department of Revenue permits persons to designate through the Internet or by including a place on all sales tax license applications for the applicant to designate himself or herself as a seller of tobacco products and provide a list of all locations where the applicant sells tobacco products.

On or before July 1<sup>st</sup> of each year, the Department of Revenue shall make available to the Division of Liquor Control and the Department of Mental Health a complete list of every establishment which sells cigarettes and other tobacco products in Missouri.

## III-b. Enforcement

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The Division of Liquor Control shall have the authority to inspect stores and tobacco outlets for compliance with all laws related to access of tobacco products to minors.



## IV-a. Use of Minors by Division of Liquor Control

No person less than eighteen years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products unless such person is an employee of a seller of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment, or an employee of the Division of Liquor Control for enforcement purposes. (RSMo 407.933)

The supervisor of the Division of Liquor Control shall not use minors to enforce provisions of state law unless the supervisor promulgates rules that establish standards for the use of minors. The supervisor shall establish mandatory guidelines for use of minors in investigations by a state, county, municipal or other local law enforcement authority which shall be followed by such authority and which shall, at a minimum, provide for the following:

- 1) The minor shall be seventeen years of age;
- 2) The minor shall have a youthful appearance, and the minor, if a male, shall not have facial hair or a receding hairline and if a female, shall not wear excessive makeup or excessive jewelry;
- 3) The state, county, municipal, or other local law enforcement agency shall obtain the consent of the minor's parent or legal guardian before the use of such minor on a form



- approved by the supervisor;
- 4) The state, county, municipal, or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;
- 5) Any attempt by such minor to purchase tobacco products shall be videotaped or audiotaped with equipment sufficient to record all statements made by the minor and the seller of the tobacco product;
- 6) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the tobacco product;
- 7) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age;
- 8) The minor shall not lie to the seller of the tobacco product to induce a sale of tobacco products;
- 9) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;
- 10) The state, county, municipal, or other local law enforcement agency shall, within forty-eight hours, contact or take all reasonable steps to contact the owner or manager of the establishment if a violation occurs.



## IV-a. Use of Minors by Division of Liquor Control

The state, county, municipal, or other local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal, or other local law enforcement agency for a period of at least one year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:



- (a) The signed consent form of the minor's parent or legal guardian;
- (b) A Polaroid photograph of the minor;
- (c) A photocopy of the minor's valid identification, showing the minor's correct date of birth;
- (d) An information sheet completed by the minor on a form approved by the supervisor; and
- (e) The name of each establishment visited by the minor, and the date and time of each visit.

If the state, county, municipal, or other local law enforcement agency uses minors in investigations or in enforcing or determining violations of this chapter or any local ordinance and does not comply with the mandatory guidelines established by the Supervisor of Liquor Control. The Supervisor of Liquor Control shall not take any disciplinary action against the establishment or seller pursuant to chapter 407 based on an alleged violation discovered when using a minor and shall not cooperate in any way with state, county,

municipal, or other local law enforcement authority in prosecuting any alleged violation discovered when using a minor.

### References

HB 381 (RsMo 149.015-149.215, 407.926-407.934)



## **Tobacco Use Prevention Program**

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