



Colorado-Wyoming Petroleum Marketers Association  
Convenience Store Association

Example of a local ordinance where that city does not require a retailer license – yet can suspend sales -

This city has adopted their own penalty structure – affirmative defense criteria – and criteria where they can use a set of administrative violations to suspend a person’s ability to sell –

Sec. 24-12. - Sale of tobacco to minors prohibited.

(a) It shall be unlawful for any person to sell, give, deliver or furnish any tobacco product to anyone who has not reached eighteen (18) years of age. It shall be an affirmative defense to prosecution under this subsection

(a) that the person reasonably relied upon a photo identification document which identified the person receiving the tobacco product as being eighteen (18) years of age or older.

(b) It shall be unlawful for any person to permit or allow their agent, servant, officer or employee to sell, give, deliver or furnish any tobacco product to anyone who has not reached eighteen (18) years of age. It shall be an affirmative defense to prosecution under this subsection (b) that the employer has fully complied with section

24-13.5.

(c) Any person who sells or offers to sell any cigarettes or tobacco products shall display a warning sign, as specified in this paragraph (c). It is unlawful for any person to fail to display such warning sign. Such warning sign shall be displayed in a prominent place in the building and on any vending machine which dispenses a tobacco product at all times and shall have a minimum height of three (3) inches and a width of six (6) inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE OR POSSESS CIGARETTES OR TOBACCO PRODUCTS AND, UPON CONVICTION, A FINE MAY BE IMPOSED

(Ord. No. 344-98, § 1, 5-26-98)

Sec. 24-13. - Access to tobacco products.

It shall be unlawful for any person to sell or display or permit to be sold or displayed any tobacco product in such a manner that it can be reached or purchased by customers without it being requested from and provided by an employee of the establishment except as provided in section 24-12.5 and section 24-12.7.

(Ord. No. 344-98, § 1, 5-26-98)

Sec. 24-13.5. - Affirmative defenses.

It shall be an affirmative defense to charges brought under paragraph 24-12(b) that the retailer has complied with the following:

(a) The retailer has not been charged with two (2) violations of paragraph 24-12(b) at the same location as the alleged violation of this division within a year of the date of the alleged violation;

(b) The retailer has established and enforces a written policy against selling tobacco products to persons under eighteen (18) years of age, which requires employees to verify the age of tobacco product customers by way of a photo identification document and establishes sanctions for noncompliance;

(c) The retailer has provided training to all employees who sell tobacco products regarding the requirements of all applicable city ordinances, state laws, and company policies that (1) prohibit the sale of tobacco products to persons under eighteen (18) years of age; (2) require employees to verify the age of tobacco product customers who appear to be under twenty-seven (27) years of age by demanding a photo identification document, unless the customer's age has been verified previously; (3) require the assessment of a penalty or appropriate sanction for an employee violation of law or company policy; and (4) require a signed statement from the employee acknowledging their understanding of the applicable law and company policies;

(d) The retailer has posted warnings as set forth in section 24-12(c) at the check stand, cash registers, and at or near any tobacco vending machines that warn persons under the age of eighteen (18) that it is illegal for them to purchase tobacco products; and

(e) The retailer uses visual or electronic aids at the point of sale to remind salespersons to require photo identification and verify the customer is of lawful age during tobacco purchases.

(Ord. No. 344-98, § 1, 5-26-98)

Sec. 24-15. - Suspension of right to sell tobacco products.

(a)

Upon a determination that a violation of this division has occurred at a given location, the manager may issue a warning that a future violation within one (1) year may result in the suspension of the retailer's right to sell tobacco products where the violation occurred.

(b)

Upon a determination that a second violation of this division has occurred at the same location within one (1) year after the first violation, the manager, after offering the retailer an opportunity to respond to a show cause order, may suspend the retailer's right to sell tobacco products for a period not to exceed thirty (30) days at the location where the violations occurred.

(c)

Upon a determination that a third violation of this division has occurred at the same location within one (1) year after the first violation or upon a determination of a violation of the terms or conditions of an order suspending sales privileges entered pursuant to the provisions of this section, the manager, after offering the retailer an opportunity to respond to a show cause order, may suspend the retailer's right to sell tobacco products for a period not to exceed sixty (60) days at the location where the violations occurred.

(d)

Upon a determination that a fourth or subsequent violation of this division has occurred at the same location within a one-year period, or upon a determination that two (2) or more violations of the terms or conditions of an order suspending sales privileges entered pursuant to the provisions of this section have occurred, the manager, after offering the retailer an opportunity to respond to a show cause order, may suspend the retailer's right to sell tobacco products for a period not to exceed one (1) year at the location where the violations occurred.

(Ord. No. 344-98, § 1, 5-26-98)