Chapter 5.15

REGULATION OF SALE OF TOBACCO PRODUCTS

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5.15.010 Purpose, applicability and intent.

The purpose of this chapter is to provide regulations implementing RCW 26.28.080 regarding the sale of tobacco products to persons under the age of 18 years.

This chapter is applicable to all retailers of tobacco and tobacco products, all wholesalers of tobacco and tobacco products, and all establishments in which machines used for the purpose of vending tobacco and tobacco products are contained within the boundaries of this jurisdiction.

The intent of this chapter is to govern the availability to minors through retail sales made in person or through vending machines of tobacco and tobacco products. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.020 Enforcement authority.

The Tacoma-Pierce County Health Department is hereby authorized to provide support of this chapter and act on behalf of the City of Tacoma in providing all enforcement activities pertaining to the enforcement of the provisions of this chapter. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.030 Definitions.

A. "Minor" means any individual who is less then 18 years old.

B. "Retail" means sales made pursuant to purchasers for consumption or use.

C. "Retailer" means any person, firm, association, company, partnership or corporation who operates a store, stand, booth, concession or other place at which tobacco or tobacco product sales are made to purchasers for consumption or use.

D. "Wholesaler" means any person, firm, association, company, partnership or corporation who sells tobacco or tobacco products to retailers, or directly to purchasers for consumption or use.

E. "Tobacco vending machine" means and includes any machine or device designated for or used for the vending of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins, trade checks, or slugs.

F. "Licensing Authority" means the agency responsible for issuing, enforcing and revoking licenses in accordance with this chapter. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.040 Distribution of tobacco.

The distribution of tobacco and tobacco products without charge is prohibited. No retailer shall distribute without charge tobacco or tobacco products to any person. No retailer or wholesaler or any affiliate or representative of a retailer or wholesaler shall give away or offer to give away tobacco or tobacco products to any person. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.050 Tobacco vending machines.

Tobacco vending machines or any other mechanical device for retail sales of cigarettes or other tobacco products are prohibited; provided that this Section shall not prohibit the installation and use of a tobacco vending machine by a proprietor, his agent or employee 18 years or greater in:

A. Any premises or portion thereof to which access by minors is expressly prohibited by law if, and only if, the tobacco vending machine is located fully within such premises from which minors are prohibited and not less than 10 feet from all entrance and/or exit ways; or

B. Commercial buildings or industrial plants or portions thereof where the public is expressly prohibited and where such machines are strictly for the use of the employee therein; provided that the area must be posted as not open to the public and no minor employees are usually admitted. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.060 Identification required.

No retailer shall sell or permit to be sold cigarettes or other tobacco products to any individual without

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requesting and examining identification from the purchaser positively establishing the purchaser's age as 18 years or greater, unless the seller has some other conclusive basis for determining the buyer is over the age of 18 years.

In the event the seller does not request and examine identification from the purchaser, the seller shall be deemed to have not had "a conclusive basis" under this Section if the purchaser is in fact a minor.

Identification for proof of age shall be by means of approved documentation as outlined in Section 5.15.070(6) of this chapter. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.070 License required.

It shall be unlawful for any retailer to sell or offer for sale cigarettes or any other tobacco products unless that retailer first obtains and maintains a valid license from the license authority for each location where such sales are conducted. Licenses must be renewed annually.

A. It shall be the responsibility of each licensee to ensure that the following requirements of licensing are fulfilled:

1. To conspicuously post and reasonably maintain appropriate signs notifying customers that identification is required to purchase tobacco products.

2. To conspicuously post and reasonably maintain appropriate signs in areas frequented by employees such as near time cards or in lunchrooms reminding them of the ordinance and sanctions thereunder.

3. Conspicuously post and reasonably maintain appropriate signs on or near the cash register(s) or comparable area(s) reminding employees to check identification before selling tobacco products if in any doubt as to the customer's age.

4. Require each employee, as part of the application for employment process, to read the ordinance or a summary of the ordinance and sign a covenant that they understand and will uphold the ordinance.

5. Provide verbal instructions to each employer and require them to sign a covenant that verbal instructions have been received and understood.

6. Provide each employee with a written list of the types of identification that are acceptable to establish legal age. Any of the following officially issued cards of identification, if not visibly altered, which shows the person's correct age and bears the person's signature and photograph shall be sufficient proof of age and, if required and examined, shall be sufficient to establish that the licensee has not violated this chapter:

a. Liquor control authority card of identification of any state or province of Canada;

b. Driver's license, instruction permit or identification card of any state or province of Canada, or "identicard" issued by the Washington State Department of Licensing pursuant to RCW 46.20.117;

c. United States active military identification;

d. Passport;

e. Merchant Marine identification card used by the United States Coast Guard; or

f. Department of Immigration identification card. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.080 Unlawful for person to sell.

It is unlawful for any person to sell, other than at retail, any tobacco product to any person other than a person who holds a current and valid retail sales license issued under this chapter. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.090 Tobacco coupons.

It is unlawful for any retailer or wholesaler to provide tobacco or tobacco products to any person by a coupon or at no cost to such person. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.100 Sanctions.

A license shall be suspended by the licensing authority upon a finding, after notice and opportunity to be heard, that the licensee has failed to comply with any provision of this chapter as follows:

A. In the case of a first and single violation, the licensee shall be fined $100.00 and shall be given notification, in writing, of provisions for penalties to be levied in the event of additional or further violations; and

B. In the case of a second or two violations, the licensee shall be fined $500.00 and the license shall be suspended for not less than 90 consecutive business days nor more than six months; and

C. In the case of three or more violations, the licensee shall be fined $1,000.00 and the license shall be revoked for not less than nine months and no more than 18 months from the date of revocation.

D. Each sale to a minor shall constitute a separate violation. All transactions completed during a single

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visit by a minor to the licensee's premises shall be considered one sale.

E. Appeals of the imposition of the above sanctions shall be made to the Hearing Examiner pursuant to Tacoma Code Chapter 5.02. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.110 License application and issuance.

A. Application for a tobacco retailers license shall be submitted in the name of the entity or person proposing to conduct retail tobacco sales on the business premises and shall be signed and notarized by such person or his agent. All applications shall be submitted on a form supplied by the licensing authority and contain the following information:

1. The name, home address, home telephone number, date and place of birth, and social security number of the applicant if the applicant is an individual;

2. The names, addresses, telephone numbers, and social security numbers of any partners or corporate officers;

3. The business name, address, and telephone number of each establishment where tobacco is sold at retail.

B. Upon receipt of a satisfactory application for a tobacco retail license, the licensing authority shall issue a license which must be prominently displayed at the location where tobacco retail sales are conducted. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.120 Fees.

The fees for a tobacco retailer's license shall be based on average monthly retail dollars spent for tobacco products during the past consecutive 12 months, not to exceed the cost of administering these regulations, specifically as follows:

Average monthly retail $ for tobacco	Annual Fee
$ 500 – or less	$ 25
501 – 2,000	50
2,001 – 5,000	100
5,001 – 10,000	200
10,001 – 15,000	300
15,001 – 20,000	400
20,001 – and over	500

In addition, there shall be a $50.00 non-refundable application fee for license. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.130 Non-transferability.

A tobacco retail license is non-transferable. If a tobacco retailer changes location, a new tobacco retail license will be issued for the new address upon receipt of an application for change of location. The license will retain the same expiration date as that previously issued. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.140 Health warnings.

The sale by a retailer of cigarettes not in a package provided by the manufacturer with required health warnings is prohibited. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.150 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any licensee, retailer or wholesaler who fails to comply with any provisions of this chapter or any person who engages in any activity for which a license is required pursuant to the provisions of this chapter while his or her license is suspended or revoked, or who fails to obtain a license prior to engaging in the activity for which a license is required, shall pay a civil penalty of $100.00 per day for the first violation or $500.00 per day for the second violation or $1,000.00 for subsequent violations. Further, the violator shall be subject to such further penalties as set forth herein. The civil penalty may be assessed and collected by use of all appropriate legal remedies. (Ord. 25198 § 2; passed Oct. 27, 1992)

5.15.160 Effective date.

This chapter shall take effect on January 1, 1993. (Ord. 25198 § 2; passed Oct. 27, 1992)