

**CITY CLERK'S OFFICE MEMORANDUM
#06-2020**

DATE: March 9, 2020
TO: Honorable Mayor Meredith Leighty and City Council Members
THROUGH: Heather Geyer, City Manager *hmg*
FROM: Johanna Small, City Clerk *JS*
SUBJECT: Retail Tobacco Licensing Program

PURPOSE

To present a draft ordinance to regulate the retail sale of tobacco products. For purposes of the draft ordinance and this memo, the definition of "tobacco product" includes:

1. Any product which contains, is made or derived from tobacco or used to deliver nicotine, synthetic nicotine or other substances intended for human consumption, whether heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including without limitation cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, bidis, snus, nicotine products, mints, hand gels;
2. Electronic smoking devices; and
3. Any component, part, accessory or associated tobacco paraphernalia of a tobacco product whether or not sold separately.

Smoking cessation products are not included.

BACKGROUND

On June 17, 2019, City Council provided staff with direction to move forward with three of the four options presented to City Council regarding tobacco products. The policy items and status of each are listed below:

Policy Considerations	Action/Status
1. Implement a licensing process for tobacco retailers that includes compliance checks	<i>In process</i> Draft ordinance presented on March 9, 2020
2. Raise the purchase age for tobacco products to 21 years of age	<i>In process</i> Included in draft ordinance
3. Prohibit smoking in outdoor public places	<i>Completed</i> Ordinance No. 1781, adopted on September 23, 2019, prohibits smoking and the use of electronic smoking devices in public parks and recreational areas.
4. Consider a ballot measure to implement a special sales tax on tobacco products	<i>Not supported by Council</i>

Federal, State, and Local Actions

On December 20, 2019, the Federal Food, Drug, and Cosmetic Act was amended, which raised the federal minimum age for the sale of tobacco products from 18 to 21 years. The minimum age to purchase tobacco products can be further restricted by the City.

The State Legislature is currently considering House Bill 20-1001 concerning the regulation of nicotine products. The bill would raise the minimum age of a person to whom tobacco products may be sold from 18 to 21 years of age and would enact a retail tobacco licensing program. HB20-1001 proposes a two-tiered State and local licensing structure similar to liquor and marijuana licensing and would require businesses to obtain a license by July 1, 2021. A copy of HB20-1001 is included as Attachment 3.

The City can require a tobacco license for retailers independent of the State's proposed licensing program. Ultimately, the City's program should align with the State's licensing requirements, although the City can adopt more stringent regulations, if desired.

The Rocky Mountain Cradle to Career Partnership (formerly Adams County Youth Initiative) conducted a survey of local youth and parents regarding youth vaping. Data from the survey shows that youth have access to tobacco products in various ways. Often times, youth are accessing tobacco products from older friends, older siblings, and parents who are able to purchase the products legally, or from online transactions. Input from the survey and from Northglenn Youth Commission members identified a need to educate youth and parents on both the effects of nicotine and vaping, and the larger practice of vaping.

The City's draft ordinance addresses two main policy considerations based on Council's previous direction, and is included in Attachment 1:

1. Implements a licensing process for tobacco retailers that includes compliance checks.
2. Prohibits any licensed tobacco business from selling or transferring a tobacco product to a person under 21 years of age.

It is important to acknowledge that a retail tobacco licensing program is not intended to be an overall solution to the issue of youth vaping. However, it can be one effective tool when combined with other community strategies. Two common themes related to youth vaping are access and education. The retail tobacco licensing program as presented in the draft ordinance is intended to create a partnership with the City's retailers to:

1. Ensure that no one under the age of 21 is purchasing tobacco products from retailers. As acknowledged in the Vaping Study, raising the legal purchase age to 21 would allow for more maturity in decision making around purchasing tobacco products for people who are underage and would also reduce the number of access points because middle and high school students are under the age of 21.
2. Provide an avenue for access to educational materials by encouraging retailers to engage in information sharing regarding youth tobacco use.

The draft ordinance accomplishes the following:

- Requires every business selling tobacco products to obtain a Retail Tobacco License from the City.
- Establishes the Liquor Licensing Authority as the local licensing authority for tobacco.
- Authorizes the City Clerk to administratively approve applications containing no derogatory information on behalf of the local licensing authority.
- Restricts the location of retail tobacco businesses. New businesses would be prohibited within 500 feet of schools, parks, and public recreation areas.
- Prohibits the sale or transfer of tobacco products to anyone under the age of 21.
- Prohibits self-service access to tobacco products via displays or vending machines.
- Requires 100% ID-checking for tobacco sales.
- Imposes penalties for violations of the ordinance.

- Implements a licensing incentive program to encourage and reward compliance and consumer education.

The licensing incentive program is a new concept that is intended to increase compliance and reward retailers for their efforts. Licensing incentives are currently used in communities in California and provide discounts to the annual license renewal fee. Retailers would be eligible for a reduction in the annual renewal fee if they demonstrate compliance with the following items:

1. Use of identification scanners or entry of the purchaser's date of birth for the completion of all sales.
2. The posting of public health education or underage use prevention signage.
3. Completion by all employees of responsible vendor training.
4. Maintaining a written policy regarding the checking of identification.

The proposed amount for each discount would be 10% of the license fee and the total reduction of the renewal fee would not exceed 40%. The incentive items would be verified by staff during inspections of the businesses.

The Vaping Study identified that there is a lack of understanding on how vaping impacts one's physical health, and some hold a misperception that vaping is a healthy alternative to smoking traditional cigarettes. Incentives to retailers to share information about the effects of tobacco products is intended to provide education to individuals of legal age who may be purchasing and providing tobacco products to underage youth because they believe there is no negative health impact.

Municipal Policy

Several metro area cities have adopted retail tobacco licensing programs and/or have raised the local minimum age to purchase tobacco products from 18 to 21. Many mountain communities have also implemented licensing programs and have raised the purchase age to 21.

Retail Tobacco License	21+
Municipalities that require an annual license to sell some or all tobacco products	Municipalities that have raised the minimum age of sale for tobacco from 18 to 21
Arvada	Arvada
Boulder	Boulder
Broomfield – <i>effective May 1, 2020</i>	Broomfield
Castle Pines	Castle Pines
Centennial	Centennial
Denver	Denver
Edgewater	Edgewater
Federal Heights	Federal Heights
Golden – <i>effective March 1, 2020</i>	Golden
Lakewood – <i>non-cigarette</i>	Lafayette
Superior	Lakewood
	Littleton
	Louisville
	Superior
	Thornton (<i>in process</i>)

Staff reviewed the following retail point-of-sale strategies related to tobacco licensing programs, which are intended to reduce exposure to tobacco products. Staff considered the legal risks associated with each strategy, the effect on current businesses related to the issue of youth tobacco use and vaping, and using retail strategies to address youth tobacco use, specifically youth access to tobacco products. The retail strategies may be considered by Council as additional methods to control tobacco, and can be evaluated further if Council desires.

Retail Point-of-Sale Strategies		Rating
1 REDUCING (OR RESTRICTING) THE NUMBER, LOCATION, DENSITY & TYPES OF RETAIL TOBACCO OUTLETS		
✓ 1a	Establishing a licensing system with fees or increasing licensing fees	●
✓ 1b	Reducing the number of retail tobacco outlets	●
✓ 1c	Restricting the location of retail tobacco outlets	●
1d	Requiring a minimum distance between retail tobacco outlets	●
✓ 1e	Prohibiting the sale of tobacco products at certain types of establishments	●
1f	Limiting the number of hours/days when tobacco products can be sold	●
2 INCREASING THE COST OF TOBACCO PRODUCTS THROUGH NON-TAX APPROACHES		
2a	Establishing minimum price laws	●
2b	Prohibiting price discounting	●
2c	Restricting sale based on pack size for non-cigarette tobacco products	●
2d	Implementing mitigation fees	●
2e	Implementing sunshine or disclosure laws	●
3 IMPLEMENTING PREVENTION AND CESSATION MESSAGING		
3a	Requiring the posting of quitline information in retail stores	●
3b	Requiring the posting of health warnings at businesses	●
3c	Requiring the posting of graphic health messages at the point of sale	●
4 RESTRICTING POINT-OF-SALE ADVERTISING		
✓ 4a	Implementing content-neutral advertising laws	●
4b	Limiting the placement of retail tobacco advertising outside certain store locations	●
4c	Limiting the times when retail tobacco advertising is allowed	●
4d	Limiting the placement of retail tobacco advertising inside stores	●
4e	Limiting the manner of retail tobacco advertising	●
5 RESTRICTING PRODUCT PLACEMENT		
✓ 5a	Prohibiting self-service access to non-cigarette tobacco products	●

5b	Limiting the times when tobacco products are displayed	●
5c	Restricting the number of products that can be displayed	●
5d	Prohibiting product displays	●
6 OTHER POINT-OF-SALE STRATEGIES		
6a	Prohibiting the sale of flavored non-cigarette tobacco products	●
✓ 6b	Raising the minimum legal age to buy tobacco products	●
✓ 6c	Requiring that retail tobacco clerks meet the minimum legal sale age	●
6d	Implementing stricter laws on the sale and use of commercial roll-your-own tobacco	●
6e	Including a “shame law” in the retail tobacco licensing ordinance	●
✓ 6f	Implementing a licensing incentive program	●
✓ 6g	Regulating the sale of e-cigarette and other nicotine-delivery systems	●

● = Green light or ‘recommended’ ● = Yellow light or ‘recommended with caution’ ● = Red light or ‘not recommended’
 ● = Exploratory ✓ = Included in draft ordinance - Adapted from ‘Point-of-Sale Strategies – a Tobacco Control Guide’

STAFF RECOMMENDATION

The information provided above is for discussion and to seek direction from City Council on whether they wish to proceed with adopting an ordinance to regulate the sale of tobacco products and to prohibit sales of tobacco products to persons under 21 years of age.

BUDGET/TIME IMPLICATIONS

The fiscal impacts associated with a retail tobacco licensing program include personnel resources and the cost of prosecuting businesses who do not comply with the regulations. The draft ordinance authorizes license fees to be set by separate resolution, and the fees are intended to cover the annual cost of administering the licensing program. Staff has conducted a cost analysis to determine proposed fee amounts. Based on the proposed licensing program, staff would recommend a new license fee of \$300 and an annual license renewal fee of \$250.

Civil penalty fines imposed on businesses who are found to be in violation of the ordinance would also cover costs related to the licensing program and enforcement activities.

If Council desires to move forward with adopting a retail tobacco licensing program, the ordinance would require two readings and a public hearing at regular Council meetings. Staff recommends identifying an effective date in relation to the scheduling of the items to allow time to notify retailers of the new license requirements.

STAFF REFERENCE

If Council has any questions or comments, please contact Johanna Small, City Clerk, at jsmall@northglenn.org or 303.450.8757.

ATTACHMENTS

1. Draft Retail Tobacco Licensing Ordinance
2. House Bill 20-1001 – Nicotine Product Regulation

SPONSORED BY:

COUNCILMAN'S BILL

ORDINANCE NO.

No. _____
Series of 2020

_____ Series of 2020

A BILL FOR AN ORDINANCE AMENDING CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE ADOPTING A NEW ARTICLE 19 REGARDING LICENSED RETAIL TOBACCO ESTABLISHMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Chapter 18 of the Northglenn Municipal Code is amended with a new Article 19 entitled "Licensed Retail Tobacco Establishments" to read as follows:

ARTICLE 19.

LICENSED RETAIL TOBACCO ESTABLISHMENTS

Section 18-19-1. Purpose. The purpose of this Article is to ensure compliance with the business standards and practices of the City, to regulate the sale of tobacco products at retail, prohibit sales of tobacco products to persons under twenty-one (21) years of age, and to encourage responsible tobacco product retailing.

Section 18-19-2. Authority. The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- (a) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (b) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (c) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (d) Section 31-15-401, C.R.S. (concerning municipal police powers); and
- (e) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses).

Section 18-19-3. Definitions. For purposes of this Article, the following terms shall have the following meanings:

Applicant means a person twenty-one (21) years of age or older who has applied for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, applicant shall include all persons who are members, managers, officers and directors of such entity.

Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

1. Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
2. Tobacco in any form that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
3. Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subsection (1) hereof.
4. The term "cigarette" includes roll-your-own, *i.e.*, any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

Cigar means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any other substance containing tobacco. For purposes herein, cigar includes without limitation tobacco products known or labeled as a "cigar," "cigarillo" or "little cigar."

Electronic Smoking Device means any product containing or delivering nicotine intended for human consumption that can be used by an individual to simulate smoking in the delivery of nicotine or any other substance, even if marketed as nicotine-free, through inhalation from the product. Electronic smoking device includes any refill, cartridge or component part of a product, whether or not marketed or sold separately. Electronic Smoking Device does not include any product that has been approved or certified by the United States Food and Drug Administration for Sale as a tobacco cessation product or for other medically approved or certified purposes.

License means a Retail Tobacco Business License.

Licensed Premises means the premises specified in an application for a license pursuant to this Article that is owned or in possession of the Licensee and within which the Licensee is authorized to distribute, sell, or store tobacco products in accordance with the provisions of this Article.

Licensee means any Person licensed, registered, or permitted pursuant to this Article.

Little cigar means any roll of Tobacco other than a Cigarette wrapped entirely or in part in Tobacco and weighing no more than three pounds per thousand. "Little Cigar" includes without limitation any product known or labeled as "small cigar" "cigarillo" or "little cigar."

Local Licensing Authority means the Liquor Licensing Authority of the City of Northglenn.

Retail Tobacco Business means a person or entity engaged in the retail sale of tobacco products in the City.

Tobacco product means:

1. Any product which contains, is made or derived from tobacco or used to deliver nicotine, synthetic nicotine or other substances intended for human consumption, whether heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including without limitation cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, bidis, snus, nicotine products, mints, hand gels;
2. Electronic smoking devices; and
3. Notwithstanding any provision of subsections (1) and (2) hereof to the contrary, *tobacco product* includes any component, part, accessory or associated tobacco paraphernalia of a tobacco product whether or not sold separately.

Tobacco product does not include any product that contains marijuana or any product made from or derived from tobacco and approved by the Food and Drug Administration for use in connection with cessation of smoking.

Section 18-19-4. License Required. It shall be unlawful for any person to establish or operate a Retail Tobacco Business without first having obtained a license for such business from the local licensing authority. Such licenses shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

Section 18-19-5. Location Criteria.

(a) Prior to the issuance of a license for a Retail Tobacco Business, the local licensing authority shall determine whether the proposed location complies with the requirements of this Section. Failure to comply with this Section shall preclude issuance of a license.

(b) No Retail Tobacco Business shall be located at the following locations:

(1) Within five hundred (500) feet of a licensed childcare facility, or any kindergarten, primary, secondary, middle, junior, or senior high school educational facility, either public or private;

(2) Within five hundred (500) feet of any public park, public pool, or public recreational facility; or

(3) Upon any City of Northglenn owned property.

(c) The distances described in subsection (b) shall be computed by use of a radius from the property lines of the locations set forth in subsection (b) to the unit within a building or structure housing the Retail Tobacco Business.

(d) The suitability of a location for a Retail Tobacco Business shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a Retail Tobacco Business under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains continuously in effect.

Section 18-19-6. Application for a Retail Tobacco Business License.

(a) A person seeking a new Retail Tobacco Business License, or a renewal of a Retail Tobacco Business License must apply to the local licensing authority on forms provided by the City Clerk.

(b) An applicant shall provide the following information for the proposed Retail Tobacco Business License:

(1) The name, address and date of birth of the owner or owners of the Retail Tobacco Business. If the owner is a corporation, partnership, limited liability company or similar business entity, the application shall include the name and address of all principals. If the owner is not a natural person, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, and the contact information for the person that is authorized to represent the entity shall be provided;

(2) The name, address and date of birth of the on-site manager, if the manager is proposed to be someone other than the owner, or if the owner is an entity other than a natural person;

(3) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a Retail Tobacco Business;

(4) A copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with the conditions of occupancy of the premises;

(5) Evidence of a valid sales tax license;

(6) Acknowledgement by the applicant that any violation of a granted Retail Tobacco License is subject to the provisions of Section 18-19-21 of this Article; and

(7) Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

(c) An applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.

Section 18-19-7. Persons prohibited as licensees and employees.

(a) No license shall be issued to, held by, or renewed by any of the following:

(1) Any person until all applicable fees have been paid;

(2) Any person who is not of good moral character satisfactory to the local licensing authority;

(3) Any corporation, partnership, association or company, any of whose officers or directors are not of good moral character satisfactory to the local licensing authority;

(4) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;

(5) Any natural person under twenty-one (21) years of age;

(6) Any person who has discharged a sentence for a felony conviction within the past five (5) years;

(7) Any person who has made a false, misleading or fraudulent statement on their application;

(8) Any person who fails to file any tax return with a taxing agency, stay out of default on a government-issued student loan, pay child support, or remedy outstanding delinquent taxes; or

(9) Any person whose license for a Retail Tobacco Business in another city, city and county or state has been revoked.

(b) Jurisdiction.

(1) In investigating the qualifications described herein, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including without limitation evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(2) As used in subsection (b)(1) of this Section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

Section 18-19-8. Processing and Consideration of Application.

(a) Upon receipt of a completed application, the City Clerk shall circulate the application to all affected departments of the City to determine whether the application is in full compliance with all applicable laws, rules, and regulations.

(b) Upon receipt of an application for a new Retail Tobacco Business License, the City Clerk shall determine whether to approve or deny the application.

(c) Before entering a decision approving or denying the application for a License, the City Clerk shall consider, except where this Article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(d) The City shall, prior to issuance of the license, perform an inspection of the proposed licensed premises to determine compliance with any applicable requirements of this Article or other applicable requirements of the Northglenn Municipal Code.

(e) The City Clerk shall deny any application that does not meet the requirements of this Article. The City Clerk shall also deny any application that contains any false, misleading or incomplete information. The City Clerk shall also deny or refuse to issue a license for good cause. "Good cause" shall mean:

(1) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of state or local law, rules, or regulations;

(2) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or

(3) The licensed premises has been operated in a manner that adversely affects the public health or the safety of the immediate neighborhood in which the establishment is located.

(f) The City Clerk shall issue the decision approving or denying the license within thirty (30) days of the receipt of the completed application.

(g) In the event the City Clerk determines to deny a license under this Article, the applicant may appeal the decision of the City Clerk by submitting a written appeal to the City Clerk within ten (10) days of the date of the decision by the City Clerk, which appeal shall then be forwarded by the City Clerk to the local licensing authority.

(1) The local licensing authority, in determining whether to affirm or reverse the decision of the City Clerk shall consider the qualifications of the applicant for the conduct of the type of business proposed, and the basis for "good cause" relied upon by the City Clerk in determining to deny the issuance of the license.

(2) Review by the local licensing authority of the City Clerk's decision shall be according to Chapter 3, Article 7 of the Northglenn Municipal Code, and the burden of proof shall be on the applicant to show that the City Clerk's decision is not supported by competent evidence.

(h) The decision of the local licensing authority shall not be subject to further administrative review but only subject to review by a court of competent jurisdiction in accordance with Section 18-19-22 of this Article.

Section 18-19-9. Fees.

(a) Upon issuance of a license or any renewal of a license, the licensee shall pay to the City a fee in an amount determined by the City by separate resolution to be sufficient to cover the annual cost of inspections conducted pursuant to this Article by the Northglenn Police Department, and such other departments of the City as may be designated by the local licensing authority, for the purpose of determining compliance with the provisions of this Article and any other applicable state or local laws or regulations.

(b) In addition to the annual license fee, the licensee shall pay to the City fees in an amount determined by the City by separate resolution to be sufficient to cover the administrative costs of the City associated with applications for annual renewal, transfer or change in ownership, change in manager, or change of location.

Section 18-19-10. License Duration and Renewal.

(a) Upon issuance of a license, the City shall provide the licensee with one (1) original of such license for each Retail Tobacco Business to be operated by the licensee in the City. Each such copy shall show the name and address of the licensee and the address of the licensed premises at which it is to be displayed.

(b) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Article. All renewals of a license shall be for one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority on forms supplied by the City Clerk not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount determined by the City by separate resolution for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal.

(c) A licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Article. The City shall not accept renewal applications after the expiration date of such license.

(d) A licensee whose license expires shall not operate until all necessary new licenses have been obtained.

Section 18-19-11. Renewal Fee Incentives.

(a) An application for renewal of an existing license may be eligible for a reduction in the annual renewal fee in an amount determined by Resolution if the application can show the presence of the items set forth in this subsection (a) in use at the Retail Tobacco Business:

(1) Use of identification scanners or entry of date of birth of purchaser for completion of all sales;

(2) The posting of public health education or underage use prevention signage;

(3) Completion by all employees of responsible vendor training; or

(4) Maintaining a written policy regarding identification checking.

(b) Proof of the use or existence of any of the above conditions shall be in the form required by the City Clerk, and may include self-certification on the renewal

application and verification by the Northglenn Police Department during annual inspection.

(c) Ultimate determination of eligibility for renewal fee reduction shall be at the sole discretion of the City Clerk.

Section 18-19-12. Nonrenewal, Suspension or Revocation of License.

(a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.

(b) The City Clerk, upon determining that good cause may exist for nonrenewal of a license issued pursuant to this Article, shall forward any such application for renewal to the local licensing authority, and the local licensing authority shall conduct a public hearing on whether good cause exists for nonrenewal within forty-five (45) days of the date of the City Clerk forwarding such application on to the local licensing authority.

(c) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one year.

Section 18-19-13. Display of License.

(a) Each license shall be limited to use at the premises specified in the application for such license, which premises must be a permanent location.

(b) Each license shall be continuously posted in a conspicuous location on the licensed premises.

Section 18-19-14. Management of Licensed Premises. Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person who has discharged a sentence for a felony conviction within the past five (5) years.

Section 18-19-15. Change in Management, Financial Interest, Ownership, or Location.

(a) Each licensee shall report any change in managers to the local licensing authority within thirty (30) days after the change.

(b) Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in Retail Tobacco

Business that is the subject of the license. Such report must be filed with the local licensing authority within thirty (30) days after any such transfer or change. A transfer application shall be required for any transfer of the capital stock of a corporation or any other interest totaling more than ten percent (10%) of the stock in any one (1) year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the Retail Tobacco Business that is the subject of a license shall be a person who has discharged a sentence for a felony conviction within the past five (5) years.

(c) For a transfer of ownership of the Retail Tobacco Business, a license holder shall apply to the local licensing authority on forms provided by the City Clerk. In considering whether to permit a transfer of ownership, the local licensing authority shall consider the requirements of this Article and the regulations promulgated in conformance therewith.

(d) Change of location.

(1) A licensee within the City that seeks to change its location may move their permanent location so long as the new location conforms to the requirements of this Article as follows:

(A) The proposed changed location must conform to the requirements of Section 18-19-5 of this Article; and

(B) The applicant shall provide the information required by Section 18-19-6 of this Article.

Section 18-19-16. Inspection of Licensed Premises. During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Northglenn Police Department and all other City departments designated by the local licensing authority for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection upon request.

Section 18-19-17. Prohibited Activity.

(a) It shall be unlawful for any licensee to sell or distribute a tobacco product to a person under twenty-one (21) years of age. No licensee shall sell or transfer a tobacco product without first examining the government-issued photographic identification of the recipient to confirm that the recipient is at least twenty-one (21) years of age. The minimum legal age for the purchase of tobacco products shall be prominently displayed in the entrance or other clearly visible location of the licensed premises.

(b) A licensee shall not allow any person who is younger than eighteen (18) years of age to sell a tobacco product during the course of operation of the business.

(c) A licensee shall stock and display all tobacco products in a manner so they are inaccessible to customers without the assistance of a retail clerk, thereby requiring a direct face-to-face exchange of the tobacco product from an employee of the business to the customer.

(d) A licensee shall not display tobacco products in public view during the timeframe in which a license is suspended. A licensee shall cease to display tobacco products in public view upon revocation of a license issued pursuant to this Chapter.

(e) The sale of tobacco products from a vending machine or self-service display is prohibited.

(f) The distribution of free samples of tobacco products is prohibited.

Section 18-19-18. Mobile Premises. Each Retail Tobacco Business shall be operated from a permanent location. No Retail Tobacco Business shall be permitted to operate from a moveable, mobile or transitory location.

Section 18-19-19. Violations and Penalties.

(a) If the local licensing authority finds that a licensee has violated any provision of this Article, the local licensing authority may deny, suspend, revoke, or deny renewal of a license issued pursuant to this Article. Additionally, the local licensing authority may order civil penalties to be imposed upon the licensee for the violation. The guidelines set forth below shall be utilized by the local licensing authority for all violations set forth in Section 18-19-17 of this Article, provided that such presumptive penalties shall not restrict the local licensing authority's discretion to impose a greater or lesser penalty if the circumstances warrant:

(1) One violation within [24 or 36?] months: a civil penalty of \$500 and a seven (7) day suspension to be served with three (3) days of actual suspension and four (4) days held in abeyance for three (3) years from the date of the final order of the Authority;

(2) Two violations within [24 or 36?] months: a civil penalty of \$1,000 and a fourteen (14) day suspension to be served with six (6) days of actual suspension and eight (8) days held in abeyance for three (3) years from the date of the final order of the Authority. Any period of actual suspension must run consecutively to any previously imposed period of suspension that was held in abeyance; and

(3) Three violations within [24 or 36?] months: a civil penalty of \$1,500 and a thirty (30) day suspension to be served in its entirety with no days held in abeyance. Any period of actual suspension must run consecutively to any previously imposed period of suspension that was held in abeyance.

(b) In addition to the possible civil penalties and denial, suspension, revocation, or nonrenewal of a license under the provisions of Subsection (a) of this Section, any person, including without limitation any licensee, manager or employee of a Retail Tobacco Business, or any customer of such business, who violates any of the provisions of this Article, shall be subject to the following penalties:

(1) It shall be a misdemeanor offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-1-10 of the Northglenn Municipal Code.

(2) The operation of a Retail Tobacco Business without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction, including the Northglenn Municipal Court.

(3) The operation of a Retail Tobacco Business without a valid license issued pursuant to this Article is also specifically determined to be a public nuisance pursuant to Section 9-11-3 of the Northglenn Municipal Code.

Section 18-19-20. Other Laws Remain Applicable.

(a) To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing Retail Tobacco Businesses, the additional or stricter regulation shall control the establishment or operation of any such business in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers, that the source and quantity of any tobacco product found upon the licensed premises are in full compliance with any applicable state or federal law or regulation.

Section 18-19-21. Rules and Regulations; Administrative Approvals.

(a) The City Manager shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations, and file the same with the City Clerk, as may be necessary for the proper administration of this Article.

(b) In the event that there have been no violations of this Article during the preceding year, and if there is no other derogatory information regarding the licensee, its partners, officers, directors, managers, or shareholders, then the City Clerk may grant the renewal of a Retail Tobacco Business License, transfer of ownership, change of corporate status, a request for modification of the licensed premises that does not include an expansion of the licensed premises, or manager registration on behalf of the licensing authority. If, however, the City Clerk's investigation discloses any proved or alleged violations of the provisions of this

Article or derogatory information as described above, the Clerk shall schedule action on the application before the local licensing authority.

Section 18-19-22. Judicial Review. Decisions by the local licensing authority are subject to judicial review by the District Court of Adams County pursuant to C.R.C.P. 106.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____,
2020.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2020.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

Attachment 2

INTRODUCED

LLS NO. 20-0057.01 Jennifer Berman x3286

HOUSE BILL 20-1001

HOUSE SPONSORSHIP

Mullica and Larson,

SENATE SPONSORSHIP

Bridges and Priola,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING NICOTINE PRODUCT REGULATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Sections 1 through 8 of the bill raise the minimum age of a person to whom cigarettes, tobacco products, and nicotine products (products) may be sold from 18 years of age to 21 years of age.

Under current law, if a minor purchases or attempts to purchase any one of the products, the minor may be convicted of a class 2 petty offense subject to a \$100 fine. In addition to raising the minimum age from 18 years of age to 21 years of age, section 1 also repeals the criminal penalty for purchasing or attempting to purchase the products as a minor.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Section 7 also prohibits a retailer from permitting a person under 18 years of age to sell or participate in the sale of products.

Section 8 also increases the minimum number of compliance checks required of each retail location at which the products are sold to 2 per year or at least the minimum number annually required by federal regulation, whichever number is greater.

Section 9 requires every retailer of the products in the state, on and after July 1, 2021, to be licensed. The liquor enforcement division (division) of the department of revenue is charged with licensing retailers and coordinating with local authorities on retail location compliance checks and investigations of complaints about retailers.

Section 10 prohibits: New retail locations at which products are sold from being located within 500 feet of a school; retail locations that sell electronic smoking device products from advertising those products in a manner that is visible from outside the retail location; and delivery of products directly to consumers.

Section 11 governs enforcement of the licensing requirements.

Section 12 adjusts the fine amounts for violating the prohibition against selling products to minors from a maximum fine for a fifth or subsequent violation within 24 months of \$1,000 to \$15,000 to a maximum fine for a fourth or subsequent violation in 36 months of \$1,000 to \$15,000. Additionally, the division must prohibit a retailer who commits a second or subsequent violation within 36 months from selling products at the retail location where the violation occurred for a specified period of time, starting with at least 7 days for a second violation within 36 months, to at least 30 days for a third violation within 36 months, and finally for up to 3 years for a fourth or subsequent violation within 36 months.

Additionally, section 12 establishes fines for selling or offering to sell products without a valid state license on or after July 1, 2021, with the amount of fines ranging from \$1,000 for a first violation to \$3,000 for a third or subsequent violation. If a person sells or offers to sell products without a valid state license at least 3 times in a 36-month period, the person is not eligible to apply for a state license for 3 years thereafter.

Section 12 also adjusts the period within which a subsequent violation of the prohibition against selling products from a vending machine or the requirement to display a warning at the retail location is subject to an increased fee from 24 months to 36 months. Further, section 12 also applies the same fine structure as exists for selling products from a vending machine or failing to display the requisite warning to a violation of the prohibition against allowing a person under 18 years of age to sell or participate in the sale of products.

Sections 13 through 17 make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-13-121, **amend**
3 (1)(a), (1)(b), (1)(d), and (3); and **repeal** (2) as follows:

4 **18-13-121. Furnishing cigarettes, tobacco products, or nicotine**
5 **products to persons under twenty-one years of age.** (1) (a) A person
6 shall not give, sell, distribute, dispense, or offer for sale a cigarette,
7 tobacco product, or nicotine product to any person who is under ~~eighteen~~
8 TWENTY-ONE years of age.

9 (b) Before giving, selling, distributing, dispensing, or offering to
10 sell to an individual any cigarette, tobacco product, or nicotine product,
11 a person shall request from the individual and examine a
12 government-issued photographic identification that establishes that the
13 individual is ~~eighteen~~ TWENTY-ONE years of age or older. ~~except that, in~~
14 ~~face-to-face transactions, this requirement is waived if the individual~~
15 ~~appears older than thirty years of age.~~

16 (d) It is an affirmative defense to a prosecution under ~~paragraph~~
17 ~~(a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION that the
18 person furnishing the cigarette, tobacco product, or nicotine product was
19 presented with and reasonably relied upon a document that identified the
20 individual receiving the cigarette, tobacco product, or nicotine product as
21 being ~~eighteen~~ TWENTY-ONE years of age or older.

22 ~~(2) (a) A person who is under eighteen years of age and who~~
23 ~~purchases or attempts to purchase any cigarettes, tobacco products, or~~
24 ~~nicotine products commits a class 2 petty offense and, upon conviction~~
25 ~~thereof, shall be punished by a fine of one hundred dollars; except that,~~
26 ~~following a conviction or adjudication for a first offense under this~~
27 ~~subsection (2), the court in lieu of the fine may sentence the person to~~

1 ~~participate in a tobacco education program. The court may allow a person~~
2 ~~convicted under this subsection (2) to perform community service and be~~
3 ~~granted credit against the fine and court costs at the rate of five dollars for~~
4 ~~each hour of work performed for up to fifty percent of the fine and court~~
5 ~~costs.~~

6 ~~(b) It is not an offense under paragraph (a) of this subsection (2)~~
7 ~~if the person under eighteen years of age was acting at the direction of an~~
8 ~~employee of a governmental agency authorized to enforce or ensure~~
9 ~~compliance with laws relating to the prohibition of the sale of cigarettes,~~
10 ~~tobacco products, or nicotine products to minors.~~

11 (3) (a) Nothing in this section prohibits a statutory or home rule
12 municipality, county, or city and county from enacting an ordinance or
13 resolution that prohibits ~~a minor from purchasing~~ THE SALE OF any
14 cigarettes, tobacco products, or nicotine products TO PERSONS UNDER
15 TWENTY-ONE YEARS OF AGE or imposes requirements more stringent than
16 provided in this section.

17 (b) A STATUTORY OR HOME RULE MUNICIPALITY, COUNTY, OR CITY
18 AND COUNTY SHALL NOT ENACT AN ORDINANCE OR RESOLUTION THAT
19 ESTABLISHES A MINIMUM AGE TO PURCHASE CIGARETTES, TOBACCO
20 PRODUCTS, OR NICOTINE PRODUCTS THAT IS UNDER TWENTY-ONE YEARS
21 OF AGE.

22 **SECTION 2.** In Colorado Revised Statutes, 25-14-204, **amend**
23 (2)(b) and (3) as follows:

24 **25-14-204. General smoking restrictions.** (2) A cigar-tobacco
25 bar:

26 (b) Shall prohibit entry by any person under ~~eighteen~~
27 TWENTY-ONE years of age and shall display signage in at least one

1 conspicuous place and at least four inches by six inches in size stating:
2 "Smoking allowed. ~~Children~~ PERSONS under ~~eighteen~~ TWENTY-ONE years
3 of age may not enter."

4 (3) A retail tobacco business:

5 (a) Shall prohibit entry by any person under ~~eighteen~~ TWENTY-ONE
6 years of age; and

7 (b) Shall display signage in at least one conspicuous place and at
8 least four inches by six inches in size stating either:

9 (I) "Smoking allowed. ~~Children~~ PERSONS under ~~eighteen~~
10 TWENTY-ONE years of age may not enter."; or

11 (II) In the case of a retail tobacco business that desires to allow
12 the use of ESDs but not other forms of smoking on the premises, "Vaping
13 allowed. ~~Children~~ PERSONS under ~~eighteen~~ TWENTY-ONE years of age
14 may not enter."

15 **SECTION 3.** In Colorado Revised Statutes, 25-14-208.5, **amend**
16 (2) introductory portion, (2)(a), and (2)(b) as follows:

17 **25-14-208.5. Violations relating to signage and admission of**
18 **persons under twenty-one years of age - limitation on fines.**

19 (2) Notwithstanding subsection (1) of this section, ~~no~~ A fine for a
20 violation of section 25-14-204 (2) or (3) shall NOT be imposed upon a
21 person that can establish as an affirmative defense that, prior to the date
22 of the violation, ~~it~~ THE PERSON:

23 (a) Had adopted and enforced a written policy against allowing
24 persons under ~~eighteen~~ TWENTY-ONE years of age to enter the premises;

25 (b) Had informed ~~its~~ THE PERSON'S employees of the applicable
26 laws regarding the prohibition ~~of~~ AGAINST persons under ~~eighteen~~
27 TWENTY-ONE years of age ~~to enter or remain~~ ENTERING OR REMAINING in

1 areas where smoking is permitted;

2 **SECTION 4.** In Colorado Revised Statutes, 25-14-301, **amend**
3 (2) and (4) as follows:

4 **25-14-301. Sale of cigarettes, tobacco products, or nicotine**
5 **products to persons under twenty-one years of age prohibited -**
6 **definitions.** (2) (a) ~~Possession~~ THE SALE of a cigarette or tobacco product
7 ~~by~~ TO a person who is under ~~eighteen~~ TWENTY-ONE years of age is
8 prohibited.

9 (b) It ~~shall~~ IS not ~~be~~ an offense under ~~paragraph (a) of this~~
10 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION if the UNDERAGE
11 person ~~under eighteen years of age~~ was acting at the direction of an
12 employee of a governmental agency authorized to enforce or ensure
13 compliance with laws relating to the prohibition of the sale of cigarettes
14 and tobacco products to minors.

15 (4) (a) Nothing in this section prohibits a statutory or home rule
16 municipality, county, or city and county from enacting an ordinance or
17 resolution that prohibits the possession of cigarettes, tobacco products, or
18 nicotine products ~~by a minor~~ TO A PERSON UNDER TWENTY-ONE YEARS OF
19 AGE or imposes requirements more stringent than provided in this section.

20 (b) A STATUTORY OR HOME RULE MUNICIPALITY, COUNTY, OR CITY
21 AND COUNTY SHALL NOT ENACT AN ORDINANCE OR RESOLUTION THAT
22 ESTABLISHES A MINIMUM AGE TO PURCHASE CIGARETTES, TOBACCO
23 PRODUCTS, OR NICOTINE PRODUCTS THAT IS UNDER TWENTY-ONE YEARS
24 OF AGE.

25 **SECTION 5.** In Colorado Revised Statutes, 30-15-401, **amend**
26 (1.5) as follows:

27 **30-15-401. General regulations - definitions.** (1.5) In addition

1 to any other powers, the board of county commissioners has the power to
2 adopt a resolution or an ordinance to:

3 (a) Regulate the possession or ~~purchasing~~ SALE of cigarettes,
4 tobacco products, or nicotine products, as defined by section 18-13-121
5 (5), ~~by TO a minor or to regulate the sale of cigarettes, tobacco products,~~
6 ~~or nicotine products to minors; and~~ CONSISTENT WITH SECTION 18-13-121
7 (3);

8 (b) Limit smoking, as defined in section 25-14-203 (16), in any
9 manner that is no less restrictive than the limitations set forth in the
10 "Colorado Clean Indoor Air Act", part 2 of article 14 of title 25; AND

11 (c) LICENSE OR OTHERWISE REGULATE THE SALE OF CIGARETTES,
12 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS.

13 **SECTION 6.** In Colorado Revised Statutes, **amend** 44-7-102 as
14 follows:

15 **44-7-102. Definitions.** As used in this article 7, unless the context
16 otherwise requires:

17 (1) "Cigarette, tobacco product, or nicotine product" has the same
18 meaning as provided in section ~~18-13-121~~ 18-13-121 (5).

19 (2) (a) "DISTRIBUTOR" MEANS A PERSON WHO SELLS OR
20 DISTRIBUTES CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
21 TO LICENSED RETAILERS IN THIS STATE.

22 (b) "DISTRIBUTOR" INCLUDES A "DISTRIBUTOR" OR "DISTRIBUTING
23 SUBCONTRACTOR" AS THOSE TERMS ARE DEFINED IN SECTION 39-28.5-101.

24 ~~(2)~~(3) "Division" means the division of liquor enforcement within
25 the department.

26 (4) "ELECTRONIC SMOKING DEVICE" HAS THE MEANING SET FORTH
27 IN SECTION 25-14-203 (4.5).

1 ~~(3)~~ (5) "Hearing officer" means a person designated by the
2 executive director to conduct hearings held pursuant to section 44-7-105.

3 (6) "LOCAL AUTHORITY" MEANS THE GOVERNING BODY OF A
4 LOCAL GOVERNMENT OR ANY AUTHORITY DESIGNATED BY A MUNICIPAL OR
5 COUNTY CHARTER, MUNICIPAL ORDINANCE, OR COUNTY RESOLUTION TO
6 REGULATE RETAILERS.

7 (7) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE
8 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

9 ~~(4)~~ (8) "Minor" means a person under ~~eighteen~~ TWENTY-ONE years
10 of age.

11 (9) "NEW RETAIL LOCATION" MEANS A RETAIL LOCATION IN THE
12 STATE AT WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
13 PRODUCTS WERE NOT SOLD BEFORE THE EFFECTIVE DATE OF THIS
14 SUBSECTION (9).

15 ~~(5)~~ (10) "Retailer" means THE OWNER OR OPERATOR OF a business
16 of any kind at a specific location that sells cigarettes, tobacco products,
17 or nicotine products to a user or consumer.

18 (11) "SCHOOL" HAS THE MEANING SET FORTH IN SECTION 44-3-103
19 (50).

20 (12) "STATE LICENSE" MEANS A LICENSE ISSUED BY THE DIVISION
21 IN ACCORDANCE WITH SECTION 44-7-104.5.

22 (13) (a) "WHOLESALER" MEANS A PERSON ENGAGED IN THE
23 WHOLESALE DISTRIBUTION OF CIGARETTES, TOBACCO PRODUCTS, OR
24 NICOTINE PRODUCTS IN THIS STATE.

25 (b) "WHOLESALER" INCLUDES A "WHOLESALER" AND "WHOLESALE
26 SUBCONTRACTOR" AS THOSE TERMS ARE DEFINED IN SECTION 39-28-101.

27 **SECTION 7.** In Colorado Revised Statutes, 44-7-103, **amend** (1),

1 (2), and (3); and **add** (4.5) as follows:

2 **44-7-103. Sale of cigarettes, tobacco products, or nicotine**
3 **products to persons under twenty-one years of age or in vending**
4 **machines prohibited - warning sign - small quantity sales prohibited.**

5 (1) ~~No~~ A retailer shall NOT sell or permit the sale of cigarettes, tobacco
6 products, or nicotine products to a minor; except that it is not a violation
7 if the retailer establishes that the person selling the cigarette, tobacco
8 product, or nicotine product was presented with and reasonably relied
9 upon a photographic identification that identified the person purchasing
10 the cigarette, tobacco product, or nicotine product as being ~~eighteen~~
11 TWENTY-ONE years of age or older.

12 (2) ~~No~~ A retailer shall NOT sell or offer to sell any cigarettes,
13 tobacco products, or nicotine products by use of a vending machine or
14 other coin-operated machine. ~~except that cigarettes may be sold at retail~~
15 ~~through vending machines only in:~~

16 ~~(a) Factories, businesses, offices, or other places not open to the~~
17 ~~general public;~~

18 ~~(b) Places to which minors are not permitted access; or~~

19 ~~(c) Establishments where the vending machine dispenses~~
20 ~~cigarettes through the operation of a device that enables an adult~~
21 ~~employee of the establishment to prevent the dispensing of cigarettes to~~
22 ~~minors.~~

23 (3) Any person who sells or offers to sell cigarettes, tobacco
24 products, or nicotine products shall display a warning sign as specified in
25 this subsection (3). The warning sign must be displayed in a prominent
26 place in the building ~~and on any vending or coin-operated machine~~ at all
27 times, must have a minimum height of three inches and a width of six

1 inches, and must read as follows:

2 WARNING

3 IT IS ~~ILLEGAL FOR~~ ILLEGAL TO SELL CIGARETTES,
4 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO ANY
5 PERSON UNDER ~~EIGHTEEN~~ TWENTY-ONE YEARS OF
6 AGE. ~~TO PURCHASE CIGARETTES, TOBACCO~~
7 ~~PRODUCTS, OR NICOTINE PRODUCTS, AND, UPON~~
8 ~~CONVICTION, A \$100.00 FINE MAY BE IMPOSED.~~

9 (4.5) A RETAILER SHALL NOT PERMIT A PERSON UNDER EIGHTEEN
10 YEARS OF AGE TO SELL OR PARTICIPATE IN THE SALE OF CIGARETTES,
11 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS.

12 **SECTION 8.** In Colorado Revised Statutes, 44-7-104, **amend**
13 (3)(b) and (4); and **add** (5) as follows:

14 **44-7-104. Enforcement authority - designation of agency -**
15 **coordination - sharing of information - rules.** (3) (b) (I) EACH YEAR,
16 the division shall perform OR CAUSE TO BE PERFORMED at least TWO
17 COMPLIANCE CHECKS AT EACH RETAIL LOCATION AT WHICH CIGARETTES,
18 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ARE SOLD OR AT LEAST the
19 minimum number of ~~random inspections of businesses that sell cigarettes,~~
20 ~~tobacco products, or nicotine products at retail as~~ ANNUAL COMPLIANCE
21 CHECKS required by federal regulations, WHICHEVER IS GREATER. THE
22 DIVISION SHALL PERFORM A COMPLIANCE CHECK BY ENGAGING A PERSON
23 UNDER TWENTY-ONE YEARS OF AGE TO ENTER A RETAIL LOCATION TO
24 PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS.

25 (II) IF A COMPLIANCE CHECK OF A RETAIL LOCATION PERFORMED
26 PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION REVEALS A
27 VIOLATION OF THIS ARTICLE 7, THE DIVISION, OR A LOCAL AUTHORITY IN

1 COORDINATION WITH THE DIVISION PURSUANT TO SECTION 44-7-104.5
2 (4)(c)(I), SHALL CONDUCT AN ADDITIONAL COMPLIANCE CHECK OF THE
3 RETAIL LOCATION WITHIN THREE TO SIX MONTHS AFTER THE COMPLIANCE
4 CHECK AT WHICH THE VIOLATION WAS DISCOVERED.

5 (4) In order to enforce laws relating to the prohibition of the sale
6 of cigarettes, tobacco products, or nicotine products to minors, the
7 department of revenue ~~may share information on~~ SHALL MAINTAIN AND
8 PUBLISH ON THE DIVISION'S PUBLIC WEBSITE the identification and ~~address~~
9 BUSINESS ADDRESSES of STATE-LICENSED retailers that sell cigarettes,
10 tobacco products, or nicotine products AND MAY SHARE THE LIST OR
11 INFORMATION INCLUDED IN THE LIST with any state OR LOCAL agency
12 responsible for the enforcement of laws relating to the prohibition of the
13 sale of cigarettes, tobacco products, or nicotine products to minors.

14 (5) (a) TO ENSURE THE PROTECTION OF PUBLIC HEALTH, THE
15 EXECUTIVE DIRECTOR SHALL PROMULGATE RULES CONCERNING THE
16 DIVISION'S ENFORCEMENT OF THIS ARTICLE 7, INCLUDING RULES:

17 (I) TO SET NECESSARY AND REASONABLE FEE AMOUNTS THAT:

18 (A) WILL COVER THE COST OF ENFORCEMENT AND
19 ADMINISTRATION, BUT THE TOTAL AMOUNT OF FEES MUST NOT EXCEED
20 THE TOTAL COST OF THE LICENSING PROGRAM, EXCEPT IN ACCORDANCE
21 WITH ANY ADJUSTMENTS MADE PURSUANT TO SUBSECTION (5)(a)(I)(B) OF
22 THIS SECTION; AND

23 (B) MAY BE ADJUSTED IN ACCORDANCE WITH CHANGES IN THE
24 UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS
25 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
26 ITEMS AND URBAN CONSUMERS, OR ITS SUCCESSOR INDEX; AND

27 (II) IN ACCORDANCE WITH SUBSECTIONS (2) AND (3)(b) OF THIS

1 SECTION, REGARDING THE NUMBER AND MANNER OF COMPLIANCE CHECKS
2 OF RETAIL LOCATIONS THAT THE DIVISION SHALL PERFORM OR CAUSE TO
3 BE PERFORMED EACH YEAR.

4 (b) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES
5 AUTHORIZING A PERSON TO APPLY FOR A TEMPORARY STATE LICENSE AND
6 REQUIRING THE PAYMENT OF A TEMPORARY STATE LICENSE FEE. IF THE
7 EXECUTIVE DIRECTOR PROMULGATES SUCH RULES, THE RULES MUST
8 SPECIFY THAT THE TEMPORARY STATE LICENSE REMAINS IN EFFECT FOR NO
9 MORE THAN THIRTY DAYS AND IS NOT RENEWABLE.

10 (c) IN PROMULGATING RULES PURSUANT TO THIS SUBSECTION (5),
11 THE EXECUTIVE DIRECTOR MAY CONSULT WITH THE DEPARTMENT OF
12 HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH AND
13 ENVIRONMENT, LOCAL GOVERNMENTS, AND ANY OTHER STATE OR LOCAL
14 AGENCIES THE EXECUTIVE DIRECTOR DEEMS APPROPRIATE.

15 **SECTION 9.** In Colorado Revised Statutes, **add 44-7-104.5** as
16 follows:

17 **44-7-104.5. License required - fees - rules - repeal.**

18 (1) (a) (I) ON OR AFTER JULY 1, 2021, A RETAILER DOING BUSINESS IN
19 THIS STATE SHALL NOT SELL OR OFFER FOR SALE CIGARETTES, TOBACCO
20 PRODUCTS, OR NICOTINE PRODUCTS IN THIS STATE WITHOUT FIRST
21 OBTAINING A STATE LICENSE AS A RETAILER FROM THE DIVISION.

22 (II) A STATE LICENSE IS VALID FOR ONE YEAR AND MAY BE
23 RENEWED BY APPLICATION IN THE FORM AND MANNER PRESCRIBED BY THE
24 DIVISION AND BY PAYMENT OF A FEE SET BY RULE PURSUANT TO SECTION
25 44-7-104 (5)(a)(I).

26 (b) AN OWNER OF MULTIPLE RETAIL LOCATIONS IN THE STATE AT
27 WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ARE

1 SOLD OR OFFERED FOR SALE MUST APPLY FOR A SEPARATE STATE LICENSE
2 FOR EACH RETAIL LOCATION. IF THE EXECUTIVE DIRECTOR WISHES TO
3 AUTHORIZE AN OWNER OF MULTIPLE RETAIL LOCATIONS IN THE STATE TO
4 APPLY SIMULTANEOUSLY FOR STATE LICENSES FOR EACH RETAIL LOCATION
5 OWNED BY SUBMITTING A JOINT APPLICATION, THE EXECUTIVE DIRECTOR
6 MAY ESTABLISH BY RULE:

7 (I) THE PROCESS BY WHICH THE OWNER MAY APPLY FOR STATE
8 LICENSES FOR MULTIPLE RETAIL LOCATIONS IN A JOINT APPLICATION; AND

9 (II) A JOINT APPLICATION FEE.

10 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(b) OF THIS
11 SECTION, THE DIVISION SHALL APPROVE OR DENY A STATE LICENSE
12 APPLICATION WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION. THE
13 DIVISION MAY DENY AN APPLICATION ONLY FOR GOOD CAUSE. IF THE
14 DIVISION DENIES AN APPLICATION, THE DIVISION SHALL INFORM THE
15 APPLICANT IN WRITING OF THE REASONS FOR THE DENIAL, AND THE
16 APPLICANT, WITHIN FOURTEEN DAYS AFTER RECEIVING THE WRITTEN
17 DENIAL, MAY REQUEST THAT A HEARING BE HELD ON THE MATTER IN
18 ACCORDANCE WITH SECTION 44-7-105.

19 (b) (I) IF A RETAILER THAT SOLD OR OFFERED TO SELL CIGARETTES,
20 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT A RETAIL LOCATION IN
21 THE STATE BEFORE JULY 1, 2021, HAS APPLIED FOR A STATE LICENSE FROM
22 THE DIVISION AND PAID THE STATE LICENSE FEE ON OR BEFORE JULY 1,
23 2021, THE RETAILER MAY CONTINUE TO SELL OR OFFER TO SELL
24 CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ON OR AFTER
25 JULY 1, 2021, WITHOUT A STATE LICENSE DURING THE PENDENCY OF THE
26 DIVISION'S REVIEW OF THE RETAILER'S STATE LICENSE APPLICATION.

27 (II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE JULY 1, 2022.

1 (3) (a) UPON OBTAINING A STATE LICENSE FROM THE DIVISION FOR
2 A RETAIL LOCATION, A RETAILER SHALL CONSPICUOUSLY DISPLAY THE
3 STATE LICENSE AT THE RETAIL LOCATION.

4 (b) (I) STATE LICENSES ARE NOT TRANSFERABLE. IF A LICENSEE
5 CEASES TO BE A RETAILER AT A RETAIL LOCATION BY REASON OF
6 DISCONTINUATION, SALE, OR TRANSFER OF THE LICENSEE'S BUSINESS, THE
7 LICENSEE SHALL NOTIFY THE DIVISION IN WRITING ON OR BEFORE THE
8 DATE ON WHICH THE DISCONTINUANCE, SALE, OR TRANSFER TAKES EFFECT.

9 (II) IF A PERSON TO WHOM A RETAILER'S RETAIL LOCATION IS SOLD
10 APPLIES FOR A STATE LICENSE FOR THE RETAIL LOCATION WITHIN THIRTY
11 DAYS AFTER TAKING OWNERSHIP OF THE RETAIL LOCATION, WHICH DATE
12 OF TAKING OWNERSHIP MUST BE DEMONSTRATED IN THE APPLICATION IN
13 A MANNER DETERMINED BY THE DIVISION, THE PERSON MAY CONTINUE TO
14 SELL OR OFFER TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
15 PRODUCTS WITHOUT A STATE LICENSE DURING THE PENDENCY OF THE
16 DIVISION'S REVIEW OF THE PERSON'S STATE LICENSE APPLICATION.

17 (4) (a) IF A LOCAL GOVERNMENT IMPOSES LICENSING
18 REQUIREMENTS ON RETAILERS, THE LICENSING REQUIREMENTS MUST BE AS
19 STRINGENT AS, AND MAY BE MORE STRINGENT THAN, THE STATEWIDE
20 LICENSING REQUIREMENTS SET FORTH IN THIS ARTICLE 7.

21 (b) IF A RETAILER APPLIES FOR A STATE LICENSE FROM THE
22 DIVISION PURSUANT TO THIS SECTION FOR A RETAIL LOCATION THAT IS
23 WITHIN THE JURISDICTION OF A LOCAL GOVERNMENT THAT IMPOSES
24 LICENSING REQUIREMENTS ON RETAILERS, THE DIVISION SHALL NOT ISSUE
25 A STATE LICENSE TO THE RETAILER UNTIL THE RETAILER HAS OBTAINED A
26 LOCAL LICENSE AND PROVIDED A COPY OF THE LOCAL LICENSE TO THE
27 DIVISION.

1 (c) THE DIVISION SHALL COLLABORATE WITH ANY LOCAL
2 AUTHORITY:

3 (I) ON THE PERFORMANCE OF COMPLIANCE CHECKS TO AVOID
4 DUPLICATIVE INSPECTIONS OF THE SAME RETAIL LOCATION AND TO ENSURE
5 THAT A LOCAL AUTHORITY'S COMPLIANCE CHECK OF A RETAIL LOCATION,
6 WHICH COUNTS TOWARD THE NUMBER OF COMPLIANCE CHECKS REQUIRED
7 BY RULE PURSUANT TO SECTION 44-7-104 (5)(a)(II), COMPORTS WITH THE
8 DIVISION'S STANDARDS; AND

9 (II) TO ENSURE THAT COMPLAINTS RECEIVED BY THE DIVISION ARE
10 FORWARDED TO THE APPROPRIATE LOCAL AUTHORITY AND THAT
11 COMPLAINTS RECEIVED BY THE LOCAL AUTHORITY ARE FORWARDED TO
12 THE DIVISION FOR THE TIMELY INVESTIGATION INTO AND ACTION TAKEN
13 ON THE COMPLAINTS.

14 (5) (a) NINETY DAYS BEFORE THE EXPIRATION DATE OF AN
15 EXISTING STATE LICENSE, THE DIVISION SHALL NOTIFY THE LICENSEE OF
16 THE EXPIRATION DATE OF THE STATE LICENSE BY ELECTRONIC MAIL OR BY
17 FIRST-CLASS MAIL, AS DETERMINED BY THE EXECUTIVE DIRECTOR, AT THE
18 MAILING ADDRESS THAT THE DIVISION HAS ON FILE FOR THE LICENSEE. THE
19 DIVISION SHALL ESTABLISH A PROCESS FOR A LICENSEE TO CONFIRM
20 RECEIPT OF A NOTICE SENT PURSUANT TO THIS SUBSECTION (5)(a). THE
21 DIVISION SHALL DESCRIBE THE CONFIRMATION PROCESS IN THE NOTICE
22 ITSELF AND ON THE DIVISION'S WEBSITE.

23 (b) (I) IF THE STATE LICENSE CONCERNS A RETAIL LOCATION THAT
24 IS LOCATED WITHIN THE JURISDICTION OF A LOCAL AUTHORITY THAT
25 IMPOSES LICENSING REQUIREMENTS ON RETAILERS, THE DIVISION SHALL
26 NOT RENEW THE LICENSEE'S STATE LICENSE UNTIL THE LICENSEE HAS
27 DEMONSTRATED TO THE DIVISION THAT THE LICENSEE IS OPERATING

1 UNDER A VALID LOCAL LICENSE OR HAS APPLIED TO THE LOCAL AUTHORITY
2 TO RENEW LOCAL LICENSE AND THE RENEWAL APPLICATION IS PENDING.

3 (II) IF, PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION, A
4 RETAILER APPLYING TO RENEW A STATE LICENSE HAS DEMONSTRATED TO
5 THE DIVISION THAT THE APPLICANT HAS APPLIED TO RENEW A LOCAL
6 LICENSE BUT THE LOCAL LICENSE RENEWAL APPLICATION IS STILL PENDING
7 AT THE TIME OF APPLICATION TO THE DIVISION:

8 (A) THE DIVISION SHALL NOT RENEW THE APPLICANT'S STATE
9 LICENSE UNTIL THE APPLICANT HAS SUBMITTED DOCUMENTATION
10 SHOWING THAT THE LOCAL AUTHORITY HAS RENEWED THE APPLICANT'S
11 LOCAL LICENSE; AND

12 (B) UNLESS THE DIVISION DENIES THE APPLICANT'S STATE LICENSE
13 RENEWAL APPLICATION FOR REASONS OTHER THAN A LACK OF
14 DOCUMENTATION SHOWING THAT THE LOCAL AUTHORITY HAS RENEWED
15 THE APPLICANT'S LOCAL LICENSE, THE APPLICANT'S CURRENT STATE
16 LICENSE IS EXTENDED UNTIL BOTH THE LOCAL AUTHORITY AND THE
17 DIVISION HAVE TAKEN FINAL ACTION ON THE LICENSE RENEWAL
18 APPLICATIONS.

19 (c) IF THE RETAILER'S STATE LICENSE CONCERNS A RETAIL
20 LOCATION THAT IS LOCATED WITHIN THE JURISDICTION OF A LOCAL
21 AUTHORITY THAT IMPOSES LICENSING REQUIREMENTS ON RETAILERS AND
22 THE LOCAL AUTHORITY:

23 (I) SUSPENDS THE RETAILER'S LOCAL LICENSE, THE DIVISION
24 SHALL, PURSUANT TO THE NOTICE AND HEARING PROCESS SET FORTH IN
25 SECTION 44-7-105 (1)(b), SUSPEND THE RETAILER'S STATE LICENSE UNTIL
26 THE RETAILER CAN DEMONSTRATE TO THE DIVISION'S SATISFACTION THAT
27 THE LOCAL LICENSE HAS BEEN REINSTATED; OR

1 (II) REVOKES THE RETAILER'S LOCAL LICENSE, THE DIVISION
2 SHALL, PURSUANT TO THE NOTICE AND HEARING PROCESS SET FORTH IN
3 SECTION 44-7-105 (1)(b), REVOKE THE RETAILER'S STATE LICENSE.

4 (6) THE DIVISION SHALL TRANSFER ANY FEES COLLECTED IN
5 ACCORDANCE WITH THIS ARTICLE 7 TO THE STATE TREASURER, WHO SHALL
6 CREDIT THE FEES TO THE LIQUOR ENFORCEMENT DIVISION AND STATE
7 LICENSING AUTHORITY CASH FUND CREATED IN SECTION 44-6-101.

8 **SECTION 10.** In Colorado Revised Statutes, **add** 44-7-104.7 as
9 follows:

10 **44-7-104.7. Restrictions on sales - minimum distance**
11 **requirement - advertising restriction - online sales prohibited.**

12 (1)(a) THE DIVISION SHALL NOT APPROVE A STATE LICENSE APPLICATION
13 FOR A NEW RETAIL LOCATION THAT IS LOCATED WITHIN FIVE HUNDRED
14 FEET OF A SCHOOL. THE DISTANCE BETWEEN THE NEW RETAIL LOCATION
15 AND THE SCHOOL IS MEASURED FROM THE NEAREST PROPERTY LINE OF
16 LAND USED FOR SCHOOL PURPOSES TO THE NEAREST PORTION OF THE
17 BUILDING WHERE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
18 PRODUCTS WILL BE SOLD, USING A ROUTE OF DIRECT PEDESTRIAN ACCESS.

19 (b) THIS SUBSECTION (1) DOES NOT APPLY TO RETAIL LOCATIONS
20 AT WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
21 WERE SOLD BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1).

22 (c) IF A RETAIL LOCATION THAT WAS IN EXISTENCE AS OF THE
23 EFFECTIVE DATE OF THIS SUBSECTION (1) IS TRANSFERRED TO A NEW
24 OWNER AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1), THE NEW
25 OWNER NEED NOT COMPLY WITH THIS SUBSECTION (1).

26 (d) A LOCAL AUTHORITY MAY BY ORDINANCE OR RESOLUTION:

27 (I) ELIMINATE ONE OR MORE TYPES OF SCHOOLS FROM THE

1 DISTANCE RESTRICTION SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION;
2 OR

3 (II) ADOPT SHORTER DISTANCE RESTRICTIONS.

4 (2) A RETAILER SHALL NOT ADVERTISE AN ELECTRONIC SMOKING
5 DEVICE PRODUCT IN A MANNER THAT IS VISIBLE FROM OUTSIDE THE RETAIL
6 LOCATION AT WHICH THE PRODUCT IS OFFERED FOR SALE.

7 (3) (a) A PERSON SHALL NOT SHIP OR DELIVER CIGARETTES,
8 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS DIRECTLY TO A CONSUMER
9 IN THIS STATE. EXCEPT AS PROVIDED IN SUBSECTIONS (3)(b) AND (3)(c) OF
10 THIS SECTION, ONLY A RETAILER LICENSED UNDER THIS ARTICLE 7, A
11 WHOLESALER, OR A DISTRIBUTOR MAY RECEIVE A SHIPMENT OR DELIVERY
12 OF CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS IN THIS
13 STATE.

14 (b) CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
15 MAY BE SOLD TO A CONSUMER ONLINE ONLY IF THE CIGARETTES, TOBACCO
16 PRODUCTS, OR NICOTINE PRODUCTS ARE DELIVERED TO A LICENSED
17 RETAILER THAT AGREES, WHETHER OR NOT FOR COMPENSATION, TO HOLD
18 THE PRODUCTS AT THE LICENSED RETAILER'S RETAIL LOCATION UNTIL THE
19 CONSUMER PICKS UP THE PRODUCTS AT THE RETAIL LOCATION.

20 (c) THE PROHIBITION SET FORTH IN SUBSECTION (3)(a) OF THIS
21 SECTION DOES NOT APPLY TO THE DIRECT SHIPMENT OR DELIVERY OF
22 CIGARS TO A CONSUMER.

23 **SECTION 11.** In Colorado Revised Statutes, **amend** 44-7-105 as
24 follows:

25 **44-7-105. Enforcement - fines - suspension and revocation -**
26 **injunctive relief - hearings - appeals.** (1) (a) (I) Subject to the FINE
27 limitations contained in ~~section~~ SECTIONS 44-7-104.5 (7)(a)(I) AND

1 44-7-106, the division, on its own motion or on a complaint from another
2 governmental agency responsible for the enforcement of laws relating to
3 the prohibition of the sale of cigarettes, tobacco products, or nicotine
4 products to minors, ~~has the power to~~ MAY penalize retailers for violations
5 of ~~section 44-7-103~~ THIS ARTICLE 7.

6 (II) THE DIVISION, IN THE NAME OF THE PEOPLE OF THE STATE OF
7 COLORADO AND THROUGH THE ATTORNEY GENERAL OF THE STATE OF
8 COLORADO, MAY APPLY FOR AN INJUNCTION IN ANY COURT OF COMPETENT
9 JURISDICTION TO ENJOIN ANY PERSON FROM COMMITTING AN ACT
10 PROHIBITED BY THIS ARTICLE 7. IF THE DIVISION ESTABLISHES THAT THE
11 DEFENDANT HAS BEEN OR IS COMMITTING AN ACT PROHIBITED BY THIS
12 ARTICLE 7, THE COURT SHALL ENTER A DECREE ENJOINING THE DEFENDANT
13 FROM FURTHER COMMITTING THE ACT. AN INJUNCTIVE PROCEEDING MAY
14 BE BROUGHT PURSUANT TO THIS ARTICLE 7 IN ADDITION TO, AND NOT IN
15 LIEU OF, PENALTIES AND OTHER REMEDIES PROVIDED IN THIS ARTICLE 7
16 AND THE RULES PROMULGATED PURSUANT TO THIS ARTICLE 7 OR
17 OTHERWISE PROVIDED BY LAW.

18 (b) IN ADDITION TO ANY OTHER SANCTIONS PRESCRIBED BY THIS
19 ARTICLE 7 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 7, THE
20 DIVISION MAY, AFTER INVESTIGATION AND A PUBLIC HEARING AT WHICH
21 A RETAILER MUST BE AFFORDED AN OPPORTUNITY TO BE HEARD, FINE A
22 RETAILER OR, IF THE RETAILER HOLDS A STATE LICENSE, SUSPEND OR
23 REVOKE THE RETAILER'S STATE LICENSE FOR A VIOLATION OF THIS ARTICLE
24 7 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7 COMMITTED
25 BY THE RETAILER OR BY ANY AGENT OR EMPLOYEE OF THE RETAILER.

26 (2) (a) A retailer accused of violating ~~section 44-7-103~~ shall be
27 THIS ARTICLE 7 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE

1 7 IS entitled to written notice of the time and place of the hearing
2 personally delivered to the retailer at the actual retail location or mailed
3 to the retailer at the last-known address as shown by the records of the
4 ~~department~~ DIVISION. The retailer is also entitled to be represented by
5 counsel, to present evidence, and to cross-examine witnesses.

6 (b) ~~A retailer that does not claim an affirmative defense pursuant~~
7 ~~to section 44-7-106 (2) may waive its right to a hearing and pay the~~
8 ~~appropriate fine.~~

9 (3) A hearing pursuant to this section shall be conducted at a
10 location designated by the division before a hearing officer. The hearing
11 officer ~~shall have the power to~~ MAY administer oaths and issue subpoenas
12 to require the presence of persons and the production of documents
13 relating to any alleged violation of ~~section 44-7-103~~ THIS ARTICLE 7 OR
14 ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7.

15 (4) If the hearing officer finds, by a preponderance of the
16 evidence, that the retailer violated ~~section 44-7-103~~ THIS ARTICLE 7 OR
17 ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7, the hearing
18 officer may issue a written order TO SUSPEND OR REVOKE THE RETAILER'S
19 STATE LICENSE or TO levy a fine against the retailer ~~subject to the~~
20 ~~provisions of~~ IN ACCORDANCE WITH section 44-7-106.

21 (5) The ~~findings~~ DECISION of the hearing officer ~~shall be~~ IS a final
22 agency ~~order~~ ACTION. Any appeal of the decision of the hearing officer
23 shall be filed with the Colorado court of appeals pursuant to section
24 24-4-106 (11).

25 (6) Any unpaid fine levied pursuant to this section, together with
26 reasonable attorney fees, may be collected in a civil action filed by the
27 attorney general.

1 (7) THE DIVISION SHALL FORWARD any fines collected for
2 violations of ~~section 44-7-103 shall be forwarded~~ THIS ARTICLE 7 OR ANY
3 RULE PROMULGATED PURSUANT TO THIS ARTICLE 7 to the state treasurer,
4 who shall credit them to the cigarette, tobacco product, and nicotine
5 product use by minors prevention fund created in section 44-7-107.

6 (8) NOTHING IN THIS SECTION OR SECTION 44-7-106 PROHIBITS A
7 LOCAL GOVERNMENT FROM IMPOSING SANCTIONS ON A RETAILER FOR A
8 VIOLATION OF A LOCAL ORDINANCE OR RESOLUTION.

9 **SECTION 12.** In Colorado Revised Statutes, **amend** 44-7-106 as
10 follows:

11 **44-7-106. Limitation on fines.** (1) (a) For a violation of section
12 44-7-103 (1), ~~or (4)~~, the penalty ~~shall be~~ IS as follows:

13 (I) A FINE IN AN AMOUNT OF AT LEAST TWO HUNDRED FIFTY
14 DOLLARS BUT NOT MORE THAN FIVE HUNDRED DOLLARS FOR A FIRST
15 VIOLATION COMMITTED WITHIN A THIRTY-SIX-MONTH PERIOD;

16 (II) A FINE IN AN AMOUNT OF AT LEAST FIVE HUNDRED DOLLARS
17 BUT NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS FOR A SECOND
18 VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD AND A PROHIBITION
19 AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR
20 NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH THE VIOLATION
21 OCCURRED FOR AT LEAST SEVEN DAYS FOLLOWING THE DATE THAT THE
22 FINE IS IMPOSED;

23 (III) A FINE IN AN AMOUNT OF AT LEAST SEVEN HUNDRED FIFTY
24 DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS FOR A THIRD
25 VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD AND A PROHIBITION
26 AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR
27 NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH THE VIOLATION

1 OCCURRED FOR AT LEAST THIRTY DAYS FOLLOWING THE DATE THAT THE
2 FINE IS IMPOSED; AND

3 (IV) A FINE IN AN AMOUNT OF AT LEAST ONE THOUSAND DOLLARS
4 BUT NOT MORE THAN FIFTEEN THOUSAND DOLLARS FOR A FOURTH OR
5 SUBSEQUENT VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD AND A
6 PROHIBITION AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO
7 PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH
8 THE VIOLATION OCCURRED FOR UP TO THREE YEARS FOLLOWING THE DATE
9 THAT THE FINE IS IMPOSED.

10 (b) FOR A VIOLATION OF SECTION 44-7-103 (4), THE PENALTY IS AS
11 FOLLOWS:

12 (a) (I) A written warning for a first violation committed within a
13 ~~twenty-four-month~~ THIRTY-SIX-MONTH period;

14 (b) (II) A fine of two hundred fifty dollars for a second violation
15 within a ~~twenty-four-month~~ THIRTY-SIX-MONTH period;

16 (c) (III) A fine of five hundred dollars for a third violation within
17 a ~~twenty-four-month~~ THIRTY-SIX-MONTH period;

18 (d) (IV) A fine of one thousand dollars for a fourth violation
19 within a ~~twenty-four-month~~ THIRTY-SIX-MONTH period; and

20 (e) (V) A fine of ~~between~~ AT LEAST one thousand dollars ~~and~~ BUT
21 NOT MORE THAN fifteen thousand dollars for a fifth or subsequent
22 violation within a ~~twenty-four-month~~ THIRTY-SIX-MONTH period.

23 (c) (I) ON OR AFTER JULY 1, 2021, A PERSON WHO SELLS OR OFFERS
24 TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
25 WITHOUT A VALID STATE LICENSE ISSUED PURSUANT TO THIS SECTION IS
26 SUBJECT TO THE FOLLOWING CIVIL FINES FOR EACH RETAIL LOCATION AT
27 WHICH THE PERSON SELLS OR OFFERS TO SELL CIGARETTES, TOBACCO

1 PRODUCTS, OR NICOTINE PRODUCTS WITHOUT A VALID STATE LICENSE:

2 (A) ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION;

3 (B) TWO THOUSAND DOLLARS FOR THE SECOND VIOLATION WITHIN
4 THIRTY-SIX MONTHS; AND

5 (C) THREE THOUSAND DOLLARS FOR THE THIRD OR SUBSEQUENT
6 VIOLATION WITHIN THIRTY-SIX MONTHS.

7 (II) EACH SALE OF OR OFFER TO SELL CIGARETTES, TOBACCO
8 PRODUCTS, OR NICOTINE PRODUCTS WITHOUT A VALID STATE LICENSE IS
9 A DISTINCT VIOLATION OF THIS SECTION SUBJECT TO A FINE.

10 (III) IF THE DIVISION FINDS THAT A PERSON HAS VIOLATED THIS
11 SUBSECTION (1)(c) THREE TIMES WITHIN THIRTY-SIX MONTHS, THE
12 DIVISION SHALL ISSUE THE PERSON AN ORDER PROHIBITING THE PERSON
13 FROM SELLING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS,
14 WHICH ORDER RENDERS THE PERSON INELIGIBLE TO APPLY FOR A STATE
15 LICENSE FOR THREE YEARS FOLLOWING THE DATE OF THE ORDER.

16 (IV) THE FINE AMOUNTS SET FORTH IN SUBSECTION (1)(c)(I) OF
17 THIS SECTION ALSO APPLY TO VIOLATIONS OF SECTION 44-7-104.7 (2) AND
18 (3).

19 ~~(2) Notwithstanding subsection (1) of this section, no fine for a~~
20 ~~violation of section 44-7-103 (1) shall be imposed upon a retailer that can~~
21 ~~establish an affirmative defense to the satisfaction of the division or the~~
22 ~~hearing officer that, prior to the date of the violation, it:~~

23 ~~(a) Had adopted and enforced a written policy against selling~~
24 ~~cigarettes, tobacco products, or nicotine products to persons under~~
25 ~~eighteen years of age;~~

26 ~~(b) Had informed its employees of the applicable laws regarding~~
27 ~~the sale of cigarettes, tobacco products, or nicotine products to persons~~

1 under eighteen years of age;

2 (c) Required employees to verify the age of cigarette, tobacco
3 product, or nicotine product customers by way of photographic
4 identification; and

5 (d) Had established and imposed disciplinary sanctions for
6 noncompliance.

7 (3) The affirmative defense established in subsection (2) of this
8 section may be used by a retailer only twice at each location within any
9 twenty-four-month period.

10 (4) For a violation of section 44-7-103 (2) or (3), the penalty shall
11 be as follows:

12 (4) (2) (a) (I) THE PENALTY for a violation of section 44-7-103 (2)
13 OR (4.5) IS a fine of twenty-five dollars for a first violation committed
14 within a ~~twenty-four-month~~ THIRTY-SIX-MONTH period.

15 (II) THE PENALTY for a violation of section 44-7-103 (3) IS a
16 written warning for a first violation committed within a
17 ~~twenty-four-month~~ THIRTY-SIX-MONTH period.

18 (b) FOR A VIOLATION OF SECTION 44-7-103 (2), (3), OR (4.5), THE
19 PENALTY IS AS FOLLOWS:

20 (b) (I) A fine of fifty dollars for a second violation within a
21 ~~twenty-four-month~~ THIRTY-SIX-MONTH period;

22 (c) (II) A fine of one hundred dollars for a third violation within
23 a ~~twenty-four-month~~ THIRTY-SIX-MONTH period;

24 (d) (III) A fine of two hundred fifty dollars for a fourth violation
25 within a ~~twenty-four-month~~ THIRTY-SIX-MONTH period; and

26 (e) (IV) A fine of ~~between~~ AT LEAST two hundred fifty dollars and
27 BUT NOT MORE THAN one thousand dollars for a fifth or subsequent

1 violation within a ~~twenty-four-month~~ THIRTY-SIX-MONTH period.

2 **SECTION 13.** In Colorado Revised Statutes, 8-84-202, **amend**
3 (4) as follows:

4 **8-84-202. Definitions.** As used in this part 2, unless the context
5 otherwise requires:

6 (4) "Vending facility" means automatic vending machines, a café,
7 a cafeteria, a restaurant, a snack bar, a concession stand, or any other
8 facility at which food, drinks, drugs, novelties, souvenirs, ~~tobacco~~
9 ~~products~~, notions, or related items are regularly sold.

10 **SECTION 14.** In Colorado Revised Statutes, 19-2-104, **amend**
11 (1) introductory portion and (1)(a)(I) as follows:

12 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
13 the juvenile court ~~shall have~~ HAS exclusive original jurisdiction in
14 proceedings:

15 (a) Concerning any juvenile ten years of age or older who has
16 violated:

17 (I) Any federal or state law, except nonfelony state traffic, game
18 and fish, and parks and recreation laws or rules; ~~the offenses specified in~~
19 ~~section 18-13-121, concerning tobacco products~~; the offense specified in
20 section 18-13-122, concerning the illegal possession or consumption of
21 ethyl alcohol or marijuana by an underage person or illegal possession of
22 marijuana paraphernalia by an underage person; the offenses specified in
23 section 18-18-406 (5)(a)(I), (5)(b)(I), and (5)(b)(II), concerning marijuana
24 and marijuana concentrate; and the civil infraction in section 18-7-109
25 (3), concerning exchange of a private image by a juvenile;

26 **SECTION 15.** In Colorado Revised Statutes, 19-2-513, **amend**
27 (3)(a) introductory portion as follows:

1 **19-2-513. Petition form and content.** (3) (a) Pursuant to ~~the~~
2 ~~provisions of~~ section 19-1-126, in those delinquency proceedings to
3 which the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901 et
4 seq., AS AMENDED, applies, including but not limited to status offenses
5 such as the illegal possession or consumption of ethyl alcohol or
6 marijuana by an underage person or illegal possession of marijuana
7 paraphernalia by an underage person, as described in section 18-13-122,
8 ~~C.R.S., purchase or attempted purchase of cigarettes or tobacco products~~
9 ~~by a person under eighteen years of age, as described in section~~
10 ~~18-13-121, C.R.S., and possession of handguns by juveniles, as described~~
11 in section 18-12-108.5, ~~C.R.S.~~, the petition ~~shall~~ MUST:

12 **SECTION 16.** In Colorado Revised Statutes, 24-33.5-1202,
13 **amend** (15) as follows:

14 **24-33.5-1202. Definitions.** As used in this part 12, unless the
15 context otherwise requires:

16 (15) "Wholesale dealer" means

17 ~~(a)~~ any person, other than a manufacturer, who sells cigarettes, ~~or~~
18 tobacco products, OR NICOTINE PRODUCTS to retail dealers or other
19 persons for purposes of resale. ~~and~~

20 ~~(b) Any person who owns, operates, or maintains one or more~~
21 ~~cigarette or tobacco product vending machines in, at, or upon premises~~
22 ~~owned or occupied by any other person.~~

23 **SECTION 17.** In Colorado Revised Statutes, **amend** 44-6-101 as
24 follows:

25 **44-6-101. Liquor enforcement division and state licensing**
26 **authority cash fund.** There is hereby created in the state treasury the
27 liquor enforcement division and state licensing authority cash fund. The

1 fund ~~shall consist~~ CONSISTS of money transferred in accordance with
2 sections 44-3-502 (1), ~~and~~ 44-4-105 (2), AND 44-7-104.5 (6). The general
3 assembly shall make annual appropriations from the fund for a portion of
4 the direct and indirect costs of the liquor enforcement division and the
5 state licensing authority in the administration and enforcement of articles
6 3 to 5 AND 7 of this title 44. Any money remaining in the fund at the end
7 of each fiscal year ~~shall remain~~ REMAINS in the fund and ~~shall~~ DOES not
8 revert to the general fund or any other fund. The fund shall be maintained
9 in accordance with section 24-75-402.

10 **SECTION 18. Applicability.** This act applies to offenses
11 committed on or after the effective date of this act.

12 **SECTION 19. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety.