

CITY CLERK'S OFFICE MEMORANDUM
#14-2020

DATE: November 23, 2020

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager *hmg*

FROM: Johanna Small, City Clerk *J*
 Lisa Andrews, Deputy City Clerk – Licensing Specialist

SUBJECT: CB-1957 – Retail Tobacco Licensing

PURPOSE

To consider CB-1957, an ordinance on first reading adopting a local licensing program and regulations for the sale of tobacco products.

BACKGROUND

On June 17, 2019, staff presented four policy options to Council related to youth tobacco use. Council directed staff to move forward with three of the four options. 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	In process – Draft ordinance presented on March 9, 2020. Proposed licensing regulations included in CB-1957.
2. Raise the purchase age for tobacco products to 21	In process/completed – Local language included in CB-1957. House Bill 20-1001 raised the legal age to 21 statewide.
3. Prohibit smoking in outdoor public places	Completed – Ordinance No. 1781, adopted on Sept. 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	Not supported by Council (Voters approved Proposition EE at the Nov. 3, 2020 General Election, which increases taxes on cigarettes and creates a new tax on nicotine products, including vaping products.)

According to Tobacco Free Colorado, youth in Colorado are vaping nicotine at twice the national average, based on information from the U.S. Centers for Disease Control and Prevention. Surveys show that about half of Colorado high school students have tried vaping nicotine, don't see it as risky, and think vaping products are easy to get, even though it is illegal to purchase vaping and tobacco products as minors.

On October 15, 2019, the Tri-County Health Department Board of Health adopted a resolution declaring youth vaping a public health crisis. The resolution recommended actions for key community stakeholders to address the issue of youth vaping, which include the following recommendations for local governments:

“Consider strong retail regulations, including licensing of tobacco retailers, raising the minimum legal sales age, and banning sales of all flavored tobacco/nicotine products; policies restricting tobacco industry advertising and promotions at the point-of-sale; policies ensuring comprehensive tobacco/nicotine-free environments, including outdoor spaces such as parks and playgrounds; and interventions aimed at the price of all tobacco/nicotine products, including restricting couponing and discounts and increasing taxes.”

In January 2020, Rocky Mountain Cradle to Career (RMC2C) Partnership conducted a survey of local youth and parents on behalf of the City regarding youth vaping. The Vaping Study – Executive Summary is included as Attachment 1. Data from the survey indicated that youth obtain 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. Input from the survey and Northglenn Youth Commission members also identified a need to educate youth and parents about vaping and the effects of nicotine and vaping.

At the March 9, 2020 study session, City Council discussed a draft ordinance to raise the legal age to purchase tobacco products from 18 to 21 and to adopt a retail tobacco licensing program. Staff presented information on retail point-of-sale strategies related to tobacco licensing programs intended to reduce youth exposure and access to tobacco products. Several strategies were included in the draft ordinance and there was Council consensus to bring a draft ordinance back for consideration on first reading.

During the 2020 legislative session, the Colorado General Assembly enacted House Bill 20-1001 concerning the regulation of nicotine products. The bill raised the minimum age to buy tobacco products from 18 to 21 and enacted a retail tobacco licensing program, which requires retailers selling cigarettes, tobacco products, or nicotine products to obtain a state license by July 1, 2021. A copy of HB20-1001 is included as Attachment 2.

Proposed retail tobacco licensing program

A retail tobacco licensing program is not intended to be an overall solution to the issue of youth vaping. However, it is one effective, evidence-based tool to help communities: 1) reduce youth access to tobacco; 2) ensure compliance with tobacco related laws; and 3) lessen the public health consequences that stem from tobacco use. A retail tobacco license provides a mechanism to monitor who is selling tobacco products, provide retailer education about tobacco-related laws, and conduct regular retailer inspections to ensure compliance.

Two common themes related to youth vaping are access and education. The retail tobacco licensing program as presented in CB-1957 is intended to engage the City’s businesses to:

- Restrict access by ensuring no one under the age of 21 purchases tobacco products from retailers.
- Provide education by encouraging retailers to engage in sharing information about youth tobacco use and the effects of nicotine and vaping.

The City Clerk’s Office estimates there are 35 retail outlets selling tobacco products in Northglenn. This includes outlets such grocery stores, convenience stores, and liquor stores.

CB-1957 addresses two main policy considerations based on Council’s previous direction. The proposed ordinance:

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

The proposed ordinance accomplishes the following:

- Prohibits the sale or transfer of tobacco products to anyone under the age of 21.
- Requires every business selling tobacco products to obtain a Retail Tobacco License from the City. (HB20-1001 requires businesses to obtain a Retail Tobacco License from the State no later than July 1, 2021.)
- Prohibits new retail tobacco businesses within 500 feet of schools, parks, and public recreation areas.
- 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.
- 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.
- Implements a licensing incentive program to encourage and reward retailers for compliance and providing consumer education.
- Amends Section 9-8-11 of the Code regarding unlawful possession or consumption of tobacco or nicotine by juveniles to raise the age from 18 to 21

The licensing incentive program is a new concept intended to increase compliance and reward retailers for their efforts. Licensing incentives are 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 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 RMC2C vaping study identified a lack of understanding of how vaping impacts one's physical health and a misperception that vaping is a healthy alternative to smoking traditional cigarettes. Incentives to retailers to share information about the effects of tobacco products and vaping 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 or they believe vaping is a healthy alternative to smoking cigarettes.

Follow-up

At the March 9, 2020 study session, questions were raised about other cities that are licensing tobacco retailers, proposed fine amounts in the draft ordinance, and the difference between a retail tobacco and non-cigarette tobacco licensing program.

Other jurisdictions

The table below provides information on retail tobacco licensing in other metro-area cities. Several municipalities outside of the metro area have implemented tobacco licensing programs including Aspen, Avon, Basalt, Fountain, Glenwood Springs, La Junta, Manitou Springs, Pueblo, and Summit County.

Municipality	Local Tobacco Licensing Program	License Fees	Effective Date
Arvada	No	n/a	n/a
Boulder	Yes	\$370 – new license \$280 – annual renewal	1/1/21
Brighton	No	n/a	n/a
Broomfield	Yes	\$300 – new license	10/1/20
Castle Pines	Yes	\$50 – annual license	1/1/20
Commerce City	No	n/a	n/a
Denver	Yes	\$750 – new license	7/1/21
Edgewater	Yes	\$200 – new license \$175 – annual renewal	11/23/16
Federal Heights	No	n/a	n/a
Golden	Yes	\$200 – new license	3/1/20
Lakewood	Yes – Non-cigarette tobacco	\$400 – new license \$400 – annual renewal	1/28/19
Thornton	No	n/a	n/a
Westminster	No	n/a	n/a
Wheat Ridge	No	n/a	n/a

Non-cigarette tobacco licensing

Lakewood adopted a non-cigarette tobacco licensing ordinance, which requires retailers to obtain a license to sell any tobacco products with the exception of cigarettes. Lakewood’s ordinance defines “non-cigarette tobacco product” as: any product, other than a cigarette, that contains tobacco or nicotine or is made or derived from tobacco and is intended or expected to be ingested, smoked, inhaled, placed in oral or nasal cavities, or applied to the skin of an individual, including hookah or shishah, as well as electronic devices that can be used to deliver nicotine or tobacco to the person using the device, including, but not limited to, an electronic cigarette, cigar, cigarillo or pipe. The term “non-cigarette tobacco product” does not include any product specifically approved by the United States Food and Drug Administration for use in reducing, treating or eliminating nicotine or tobacco dependence, or for other medical purposes, when such product(s) is being marketed and sold solely for such an approved purpose.

Golden amended their non-cigarette tobacco licensing program, effective March 1, 2020, to now require a retail tobacco license for the sale of all tobacco products.

CB-1957 would require retailers to obtain a license to sell any tobacco product, which are defined as:

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 in the definitions and would not require a license to be sold at retail outlets.

Fine amounts

HB20-1001 establishes fine limitations ranging from a maximum of \$1,000 to \$15,000 for certain violations. CB-1957 contains the following penalties for violations of the ordinance. The penalties are guidelines and the local licensing authority would have discretion to impose a greater or lesser penalty if circumstances warrant.

1 st violation	A \$1,000 fine and a 7-day suspension with 3 days of actual suspension and 4 days held in abeyance for 2 years.
2 nd violation within 24 months	A \$2,000 fine and a 14-day suspension with 6 days of actual suspension and 8 days held in abeyance for 2 years.
3 rd violation within 24 months	A \$3,000 fine and a 30-day suspension to be served in its entirety.
4 th violation within 24 months	A \$5,000 fine and revocation of the license. The retailer would be prohibited from applying for a new license for a period of 3 years from the date of the final order issued by the local licensing authority.

STAFF RECOMMENDATION

Staff recommends approval of CB-1957 on first reading. If CB-1957 is approved on first reading, a public hearing and second reading of the proposed ordinance will be scheduled for Dec. 14, 2020.

BUDGET/TIME IMPLICATIONS

The fiscal impacts associated with a retail tobacco licensing program include personnel resources and the cost of prosecuting businesses that do not comply with the regulations. CB-1957 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 conducted a cost analysis to determine proposed fee amounts and, based on the proposed licensing program, recommends a new license fee of \$300 and an annual license renewal fee of \$250. If CB-1957 passes on first reading, a resolution setting the license fees will be brought forward at the Dec. 14, 2020 regular meeting.

CB-1957 also authorizes fines to be imposed on businesses who are found to be in violation of the ordinance. The fines would also cover costs related to the licensing program and enforcement activities.

Retailers must obtain a license from the State by July 1, 2021. If the City implements a retail tobacco licensing program, the State and City will coordinate with each other to align license expiration dates and to perform the required compliance checks at businesses. Retailers have been notified that CB-1957 is being considered by City Council on first reading and retailers will receive an additional notification about the public hearing if CB-1957 passes on first reading. If a licensing program is adopted, additional information will be provided to retailers to inform them of the new licensing requirements. A copy of the draft Tobacco Retailer FAQ document is included as Attachment 3.

STAFF REFERENCE

If Council members have any questions they may contact City Clerk Johanna Small at jsmall@northglenn.org or 303.450.8757.

ATTACHMENTS

1. Rocky Mountain Cradle to Career Partnership Vaping Study – Executive Summary
2. House Bill 20-1001 – Nicotine Product Regulations
3. Draft Tobacco Retailer FAQs



CITY OF
Northglenn



Image Source: 2019 Northglenn Vaping Study

Vaping Study – Executive Summary




January 2020

Background

This executive summary summarizes research carried out on behalf of the City of Northglenn, with significant support from Northglenn Youth Commission and Northglenn HEAL Committee, to explore the perspectives of youth and parents as it relates to electronic smoking devices (ESDs) and vaping, including potential new regulations being put forth to Northglenn City Council. Using Girl Effect's unique peer-to-peer research tool [TEGA](#), Rocky Mountain Cradle to Career Partnership ([RMC2C](#)) gathered insights to support City of Northglenn in obtaining a greater understanding of youth and parent perspectives around vaping within the community, as well as to substantiate aspects of the particular regulations being put forth to City Council. These regulations included possibly implementing a licensing process for retailers of non-smokable tobacco and raising the purchasing age for tobacco products to 21 – which has since been federally mandated.

Methodology

To do so, TEGA conducted 42 qualitative interviews with 32 youth ages 11 to 21 years old, and 10 parents of youth ages 5-21. Specifically, the research explored the types of electronic smoking devices (ESDs) youth are using and at what frequency, how they're obtaining ESDs, their level of knowledge about the health risks, which outcomes most motivate them, how they feel about potential policy changes, and finally what types of information and resources would best inform their decision making regarding the risks and ramifications of vaping.

Youth Category	Description	
Never Vaped 10	These youth have never tried vaping, no matter the product.	
Tried Vaping 14	These youth have tried vaping but no longer use any products.	
Currently Vape 8	These youth are currently still using vape products.	

Of the youth, **8 currently vape, 14 have tried vaping but no longer do so**, and **10 had never vaped**. Parents were predominantly those who had perspectives of vaping but had assumed their youth did not vape (with the exception of two parents).

Youth self-identified which ESDs they were currently using or have used. This is labelled in this summary as follows:

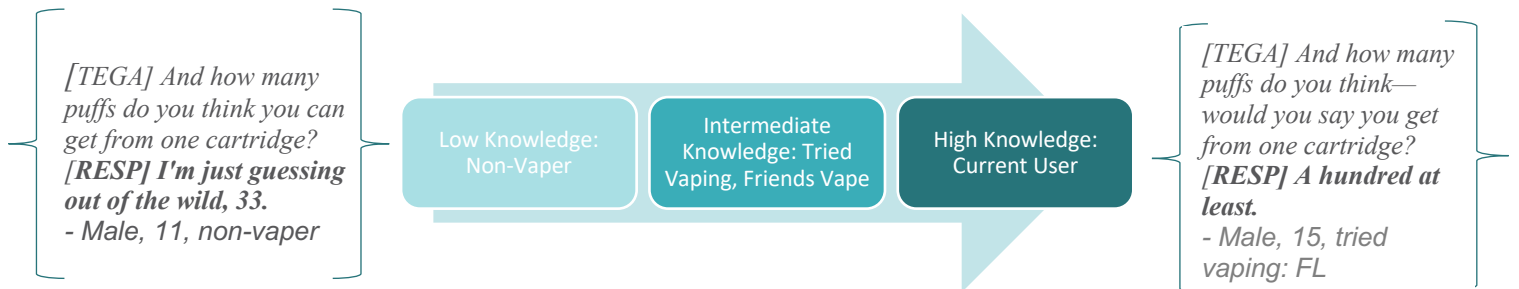
NIC: nicotine concentrate liquid
MJ: marijuana concentrate liquid
FL: flavored vape liquid that does not contain nicotine or marijuana

The key findings from the research are broken down into a primary consumer buying cycle, outline the steps a youth embarks on as they choose to abstain or engage in vaping: awareness, consideration, intent, purchase, and re-purchase.



Insights – Awareness

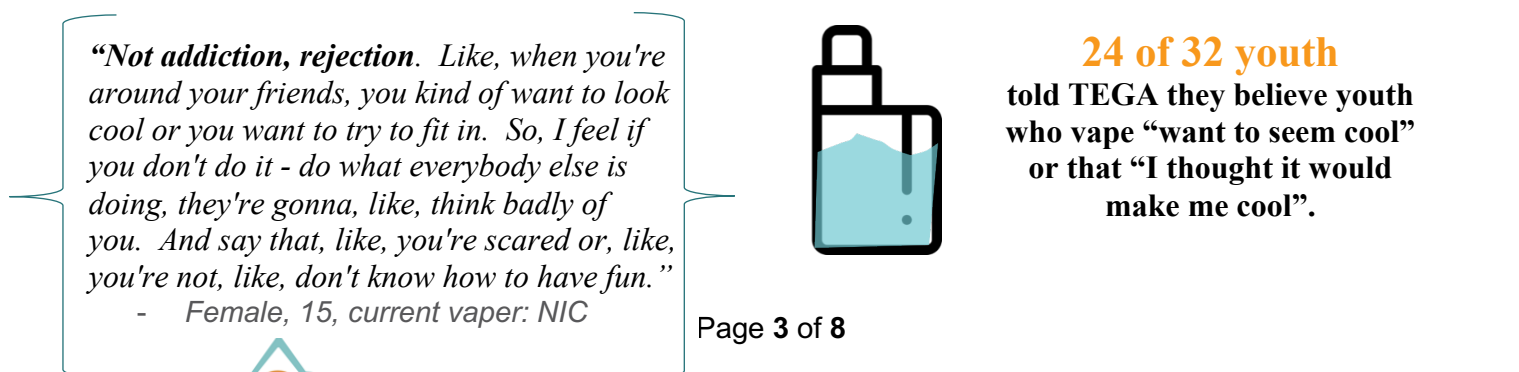
This study found that youth who *don't* vape maintain low knowledge of the products available due to lack of interaction with devices or conversations about their use, yet they are aware and knowledgeable of the cultural phenomena and some associated terminology (e.g. dragon breath). Youth who *have* tried vaping or *currently* vape tend to be more submerged in the online culture of vaping and maintain a higher awareness of the current messaging present there, as well as knowledge of ESD functions and access.




Awareness of the health implications associated with nicotine are much more widespread amongst all youth, but knowledge of the health repercussions beyond the effects of nicotine remains low, for both youth and parents alike. While many of them were aware of news stories highlighting several traumatic incidences associated with ESDs, **more than half of the youth, and the majority of parents, hold the perception that there is a lack of publicly available research on how vaping impacts one's physical health.**

Insights – Consideration

Social context, mental health, and stress coping each play an instrumental role in motivating youth to engage or abstain from vaping. In fact, social acceptance and coping with stress were the primary drivers for youth who have tried or continue to vape. Health and addiction seem to be more motivating considerations for non-vapers and those who tried vaping, more so than current users. At a minor level treating one's self to owning a vape, trying a flavor, or getting a buzz can motivate some youth, but this is not an overarching driver.



“Not addiction, rejection. Like, when you're around your friends, you kind of want to look cool or you want to try to fit in. So, I feel if you don't do it - do what everybody else is doing, they're gonna, like, think badly of you. And say that, like, you're scared or, like, you're not, like, don't know how to have fun.”
- Female, 15, current vaper: NIC



24 of 32 youth told TEGA they believe youth who vape “want to seem cool” or that “I thought it would make me cool”.

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Concern for the mental health of their peers is a common sentiment of youth and was prevalent in multiple narratives.

“Some people I know kind of rely on vape products to feel better instead of actually getting help.”

- Female, 15, current vaper: NIC

When TEGA asked youth which repercussions they worried most about, they ranked addiction and fines at the top of the list, followed by damage to physical health, legal trouble, and school punishment. However, when the data is disaggregated to remove non-users, concern about fines moves to the top of the list of concerns and school punishment jumps ahead of damage to physical health.

Punishment and negative repercussions related to legal recourse, parents and school (including extracurriculars) do seem to hold some weight with all youth. However, punishments of this nature only seem to deter youth who are at lower risk of continued use.

An unexpected spike, as not many youths mentioned this concern in follow-up questions, was regarding the impact of ESDs on the environment, which ranked above losing extra-curricular activities *and* damage to mental health. Also, interestingly, rejection by peers was ranked lowest, even though youth told TEGAs time and again that social availability, encouragement, and peer pressure were highly influential in their use patterns.



Created by UNICORN from Noun Project

Insights – Intent










Some youth believe that vaping is a replacement for cigarettes, others say that ESDs are not a replacement but rather are **the “new cigarette” because youth aren’t smoking traditional cigarettes anymore.** The majority of parents see it as holding the same meaning and fulfilling the same need states (e.g. sociality and coping) as cigarettes, but not as a replacement because youth prefer not to smell and want to avoid stigmas associated with cigarettes. In short, some see ESDs as a substitute for cigarettes and others see ESDs as a cultural replacement.

Similarly, youth who do not vape held a common story about how vaping was unacceptable among their friends. These youth described their ability to surround themselves with friends who share their convictions.



Created by Annette Spithoven from Noun Project

This study found that it is common for youth to seek out ESDs that *don’t* contain nicotine. “Juice only” ESDs are the most common products for a youth to try and buy, followed by ESDs with nicotine. Use and frequency vary depending on the setting in which the youth is vaping.

Where do you or your friends typically vape?	Count	
Parks/Outside/Skate Parks	22	
Bathroom/Locker Room	18	
Home/Backyard/Bedroom	14	
Car	6	
Class	5	
Other Places at School	3	
Hotel	1	
Party	1	
Work	1	

Youth predominantly use or see others use ESDs in outdoor spaces, with the exception of at school, where youth are mainly using in bathrooms and in some cases the classroom.

Youth are primarily focused on securing locations with minimal adult oversight.

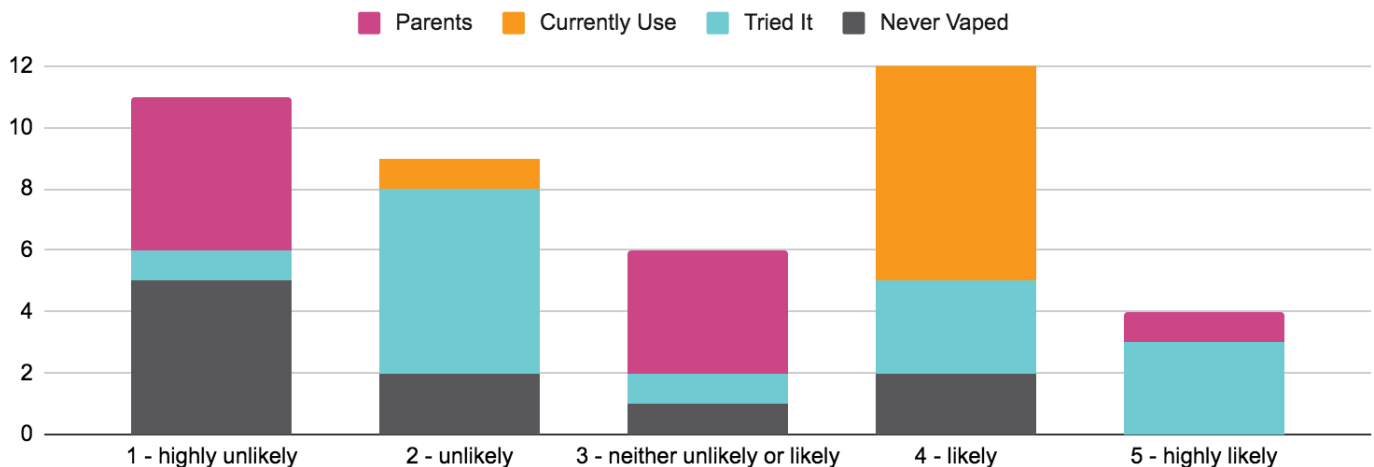
Just kind of like really anywhere moderately secluded ... just in my car sitting out in the parking lot, or like walking around, going to, like, the parks.
 – Male, 17,
 Current: MJ, FL

Youth acknowledge that age is definitely a factor in their access to ESDs. **Changing the legal purchase age to 21 would do two things, according to youth: allow for some maturity in decision making around purchasing for people who are underage and reduce the number of access points and visibility in school** because older students wouldn't have direct access or the ability to re-distribute in schools. However, almost all students say that 'if there is a will there is a way,' meaning

access won't be cut off completely. Parents shared youths' sentiments and felt that an age increase would only *slightly* limit or curb usage amongst youth.

Nearly half of respondents interviewed, 15 of 32 youth respondents, felt that it was either *likely or highly likely* that they knew an adult who would purchase products for them. While the majority of parents thought it was highly *unlikely* someone they know over 21 who would buy for a youth, they explained that youth know or will find adults to purchase for them, or they will go online to order ESDs, sighting the same sentiment as youth – ‘where there is a will there is a way,’ particularly for youth who might already be addicted.

Likelihood of knowing someone 21+ who would purchase products for someone underage

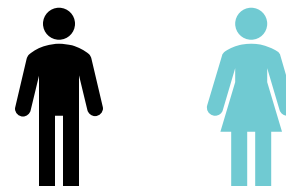


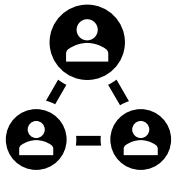
Insights – Purchase

In moving from consideration, to intent, to purchase, youth develop an understanding how vaping impacts their finances. Thus, **many who either currently vape or have tried it talk about the practice of sharing or trading and other ways they access vapes**, which is not always through the exchange of money. It seems that cost and disposability of certain ESD brands, such as JUUL, NJoy, or Novo, are a part of the appeal that turns a youth's consideration into intent and finally a purchase.

50%

of youth respondents who have either tried or currently vape say they get their products from an individual who has legally bought it in a store and resold it to them.





The data found that sometimes the individuals from whom youth acquire ESDs are family members, including parents. Store bought ESDs are frequently purchased by older family members, and sometimes a peer's parent or other family member as these are trusted, legal ways for family and peers to access ESDs. Youth in turn, share, trade, or resell these ESDs in their social networks. This reveals the distribution patterns within the youth community.

Additionally, distance from school did not spark much discussion or consideration from youth, mainly because many youth access ESDs from peers or family members who are legally of age, and not from stores themselves. Therefore, **the distance of a retail outlet from a school is less important than the distance from residences or the stores that are accessible on a student's route to and from home and school.**



Compared to youths, parents had more assuredness that regulating retailer licensing and location would decrease youth access, compared to raising the minimum buying age to 21.

Lastly, **online access is an important consideration as this study reveals that only youth who have tried or youth who currently vape are aware of online access and purchase points.** Furthermore, lying about age online is easy for youth, and two youth also brought up social selling/reselling sites as places to purchase.



Recommendations

When youth and parents were given the opportunity to share what they wanted the City of Northglenn to know and which ways they thought would be best to help them be informed about vaping, both youth and parents came up with a number of different ideas and suggestions; ranging from more research about the health implications, to relevant and applicable legal ramifications, and greater support of youth's ability to cope with mental health and wellness. Readers should refer to the recommendations included at the end of the full report for a complete breakdown or contact RMC2C for more details.

For more information contact Emily Clarendon at
EmilyClarendon@rme2c.org

This summary was prepared by:

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An Act

HOUSE BILL 20-1001

BY REPRESENTATIVE(S) Mullica and Larson, Arndt, Bird, Buckner, Caraveo, Duran, Hooton, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, Roberts, Snyder, Becker, Woodrow;
also SENATOR(S) Bridges and Priola, Fenberg, Fields, Ginal, Hansen, Story, Todd.

CONCERNING NICOTINE PRODUCT REGULATIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

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

(b) Before giving, selling, distributing, dispensing, or offering to sell to an individual any cigarette, tobacco product, or nicotine product, a person

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

shall request from the individual and examine a government-issued photographic identification that establishes that the individual is ~~eighteen~~ TWENTY-ONE years of age or older. ~~except that, in face-to-face transactions, this requirement is waived if the individual appears older than thirty years of age.~~

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

~~(2) (a) A person who is under eighteen years of age and who purchases or attempts to purchase any cigarettes, tobacco products, or nicotine products commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of one hundred dollars; except that, following a conviction or adjudication for a first offense under this subsection (2), the court in lieu of the fine may sentence the person to participate in a tobacco education program. The court may allow a person convicted under this subsection (2) to perform community service and be granted credit against the fine and court costs at the rate of five dollars for each hour of work performed for up to fifty percent of the fine and court costs.~~

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

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

(b) A STATUTORY OR HOME RULE MUNICIPALITY, COUNTY, OR CITY

AND COUNTY SHALL NOT ENACT AN ORDINANCE OR RESOLUTION THAT ESTABLISHES A MINIMUM AGE TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS THAT IS UNDER TWENTY-ONE YEARS OF AGE.

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

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

(b) Shall prohibit entry by any person under ~~eighteen~~ TWENTY-ONE years of age and shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. ~~Children~~ PERSONS under ~~eighteen~~ TWENTY-ONE years of age may not enter."

(3) A retail tobacco business:

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

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

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

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

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

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

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

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

(b) Had informed ~~its~~ THE RETAILER'S employees of the applicable laws regarding the prohibition ~~of~~ AGAINST persons under ~~eighteen~~ TWENTY-ONE years of age ~~to enter or remain~~ ENTERING OR REMAINING in areas where smoking is permitted;

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

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

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

(3) As used in this section, unless the context otherwise requires:

(b) "Possession" means that a person:

~~(I) Has or holds any amount of cigarettes or tobacco products anywhere on his or her person;~~

~~(II) Owns or has custody of cigarettes or tobacco products; or~~

~~(III) Has cigarettes or tobacco products within his or her immediate presence and control.~~

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

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

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

30-15-401. General regulations - definitions. (1.5) In addition to any other powers, the board of county commissioners has the power to adopt a resolution or an ordinance to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SECTION 7. In Colorado Revised Statutes, 44-7-103, **amend** (1), (2), and (3); and **add** (4.5) as follows:

44-7-103. Sale of cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age or in vending machines prohibited - warning sign - small quantity sales prohibited - rules. (1) ~~No~~ A retailer shall NOT sell or permit the sale of cigarettes, tobacco products, or nicotine products to a minor; except that it is not a violation if the retailer establishes that the person selling the cigarette, tobacco product, or nicotine product was presented with and reasonably relied upon a VALID GOVERNMENT-ISSUED photographic identification, AS DETERMINED BY THE EXECUTIVE DIRECTOR BY RULE, that identified the person purchasing the cigarette, tobacco product, or nicotine product as being ~~eighteen~~ TWENTY-ONE years of age or older. A RETAILER SHALL REQUIRE AN INDIVIDUAL WHO SEEKS TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AND WHO APPEARS TO BE UNDER FIFTY YEARS OF AGE TO PRESENT TO THE RETAILER A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION AT THE TIME OF PURCHASE.

(2) ~~No~~ A retailer shall NOT sell or offer to sell any cigarettes, tobacco products, or nicotine products by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in AN AGE-RESTRICTED AREA OF A LICENSED GAMING ESTABLISHMENT, AS DEFINED IN SECTION 44-30-103 (18).

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

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

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

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

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WARNING

IT IS ~~ILLEGAL FOR~~ ILLEGAL TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO ANY PERSON UNDER ~~EIGHTEEN~~ TWENTY-ONE YEARS OF AGE. ~~TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS, AND, UPON CONVICTION, A \$100.00 FINE MAY BE IMPOSED~~ STATE LAW REQUIRES THAT, TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THIS RETAIL LOCATION, A PERSON MUST PRESENT A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION AT THE TIME OF PURCHASE IF THE PERSON APPEARS TO BE UNDER FIFTY YEARS OF AGE.

(4.5) A RETAILER SHALL NOT PERMIT A PERSON UNDER EIGHTEEN YEARS OF AGE TO SELL OR PARTICIPATE IN THE SALE OF CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS. THIS SECTION DOES NOT PROHIBIT AN EMPLOYEE OF A RETAILER WHO IS EIGHTEEN YEARS OF AGE OR OLDER BUT UNDER TWENTY-ONE YEARS OF AGE FROM HANDLING OR OTHERWISE HAVING ANY CONTACT WITH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS THAT ARE OFFERED FOR SALE AT THE RETAILER'S BUSINESS.

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

44-7-104. Enforcement authority - designation of agency - coordination - sharing of information - rules. (3) (b) (I) TO THE DEGREE THAT IS ACHIEVABLE WITHIN THE AMOUNT OF FEES COLLECTED, EACH YEAR, the division shall perform, CAUSE TO BE PERFORMED, OR COORDINATE WITH A LOCAL AUTHORITY IN THE PERFORMANCE OF at least TWO COMPLIANCE CHECKS AT EACH RETAIL LOCATION AT WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ARE SOLD OR AT LEAST the minimum number of ~~random inspections of businesses that sell cigarettes, tobacco products, or nicotine products at retail as~~ ANNUAL COMPLIANCE CHECKS required by federal regulations, WHICHEVER IS GREATER. THE DIVISION SHALL PERFORM A COMPLIANCE CHECK BY ENGAGING A PERSON UNDER TWENTY-ONE YEARS OF AGE TO ENTER A RETAIL LOCATION TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS.

(II) IF A COMPLIANCE CHECK OF A RETAIL LOCATION PERFORMED PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION REVEALS A VIOLATION OF THIS ARTICLE 7, THE DIVISION, OR A LOCAL AUTHORITY IN COORDINATION WITH THE DIVISION PURSUANT TO SECTION 44-7-104.5 (4)(c), SHALL CONDUCT AN ADDITIONAL COMPLIANCE CHECK OF THE RETAIL LOCATION WITHIN THREE TO SIX MONTHS AFTER THE COMPLIANCE CHECK AT WHICH THE VIOLATION WAS DISCOVERED.

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

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

(I) TO SET NECESSARY AND REASONABLE FEE AMOUNTS THAT WILL COVER THE DIRECT AND INDIRECT COST OF ENFORCEMENT AND ADMINISTRATION; EXCEPT THAT THE FEE AMOUNT MUST NOT EXCEED FOUR HUNDRED DOLLARS PER YEAR. THE EXECUTIVE DIRECTOR MAY BY RULE INCREASE THE MAXIMUM FEE AMOUNT TO SIX HUNDRED DOLLARS IF THE DIVISION DETERMINES THAT STATEWIDE COMPLIANCE WITH THIS ARTICLE 7 FALLS BELOW NINETY PERCENT.

(II) FOR RETAILERS WITH MORE THAN TEN RETAIL LOCATIONS UNDER THE SAME CORPORATE OR BUSINESS ENTITY, THAT ALLOW THE CORPORATE OR BUSINESS ENTITY TO PAY A SINGLE, LARGE-OPERATOR LICENSE FEE INSTEAD OF PAYING A SEPARATE FEE FOR EACH RETAIL LOCATION. NOTWITHSTANDING SUBSECTION (5)(a)(I) OF THIS SECTION, THE FEE AMOUNT MUST BE SUFFICIENT TO COVER THE DIVISION'S DIRECT AND INDIRECT COSTS OF ENFORCING AND ADMINISTERING THIS ARTICLE 7 IN RELATION TO A LARGE OPERATOR. NOTHING IN THIS SUBSECTION (5)(a)(II) PREVENTS THE DIVISION FROM ENFORCING THIS ARTICLE 7 ON A PER-RETAIL LOCATION BASIS.

(III) IN ACCORDANCE WITH SUBSECTIONS (2) AND (3)(b) OF THIS SECTION, REGARDING THE NUMBER AND MANNER OF COMPLIANCE CHECKS OF RETAIL LOCATIONS THAT THE DIVISION SHALL PERFORM, CAUSE TO BE PERFORMED, OR COORDINATE WITH A LOCAL AUTHORITY IN THE PERFORMANCE OF EACH YEAR. THE RULES MUST ENSURE THAT ANY COORDINATION BETWEEN THE DIVISION AND A LOCAL AUTHORITY ON THE PERFORMANCE OF COMPLIANCE CHECKS SATISFIES FEDERAL REQUIREMENTS AND THAT LOCAL AUTHORITIES APPRISE THE DIVISION IN AN APPROPRIATE FORM AND MANNER OF COMPLIANCE CHECKS CONDUCTED.

(IV) TO ENSURE THAT COMPLAINTS RECEIVED BY THE DIVISION ARE FORWARDED TO THE APPROPRIATE LOCAL AUTHORITY AND THAT COMPLAINTS RECEIVED BY THE LOCAL AUTHORITY ARE FORWARDED TO THE DIVISION FOR THE TIMELY INVESTIGATION INTO AND ACTION TAKEN ON THE COMPLAINTS. THE RULES MUST ENSURE THAT LOCAL AUTHORITIES APPRISE THE DIVISION OF COMPLAINTS AND ANY ACTION TAKEN ON THOSE COMPLAINTS.

(V) REGARDING RETAILERS' OBLIGATIONS TO COMPLY WITH THE DIVISION'S DOCUMENT PRODUCTION REQUESTS RELATED TO IMPLEMENTATION AND ENFORCEMENT OF THIS ARTICLE 7.

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

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

(d) ON OR BEFORE JULY 1, 2021, THE EXECUTIVE DIRECTOR SHALL, IN CONSULTATION WITH LICENSED WHOLESALERS AND RETAILERS, PROMULGATE RULES REGARDING THE TARGETED ENFORCEMENT AGAINST THE SMUGGLING OF CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS.

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

44-7-104.5. License required - fees - rules - repeal. (1) (a) (I) ON OR AFTER JULY 1, 2021, A RETAILER DOING BUSINESS IN THIS STATE SHALL NOT SELL OR OFFER FOR SALE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS IN THIS STATE WITHOUT FIRST OBTAINING A STATE LICENSE AS A RETAILER FROM THE DIVISION.

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

(b) AN OWNER OF MULTIPLE RETAIL LOCATIONS IN THE STATE AT WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ARE SOLD OR OFFERED FOR SALE MUST APPLY FOR A SEPARATE STATE LICENSE FOR EACH RETAIL LOCATION. IF THE EXECUTIVE DIRECTOR WISHES TO AUTHORIZE AN OWNER OF MULTIPLE RETAIL LOCATIONS IN THE STATE TO APPLY SIMULTANEOUSLY FOR STATE LICENSES FOR EACH RETAIL LOCATION OWNED BY SUBMITTING A JOINT APPLICATION, THE EXECUTIVE DIRECTOR MAY ESTABLISH BY RULE:

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

(II) A JOINT APPLICATION FEE.

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

(b) (I) IF A RETAILER THAT SOLD OR OFFERED TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT A RETAIL LOCATION IN THE STATE BEFORE JULY 1, 2021, HAS APPLIED FOR A STATE LICENSE FROM THE

DIVISION AND PAID THE STATE LICENSE FEE ON OR BEFORE JULY 1, 2021, THE RETAILER MAY CONTINUE TO SELL OR OFFER TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ON OR AFTER JULY 1, 2021, WITHOUT A STATE LICENSE DURING THE PENDENCY OF THE DIVISION'S REVIEW OF THE RETAILER'S STATE LICENSE APPLICATION.

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

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

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

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

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

(b) IF A RETAILER APPLIES FOR A STATE LICENSE FROM THE DIVISION PURSUANT TO THIS SECTION FOR A RETAIL LOCATION THAT IS WITHIN THE JURISDICTION OF A LOCAL GOVERNMENT THAT IMPOSES LICENSING REQUIREMENTS ON RETAILERS, THE DIVISION SHALL:

(I) ISSUE A STATE LICENSE TO THE RETAILER UPON THE RETAILER DEMONSTRATING TO THE DIVISION THAT THE RETAILER HAS OBTAINED A LOCAL LICENSE AND PAYING THE STATE LICENSE FEE; AND

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(II) (A) EXCEPT AS PROVIDED IN SUBSECTION (4)(b)(II)(B) OF THIS SECTION, SET THE STATE LICENSE RENEWAL DATE ON THE SAME DATE AS THE LOCAL LICENSE RENEWAL DATE. THE DIVISION SHALL PRORATE THE INITIAL STATE LICENSE FEE IF SETTING THE STATE LICENSE RENEWAL DATE IN LINE WITH THE LOCAL LICENSE RENEWAL DATE REQUIRES RENEWAL WITHIN LESS THAN TWELVE MONTHS AFTER THE INITIAL STATE LICENSE WAS ISSUED.

(B) IF A LOCAL GOVERNMENT FIRST IMPOSES A LOCAL LICENSING REQUIREMENT ON CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ON OR AFTER JULY 1, 2021, THE LOCAL GOVERNMENT SHALL SET THE LOCAL LICENSE RENEWAL DATE FOR A RETAILER ON THE SAME DATE AS THE STATE LICENSE RENEWAL DATE.

(c) THE DIVISION SHALL COLLABORATE WITH ANY LOCAL AUTHORITY REGARDING THE PERFORMANCE OF COMPLIANCE CHECKS AND COMPLAINTS RECEIVED IN ACCORDANCE WITH RULES PROMULGATED BY THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 44-7-104 (5)(a)(III).

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

(b) IF THE STATE LICENSE CONCERNS A RETAIL LOCATION THAT IS LOCATED WITHIN THE JURISDICTION OF A LOCAL AUTHORITY THAT IMPOSES LICENSING REQUIREMENTS ON RETAILERS, THE DIVISION SHALL RENEW THE LICENSEE'S STATE LICENSE UPON THE LICENSEE DEMONSTRATING TO THE DIVISION THAT THE LICENSEE IS OPERATING UNDER A VALID LOCAL LICENSE AND PAYING THE RENEWAL STATE LICENSE FEE.

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

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

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

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

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

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

(1) (a) UNLESS A LOCAL AUTHORITY HAS APPROVED AN APPLICATION FOR A NEW RETAIL LOCATION PURSUANT TO AN ORDINANCE OR RESOLUTION ADOPTED PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION, THE DIVISION SHALL NOT APPROVE A STATE LICENSE APPLICATION FOR THE NEW RETAIL LOCATION IF THE NEW RETAIL LOCATION IS LOCATED WITHIN FIVE HUNDRED FEET OF A SCHOOL. THE DISTANCE BETWEEN THE NEW RETAIL LOCATION AND THE SCHOOL IS MEASURED FROM THE NEAREST PROPERTY LINE OF LAND USED FOR SCHOOL PURPOSES TO THE NEAREST PORTION OF THE BUILDING WHERE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS WILL BE SOLD, USING A ROUTE OF DIRECT PEDESTRIAN ACCESS.

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

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

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

(I) ELIMINATE ONE OR MORE TYPES OF SCHOOLS FROM THE DISTANCE RESTRICTION SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION; OR

(II) ADOPT SHORTER DISTANCE RESTRICTIONS.

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

(3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OR (3)(c) OF THIS SECTION, A PERSON SHALL NOT SHIP OR DELIVER CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS DIRECTLY TO A CONSUMER IN THIS STATE.

(b) (I) A RETAILER LICENSED TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS PURSUANT TO THIS ARTICLE 7 THAT COMPLIES WITH THIS SUBSECTION (3)(b) AND RULES PROMULGATED PURSUANT TO THIS SUBSECTION (3)(b) MAY DELIVER CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO A PERSON TWENTY-ONE YEARS OF AGE OR OLDER IF:

(A) THE PERSON RECEIVING THE DELIVERY OF CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS IS LOCATED AT A PLACE THAT IS NOT LICENSED PURSUANT TO THIS ARTICLE 7;

(B) THE DELIVERY IS MADE BY AN OWNER OR EMPLOYEE OF THE LICENSED RETAILER WHO IS AT LEAST TWENTY-ONE YEARS OF AGE; AND

(C) THE PERSON MAKING THE DELIVERY VERIFIES THAT THE PERSON RECEIVING THE DELIVERY IS TWENTY-ONE YEARS OF AGE OR OLDER BY REQUIRING THE PERSON RECEIVING THE DELIVERY TO PRESENT A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION. THE LICENSEE OR EMPLOYEE SHALL MAKE A DETERMINATION FROM THE INFORMATION PRESENTED WHETHER THE PERSON RECEIVING THE DELIVERY IS TWENTY-ONE YEARS OF AGE OR OLDER.

(II) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES AS NECESSARY FOR THE PROPER DELIVERY OF CIGARETTES, TOBACCO

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PRODUCTS, OR NICOTINE PRODUCTS, AND THE DIVISION IS AUTHORIZED TO ISSUE A PERMIT TO ANY RETAILER THAT IS LICENSED UNDER THIS ARTICLE 7 AND DELIVERS CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS PURSUANT TO THIS SUBSECTION (3)(b). A PERMIT ISSUED UNDER THIS SUBSECTION (3)(b) IS SUBJECT TO THE SAME SUSPENSION AND REVOCATION PROVISIONS AS ARE SET FORTH IN SECTION 44-7-105 (1)(b).

(c) THE PROHIBITION SET FORTH IN SUBSECTION (3)(a) OF THIS SECTION DOES NOT APPLY TO THE DIRECT SHIPMENT OR DELIVERY OF CIGARS AND PIPE TOBACCO TO A CONSUMER WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

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

44-7-105. Enforcement - fines - suspension and revocation - injunctive relief - hearings - appeals. (1) (a) (I) Subject to the FINE limitations contained in section 44-7-106, the division, on its own motion or on a complaint from another governmental agency responsible for the enforcement of laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors, ~~has the power to~~ MAY penalize retailers for violations of ~~section 44-7-103~~ THIS ARTICLE 7.

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

(b) IN ADDITION TO ANY OTHER SANCTIONS PRESCRIBED BY THIS ARTICLE 7 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 7, THE DIVISION MAY, AFTER INVESTIGATION AND A PUBLIC HEARING AT WHICH A RETAILER MUST BE AFFORDED AN OPPORTUNITY TO BE HEARD, FINE A

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RETAILER OR, IF THE RETAILER HOLDS A STATE LICENSE, SUSPEND OR REVOKE THE RETAILER'S STATE LICENSE FOR A VIOLATION OF THIS ARTICLE 7 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7 COMMITTED BY THE RETAILER OR BY ANY AGENT OR EMPLOYEE OF THE RETAILER.

(2) (a) A retailer accused of violating ~~section 44-7-103 shall be~~ THIS ARTICLE 7 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7 IS entitled to written notice of the time and place of the hearing personally delivered to the retailer at the actual retail location or mailed to the retailer at the last-known address as shown by the records of the ~~department~~ DIVISION. The retailer is also entitled to be represented by counsel, to present evidence, and to cross-examine witnesses.

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

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

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

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

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

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

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

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

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

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

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

(III) A FINE IN AN AMOUNT OF AT LEAST SEVEN HUNDRED FIFTY DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS FOR A THIRD VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH THE VIOLATION OCCURRED FOR AT LEAST THIRTY DAYS FOLLOWING THE DATE THAT THE FINE IS IMPOSED; AND

(IV) A FINE IN AN AMOUNT OF AT LEAST ONE THOUSAND DOLLARS BUT NOT MORE THAN FIFTEEN THOUSAND DOLLARS FOR A FOURTH OR SUBSEQUENT VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH THE

VIOLATION OCCURRED FOR UP TO THREE YEARS FOLLOWING THE DATE THAT THE FINE IS IMPOSED.

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

(a) (I) A written warning for a first violation committed within a twenty-four-month period;

(b) (II) A fine of two hundred fifty dollars for a second violation within a twenty-four-month period;

(c) (III) A fine of five hundred dollars for a third violation within a twenty-four-month period;

(d) (IV) A fine of one thousand dollars for a fourth violation within a twenty-four-month period; and

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

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

(A) ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION;

(B) TWO THOUSAND DOLLARS FOR THE SECOND VIOLATION WITHIN TWENTY-FOUR MONTHS; AND

(C) THREE THOUSAND DOLLARS FOR THE THIRD OR SUBSEQUENT VIOLATION WITHIN TWENTY-FOUR MONTHS.

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

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(III) IF THE DIVISION FINDS THAT A RETAILER HAS VIOLATED THIS SUBSECTION (1)(c) THREE TIMES WITHIN TWENTY-FOUR MONTHS, THE DIVISION SHALL ISSUE THE RETAILER AN ORDER PROHIBITING THE RETAILER FROM SELLING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS, WHICH ORDER RENDERS THE RETAILER INELIGIBLE TO APPLY FOR A STATE LICENSE FOR THREE YEARS FOLLOWING THE DATE OF THE ORDER.

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

(2) Notwithstanding subsection (1) of this section, ~~no~~ A fine for a violation of section 44-7-103 (1) shall NOT be imposed upon a retailer that can establish an affirmative defense to the satisfaction of the division or the hearing officer that, prior to the date of the violation, it:

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

(b) Had informed its employees of the applicable laws regarding the sale of cigarettes, tobacco products, or nicotine products to persons under ~~eighteen~~ TWENTY-ONE years of age;

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

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

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

(4) (a) (I) THE PENALTY for a violation of section 44-7-103 (2) or (3), ~~the penalty shall be as follows:~~ (4.5) IS

~~(a) (I) For a violation of section 44-7-103 (2), a fine of twenty-five dollars for a first violation committed within a twenty-four-month period.~~

(II) THE PENALTY for a violation of section 44-7-103 (3) IS a written warning for a first violation committed within a twenty-four-month period.

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

(b) (I) A fine of fifty dollars for a second violation within a twenty-four-month period;

(c) (II) A fine of one hundred dollars for a third violation within a twenty-four-month period;

(d) (III) A fine of two hundred fifty dollars for a fourth violation within a twenty-four-month period; and

(e) (IV) A fine of ~~between~~ AT LEAST two hundred fifty dollars and BUT NOT MORE THAN one thousand dollars for a fifth or subsequent violation within a twenty-four-month period.

(5) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, A LICENSED GAMING ESTABLISHMENT AS DEFINED IN SECTION 44-30-103 (18) THAT HAS A CIGAR-TOBACCO BAR, AS DEFINED IN SECTION 25-14-203 (4), ON THE EFFECTIVE DATE OF THIS SUBSECTION (5) SHALL BE AFFORDED TWO AFFIRMATIVE DEFENSES WITHIN A TWENTY-FOUR-MONTH PERIOD.

SECTION 13. In Colorado Revised Statutes, 13-4-102, **repeal** (2)(gg) as follows:

13-4-102. Jurisdiction. (2) The court of appeals has initial jurisdiction to:

(gg) ~~Review final actions and orders appropriate for judicial review of the department of revenue relating to penalties for violations of statutes relating to the sale of cigarettes, tobacco products, or nicotine products to minors pursuant to section 44-7-105 (5);~~

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

19-2-104. Jurisdiction. (1) Except as otherwise provided by law,

the juvenile court ~~shall have~~ HAS exclusive original jurisdiction in proceedings:

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

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

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

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

SECTION 16. In Colorado Revised Statutes, **amend** 44-6-101 as follows:

44-6-101. Liquor enforcement division and state licensing authority cash fund. There is hereby created in the state treasury the liquor enforcement division and state licensing authority cash fund. The fund ~~shall consist~~ CONSISTS of money transferred in accordance with sections 44-3-502 (1), ~~and~~ 44-4-105 (2), ~~AND~~ 44-7-104.5 (6). The general assembly shall make annual appropriations from the fund for a portion of the direct

and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of articles 3 to 5 AND 7 of this title 44. Any money remaining in the fund at the end of each fiscal year ~~shall remain~~ REMAINS in the fund and ~~shall~~ DOES not revert to the general fund or any other fund. The fund shall be maintained in accordance with section 24-75-402.

SECTION 17. Appropriation. (1) For the 2019-20 state fiscal year, \$45,414 is appropriated to the department of revenue. This appropriation is from the liquor enforcement division and state licensing authority cash fund created in section 44-6-101, C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$26,139 for use by the liquor and tobacco enforcement division for personal services, which amount is based on an assumption that the division will require an additional 0.5 FTE; and

(b) \$19,275 for use by the liquor and tobacco enforcement division for operating expenses.

SECTION 18. Appropriation. (1) For the 2020-21 state fiscal year, \$2,391,262 is appropriated to the department of revenue. This appropriation is from the liquor enforcement division and state licensing authority cash fund created in section 44-6-101, C.R.S., and is based on an assumption that the department will require an additional 18.9 FTE. To implement this act, the department may use this appropriation as follows:

Executive director's office, administration and support

Health, life, and dental	\$180,166
Short-term disability	\$2,010
S.B. 04-257 amortization equalization disbursement	\$59,107
S.B. 06-235 supplemental amortization equalization disbursement	\$59,107
Legal services	\$98,605
Vehicle lease payments	\$69,450
Leased space	\$124,740

Executive director's office, hearings division

Personal services	\$96,012 (1.5 FTE)
Operating expenses	\$11,325

Taxation business group, administration

Tax administration IT system (GenTax) support \$1,800

Enforcement business group, liquor and tobacco enforcement division

Personal services \$1,232,116 (17.4 FTE)

Operating expenses \$456,824

(2) For the 2020-21 state fiscal year, \$98,605 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of revenue under subsection (1) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of revenue.

(3) For the 2020-21 state fiscal year, \$69,450 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (1) of this section. To implement this act, the department of personnel may use this appropriation for vehicle replacement lease/purchase.

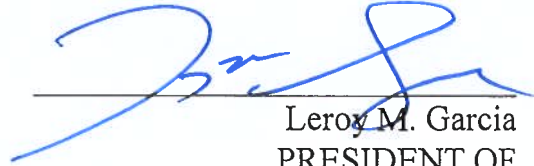
SECTION 19. Applicability. This act applies to offenses committed on or after the effective date of this act.

SECTION 20. Safety clause. The general assembly hereby finds,

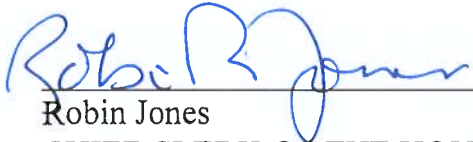
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED July 14, 2020 at 1:04 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO



***DRAFT* - Retail Tobacco Licensing FAQ**

What are the changes?

- ✓ Anyone who sells a tobacco product is required to obtain and maintain a license from the City of Northglenn for each location where retail sales of tobacco products occur.
- ✓ Retail tobacco licenses are valid for one year and must be renewed annually.
- ✓ Retailers must examine a customer's identification to confirm the customer is at least 21 years of age.
- ✓ Retailers must display the retail tobacco license in a visible location.
- ✓ Retailers must display signage indicating that tobacco products shall not be sold to any person under 21 years of age.
- ✓ The sale of tobacco products from vending machines and self-service displays is prohibited.
- ✓ No person under the age of 18 may participate in the sale of tobacco products.
- ✓ Penalties will be assessed for violations of the new regulations.
- ✓ Retail tobacco sales are prohibited within 500 feet of schools, public parks, public pools and recreation facilities, and City-owned property. Retailers operating lawfully as of the date the local regulations were adopted are exempt from the 500-foot limit.

Why are the changes necessary?

Studies have demonstrated that licensing tobacco retailers is an effective policy to reduce tobacco sales to minors and reduce youth initiation to vaping, e-cigarettes, and cigarettes.

What tobacco products are included?

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; Electronic smoking devices; and any component, part, accessory or associated tobacco paraphernalia of a tobacco product whether or not sold separately.

Tobacco products do 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 the cessation of smoking.

Are flavored tobacco products banned?

No. The City's ordinance does not prohibit the sale of flavored tobacco products.

If my store sells tobacco products, what do I need to do to be in compliance?

You must apply for and obtain a retail tobacco license from the Northglenn City Clerk's Office. You must also ensure your business is following all of the regulations contained in the Retail Tobacco Licensing Ordinance. The City's retail tobacco license is in addition to the State license that you must apply for by July 1, 2021.

There are also voluntary licensing incentives for retailers, which will reduce the cost of the annual license renewal fee while providing important information to your employees and the public:

1. Use of identification scanners or entry of the purchaser's date of birth for 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.

How much does the license cost?

The initial license fee is \$300. Licenses are valid for one year and must be renewed annually. The annual license renewal fee is \$250, and may be reduced if the business can demonstrate compliance with the licensing incentive items listed above.

Are employees under 21 permitted to sell tobacco products?

Yes. The City ordinance and State law prohibits employees under 18 years of age from selling tobacco products.

Will there be inspections?

Yes. A routine inspection will be conducted by the City of Northglenn before your initial license may be issued. The State of Colorado and the Northglenn Police Department will conduct random compliance checks to make sure businesses are not selling tobacco products to anyone under 21.

What are the penalties for selling or distributing tobacco products to someone who is under 21?

1 st violation	A \$1,000 fine and a 7-day suspension with 3 days of actual suspension and 4 days held in abeyance for 2 years.
2 nd violation within 24 months	A \$2,000 fine and a 14-day suspension with 6 days of actual suspension and 8 days held in abeyance for 2 years.
3 rd violation within 24 months	A \$3,000 fine and a 30-day suspension to be served in its entirety.
4 th violation within 24 months	A \$5,000 fine and revocation of the license. The retailer would be prohibited from applying for a new license for a period of 3 years from the date of the final order issued by the local licensing authority.

How can I ensure my employees will follow the new regulations?

We encourage you to provide information and responsible vendor training to all of your staff. Licensees are responsible for their employees and we encourage you to talk with other retailers to see what kinds of employee training or incentive programs have proven successful for them. Some retailers choose to purchase equipment that can scan a person’s driver’s license and verify whether or not they are old enough to purchase tobacco products. Other retailers place calculators or “no sale if born after this date” reminders at every cashier station.

Where can I get more information?

The City Clerk’s Office can provide forms and information about the new retail tobacco license requirements. Call 303.450.8755, Email landrews@northglenn.org or visit www.northglenn.org.

City of Northglenn: www.northglenn.org/tobacco (site not live until ordinance is adopted)

Colorado Tobacco Enforcement: www.colorado.gov/pacific/enforcement/tobacco-enforcement

Federal Tobacco Laws: www.fda.gov/tobacco-products

As a business owner or manager, you play an important role in ensuring that Northglenn remains safe, healthy, and welcoming. Please help us by adhering to this new ordinance and supporting others in doing so. If you have any questions regarding this information please contact the City Clerk’s Office at 303.450.8755.

SPONSORED BY: MAYOR LEIGHTY

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1957
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 AND AMENDING CHAPTER 9, ARTICLE 8 OF THE NORTHGLENN MUNICIPAL CODE REGARDING UNLAWFUL POSSESSION OF TOBACCO PRODUCTS

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. Licenses Required. It shall be unlawful for any person to establish or operate a Retail Tobacco Business without first having obtained licenses for such business from the state and local licensing authorities, as applicable. Such licenses shall be kept current at all times, and the failure to maintain current licenses 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 measured from the nearest property line of land used for school purposes to the nearest portion of the building or structure housing the Retail Tobacco Business using a route of direct pedestrian access.

(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 18-19-12 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 (1) violation within twenty-four (24) months: a civil penalty of one thousand dollars (\$1,000.00) and a seven (7) day suspension to be served with three (3) days of actual suspension and four (4) days held in abeyance for two (2) years from the date of the final order of the Authority;

(2) Two (2) violations within twenty-four (24) months: a civil penalty of two thousand dollars (\$2,000.00) and a fourteen (14) day suspension to be served with six (6) days of actual suspension and eight (8) days held in abeyance for two (2) 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 (3) violations within twenty-four (24) months: a civil penalty of three thousand dollars (\$3,000.00) 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.

(4) Four (4) violations within twenty-four (24) months: a civil penalty of \$5,000 and revocation of the license issued pursuant to this Article. The retailer shall be prohibited from applying for a new Retail Tobacco License issued pursuant to this Article for three (3) years from the date of the final order of the Authority.

(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.

Section 2. Section 9-8-11, subsection (b) of the Northglenn Municipal Code is hereby amended to read as follows:

Section 9-8-11. Unlawful Possession or Consumption of Tobacco or Nicotine Products by Juveniles.

* * *

(b) Prima facie evidence of a violation of this Section shall consist of:

(1) Evidence that the defendant was under the age of 18 21 years at the time of the offense;

(2) Evidence that the defendant possessed tobacco or nicotine products within the City of Northglenn;

(3) Evidence that the defendant was in the possession or control of any package or container, when the label affixed thereto identified said package or container as containing a tobacco or nicotine product.

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:

APPROVED AS TO FORM:

JOHANNA SMALL, CMC
City Clerk

COREY Y. HOFFMANN
City Attorney