

**CITY OF SALEM
BOARD OF HEALTH**

**Regulation #25
Adopted July 11, 1995**

**REGULATION AFFECTING THE PURCHASING OF
TOBACCO PRODUCTS THROUGH MACHINES**

SECTION I:

AUTHORITY:

Since there exists evidence that more than one-half of all smokers begin smoking before the age of eighteen and since Massachusetts General Laws Chapter 270, Section 6 prohibits sales to persons under eighteen years of age there is an important public health need to reduce the easy access of tobacco products to youths. This regulation is promulgated under the authority of Section 31, Chapter 111 of the Massachusetts General Laws and amendments and additions thereto in the interest of and for the preservation of public health.

The Salem Board of Health further finds that minors have ready accessibility to such tobacco products through the use of vending machines placed in diners, pizza parlors, malls, fast-food restaurants, dance clubs, restaurants without restrictions on minors, bowling alleys, and other areas where young people congregate, as well as through tobacco-company promotions, thereby negating, in many instances, the purpose and objective of Mass. General Laws, Chapter 270, Section 6, to discourage young people from adversely affecting their health, safety and well being through smoking. The Board has determined that the smoking should be stopped at the earliest time possible by restricting easy access to tobacco products by minors.

The effective date shall be July 21, 1995.

SECTION II:

(A) Vending Machines: From and after the effective date, no person shall install or maintain a vending machine to distribute or sell tobacco products in the City of Salem, except as provide hereinafter:

- a) That there is a lock-out device, installed and in view of the attendant operating such device.
- b) Lock-out devices must be acceptable to the board of Health or its Agent.
- c) Tobacco vending machines must be posted with a sign not less than 6" x 16", stating "ATTENTION: THIS MACHINE IS EQUIPPED WITH A LOCK-OUT DEVICE. TO PURCHASE A TOBACCO PRODUCT, YOU MUST FIRST SEE THE PERSON-IN-CHARGE."

(B) Lock-out Device: Device which enables an establishment's agent or employee to directly control the sale of items through tobacco vending machines. Said devices shall meet the following minimum standard:

- a) Incorporate a mechanism to prevent the tobacco vending machine from functioning in the event that the power source fails or the lock-out device is otherwise disabled.

b) Will ensure that only one pack of cigarettes will be dispensed at a time.

SECTION III:

ENFORCEMENT:

The Board of Health or its enforcement officer(s) shall enforce this regulation. Whoever violates this provision shall be punished by a fine of fifty dollars (\$50.00). Any person unlawfully removing a copy so posted while said premises are used for the sale of cigarettes shall be punished by a fine of ten dollars (\$10.00).

SECTION IV:

VARIANCES:

The Board of Health may vary the application of any provision of these regulations with respect to any particular case when in its opinion the enforcement thereof would do manifest injustice of cause undue hardships, provided that the decision of the Board shall not conflict with the spirit of these regulations. The burden of proof of the manifest injustice or causes of hardship shall be the responsibility of the applicant.

SECTION V.

SEVERABILITY:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

City of Salem
Board of Health
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After a vote of the Board, 3 affirmative, 1 negative and 1 abstaining the following signature is authorized

Signed,

George Levesque, Chairman