

Chapter 68A

TOBACCO PRODUCTS, SALE OF

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(HISTORY: Adopted by the Township Committee of the Township of Barnegat 2-20-96 by Ord. No. 1996-5. Amendments noted where applicable

Be it ordained by the Mayor and Committee of the Township of Barnegat, County of Ocean and State of New Jersey as follows:

§ 68A-1. Prohibition of tobacco sales to minors.

- A. It shall be unlawful to sell a tobacco product to a minor, that is, a person under eighteen (18) years of age.**
- B. It shall be unlawful for any person to purchase a tobacco product (a) with funds furnished by a minor or (b) with the intent to sell such a product to a minor.**

- C. **Sign requirement.** The following six (6) inch by eight (8) inch sign shall be posted in a conspicuous place near such cash register in all retail establishments which sell tobacco products:

SALE OF TOBACCO PRODUCTS TO MINORS UNDER THE AGE OF 18 OR SMOKING IN PUBLIC PLACES BY MINORS IS PROHIBITED BY LAW. Legal proof of age must be shown. A person who sells or offers to sell a tobacco product to a person under 18 years of age may be prosecuted in accordance with State Statutes and Barnegat Township ordinances.

§ 68A-2, Identification required.

- A. It shall be unlawful for a tobacco retailer to sell or permit to be sold any tobacco product to any individual without first requesting and examining identification from the purchaser positively establishing the purchaser's age as eighteen (18) years or greater, unless the seller has some other conclusive basis for determining the buyer is over the age of eighteen (18) years.

§ 68A-3. Regulation of tobacco vending machines and tobacco vending machine sales.

- A. Tobacco vending machines and tobacco vending machine sales are hereby prohibited within the Township of Barnegat unless the tobacco vending machine meets the following criteria:
- (1) The vending machine is located within a business where an employee of the establishment is within plain view of said machine.
 - (2) The vending machine is equipped with a device which would not allow the sale of a tobacco product without the establishment's employee having to push a button or switch to be located where the

employee is located that will allow the sale to take place.

- (3) That after said employee has pushed said button or switch to electrically allow a sale to take place that the machine will again deactivate itself until such time as said button or switch are reactivated.
- (4) The employee in control of said vending machine shall be responsible to check identification to ensure that the individual using said machine is at least eighteen (18) years of age. Any failure to do so or any failure to keep said machine locked by said electrical device will be considered a violation of the within ordinance.

§ 68A-4, Prohibition of minors using tobacco products in a public place.

It shall be unlawful for any person under the age of eighteen (18) to smoke a tobacco product in and/or on any public place, or to possess in open view, an opened pack, opened carton or other opened container (as evidenced by a broken seal) holding a tobacco product in any public place unless in the presence of his/her parent/guardian.

§ 68A-5. Definitions.

PUBLIC PLACE — Any building or enclosed structure open to the general public, and any street, road, sidewalk, walkway, park or open space located within the township and maintained for use by the general public.

RETAIL ESTABLISHMENT — Any place or business that sells to the public at retail.

TOBACCO PRODUCT — Any product made from the tobacco plant or containing tobacco leaf, for the purpose of smoking, chewing, inhaling or other personal use, including but not limited to, cigarettes, cigars, pipe tobacco, chewing tobacco, snuff and dipping tobacco.

TOBACCO VENDING MACHINE — Any mechanical, electrical or electronic self-service device, which, upon insertions of monies, tokens or any other form of payment, dispenses tobacco or tobacco products, either exclusively or as one kind of an available item.

§ 68A-6. Enforcement.

- A. Whenever a police officer of the Township of Barnegat reasonably believes there exists a violation of this ordinance, such officer may issue a summons and complaint not later than ninety (90) days after discovery of the alleged violation. The complaint shall be written and shall state with reasonable particularity the nature of the violation, including reference to the section and subsection of this ordinance alleged to have been violated. The complaint shall be delivered personally or sent via certified mail to the alleged violator.
- B. A police officer of the Township of Barnegat, after giving proper identification, and if no search or other warrant is required by law, may summarily inspect any matter, thing, premise, place, person, record, incident or event as necessary to enforce the provisions of this ordinance.
- C. It shall be unlawful for any person to molest, wilfully oppose, or otherwise act to interfere with or obstruct any police officer in the performance of duties under this ordinance.
- D. Citizens may bring complaints for violation of this ordinance.

§ 68A-7. Validity and separability.

- A. If the provision of any article, section, subsection, paragraph, subdivision, application or clause of this ordinance shall be judged invalid by any court of

competent jurisdiction, this order or judgment shall not affect or invalidate the remainder of any such article, section, subsection, paragraph, subdivision, application or clause, and, to this end, the provisions of the ordinance are hereby declared severable.

- B. This ordinance shall be liberally construed for the protection of the health, safety and welfare of the people of the Township of Barnegat, Ocean County, State of New Jersey.

§ 68A-8. Penalties.

- A. Unless otherwise provided by law, statute or ordinance, any person violating any provision of this ordinance shall, upon conviction thereof, pay a fine of not less than one hundred dollars (\$100.) or more than five hundred dollars (\$500.) for each offense. The complaint shall be made in the Municipal Court of the Township of Barnegat or before such other judicial officer having authority under the laws of the State of New Jersey.
- B. Each day of possession or use of a tobacco vending machine shall constitute a separate violation of this ordinance.
- C. Notwithstanding subsection A above, for violations of Section 68A-4 of this ordinance, the penalties shall be as determined pursuant to the Code of Juvenile Justice, particularly N.J.S.A. 2A:4A-43b.