

Proposed Local Law Number 1 Of 2017

County Of Ulster

A Local Law Prohibiting The Possession, Distribution, Or Use Of Tobacco Products By A Minor In Ulster County

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. TITLE.

This Local Law shall be known by and may be cited as “The Tobacco Possession, Distribution, Or Use By Minors Act.”

SECTION 2. LEGISLATIVE INTENT AND FINDINGS.

Tobacco addiction is the leading preventable cause of morbidity and mortality in New York State and in the United States. Cigarette use alone results in an estimated 25,000 deaths each year in New York State. There are estimated to be 570,000 New Yorkers afflicted with serious disease directly attributable to smoking. The list of illnesses caused by tobacco include many cancers, including lung and oral cancers, heart disease, stroke, chronic obstructive pulmonary disease and other lung diseases.

According to the New York State Department of Health, despite NYS youth smoking rates at their lowest recorded rates, 73,700 NYS high school students currently smoke and 10,600 youth under 18 become new daily smokers each year. Additionally, the economic costs of tobacco use in New York State are staggering. Every year, tobacco-related health care costs New Yorkers \$10.4 billion, of which Medicaid covers \$3.3 billion.

Today, all 50 states and the District of Columbia have laws that restrict the sale of tobacco products to minors. In addition to restricting the sale, 45 states and the District of Columbia have laws that also prohibit the purchase, use and/or possession (PUP) of tobacco products by underage persons. New York is one of only five states that do not have PUP laws.

The Ulster County Legislature finds tobacco products to be a serious threat to the health and safety of Ulster County youth and further concludes that merely prohibiting the sale of tobacco products to minors is not sufficient to discourage or prevent the use thereof.

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Accordingly, the Ulster County Legislature determines that the possession, distribution or use of tobacco products by minors in Ulster County should be prohibited.

SECTION 3. DEFINITIONS.

(A) "Tobacco Product" shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing, sniffing or smoking.

(B) "Electronic Smoking Device" shall mean an electronic device that can be used to deliver nicotine ~~or other substances~~ to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe.

(C) "Minor" shall mean any person who has not yet reached the age of eighteen (18.)

(D) "Possess" shall mean the manifestation of dominion, control, and/or exclusive use over any cigarettes or tobacco products and includes, but is not limited to, the act of having or holding any amount of cigarettes or tobacco products or electronic smoking devices anywhere on his or her person or having any amount of cigarettes or tobacco products anywhere within his or her immediate control and includes the consumption, smoking, ingesting, absorbing, inhaling or chewing of any cigarette or tobacco product.

SECTION 4. PROHIBITION.

(A) It shall be unlawful for a minor to possess, receive, purchase, use or consume tobacco products or electronic smoking devices or to attempt any of the forgoing.

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(B) It shall be unlawful for a minor to sell or distribute tobacco products or electronic smoking devices or to attempt either of the foregoing.

(C) A minor who is assisting with a random unannounced inspection in accordance with this chapter shall not be in violation on this chapter.

(D) A minor may possess but not sell or distribute tobacco products or electronic smoking devices in the course of employment, for duties such as stocking shelves or carrying purchases to customers' vehicles.

SECTION 5. PENALTIES FOR VIOLATION BY A MINOR.

~~(A) The first violation of Section 4(A) of this Article shall constitute an offense punishable by up to ten (10) hours of community service. The second violation of Section 4(A) of this Article shall constitute an offense punishable by 10—20 hours of community service. Any subsequent violation of Section 3(A) of this Article shall constitute an offense punishable by 20—100 hours of community services.~~

~~(B) The first violation of Section 4(B) of this Article shall constitute an offense punishable by up to twenty (20) hours of community service or and/or a fine not to exceed \$50. The second violation of Section 4(B) of this Article shall constitute an offense punishable by 20—100 hours of community service and/or a fine not to exceed \$100. Any subsequent violation of Section 4(B) of this Article shall constitute an offense punishable by no less than 100 hours of community service and/or a fine of \$250.~~

~~The court may, in addition to the penalties provided herein, require the minor and the minor's parents or legal guardian to attend tobacco awareness programs.~~

Any minor who violates this Article shall be guilty of a violation and shall be punished by a fine not to exceed \$50 for each offense or shall be required to complete up to 10 hours of community service for each offense, or both. Where available, as an alternative to either a fine or community service the minor may participate in a tobacco education program no later than 60 days from the date of conviction.

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SECTION 6. ENFORCEMENT.

This article shall be enforced by the Ulster County Sheriff's Department, and shall be enforced by any other law enforcement agency having jurisdiction to act in the County of Ulster, which shall enforce the provisions of this Article by the issuance of a summons to a party violating the provisions of this Article.

SECTION 7. APPLICABILITY.

This law shall apply to all actions occurring on or after the effective date of this law.

SECTION 8. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 9. REVERSE PREEMPTION.

This article shall be null and void on the day that statewide legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this Article or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Ulster. The Ulster County Legislature may determine by resolution whether or not identical or substantially similar statewide legislation or

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pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

SECTION 10. EFFECTIVE DATE.

This local law shall take effect on January 1, 2018.