



Needham Public Health



POLICY or PROCEDURE TITLE: Tobacco Sales Compliance Checks

Number: HHS-PH-EH-113

Policy Type: Environmental Health

Effective Date: June 18, 2018

Date Reviewed or Revised: December 22, 2017

Essential Public Health Service: Enforce laws and regulations that protect health and ensure safety.

PURPOSE: To ensure that tobacco retailers in Needham do not sell tobacco products to individuals younger than 21 years of age. And, to ensure that tobacco retailers are complying with the [Needham Board of Health Tobacco Regulation](#) including verifying the age of all purchasers under the age of 27 and not selling flavored tobacco products.

POLICY: The Needham Public Health Division, in conjunction with the Needham Police Department, conducts quarterly tobacco compliance checks in the Town to enforce the Needham Board of Health Tobacco Regulation.

PROCEDURE:

Orientation and Training:

- The Environmental Health Agent will enlist one or two students to work as undercover buyers. One student will be less than 21 years of age and one will be 21 or older. (Or if only one student works, that student must be less than 21 years of age.)
- Parent's permission is required for a minor (under 18 years of age) to participate in compliance checks (see attached form).
- Students will be trained in compliance check procedures, will have a photo taken, and will be required to sign an "undercover buyer agreement" (see attached form).

Compliance Check Procedure (see attached form):

- Students (or, undercover buyers) will be under direct supervision by the Assistant Public Health Director and/or the Environmental Health Agent and a Needham Police Officer during compliance checks.
- The underage student's personal belongings will be stored in a police vehicle during the compliance checks.
- Money for the purpose of purchasing items during the compliance check will be provided to each student.
- The underage buyer will visit local tobacco retailers and attempt (without an ID) to purchase tobacco products (e.g., cigarettes, cigars, smokeless tobacco, etc.) or nicotine delivery systems (e.g., e-cigarettes, nicotine gum, etc.). The over-21 buyer will keep his or her ID and use it, if requested, during the compliance check. The student buyers may go into a store together at the same time or the older buyer may attempt to make a purchase first and then the younger buyer will try to purchase tobacco or nicotine products.

- The buyers may be instructed to also purchase a pack of gum or other item along with the tobacco product ("co-buy").
- If the student buyer knows the sales agent, no purchase attempt will be made.
- If a sale is made, the buyer will get a sales receipt.
- Once the tobacco transaction is either completed or denied by the clerk, the student buyer will return to the police vehicle. The supervisors will complete a worksheet checklist with the student to gain information about the student's interaction with the clerk. The buyer will provide the supervisors with a description of the store clerk (see attached format).
- If a purchase is made, the evidence (tobacco, gum, and receipt) will be placed in a Ziploc bag which will be labeled with date, time, and place of purchase, along with the name of the owner, manager or clerk who conducted the sale.
- The student buyer will sit in the car while the supervisors immediately enter the store with the evidence to review the incident with the clerk, manager, or store owner.

A tobacco sales permit holder whose establishment has sold tobacco products to an underage individual is subject to the penalties described in [Board of Health Article 1](#).

- The fine (citation) and the permit suspension will be determined at the next monthly Board of Health meeting, where the violators will be required to attend a mandatory hearing to discuss the incident.
- Following the hearing, if the establishment owner is found to have a violation, the tobacco sales permit holder will be issued a citation, which will be mailed to them. The citation will include a fine and a suspension of the establishment's Tobacco Product Sales Permit that is commensurate with the offence. Establishments with repeat violations within a 36 month period will be subject to a longer permit suspension period. The Board of Health will give the establishment a notice of intent to suspend or revoke a permit, which will include a date and time for a hearing. If the hearing determines violations occurred, the corresponding penalties will be applied.
- Once the suspension time period has been determined, signage will be provided by the Health Division and dropped off on the first day of the suspension. The Health Agent will meet with the store owner or manager to verify that all tobacco products have been removed off site. Once the signs are issued and placed in their designated areas on site, the suspension has officially started.
- The Health Agent will make spot checks throughout the duration of the suspension, to verify that no tobacco products are being sold and that the signs are still posted in their designated areas. At the end of the suspension, the Health Agent will come back to remove the signage, at that time, tobacco products can be placed back on the shelves and be accessible for sale to the public.
- A Tobacco Compliance Check chart, which lists all Needham tobacco retailers (along with the history of sales), will be updated with the date and time of the recent check, and we will record if any sales were made. A summary of the recent compliance checks will be written for the NPHD file.



Needham Public Health



LEGAL AUTHORITY:

Needham [Board of Health Tobacco Regulation \(Article 1\)](#).

Prepared by:

- Tara Gurge
- Helenka Lepowski Ostrum
- Lynn Schoeff

Approved by:

Timothy Muir McDonald

6/20/18

Director of Health and Human Services

Date

Tara Gurge

6/18/18

Program Director

Date



Needham Board of Health
TOBACCO CONTROL PROGRAM

1471 Highland Avenue
Needham, MA 02492-2669



Dear Parent:

Your son or daughter has expressed an interest in assisting the Needham Board of Health Tobacco Control Program. A major goal of the Tobacco Control Program is to aid the Board of Health in preventing the illegal sale of tobacco products to underage youth. With your permission your child will help us to conduct compliance checks by visiting local tobacco retailers and attempting to purchase tobacco products. Your child's activities will be under the direct supervision of a representative of the Board of Health or staff member of the Tobacco Control Program.

Each potential undercover buyer will be trained with respect to standard compliance check procedure. Money to purchase the tobacco products will be provided. Any tobacco products purchased by the youth involved in this project will be retained by the staff person and labeled as evidence. Massachusetts law does not prohibit children from buying tobacco, so your child will not be violating any law by participating in compliance checks. If you have any questions about what the project will entail, please feel free to call me at (781) 455-7500; Ext. 262.

Sincerely,

Tara Gurge, R.S., C.E.H.T., M.S.

PARENT OR GUARDIAN CONSENT AND RELEASE FORM

I give my consent for my child's participation in the Needham Board of Health Tobacco Control Program project described above. I release the Board of Health from all liability involved from my son or daughter's participation in Board of Health program activities.

Youth's name (please print) _____ Social Security # _____
(Last four digits only)

Address _____

_____ Phone: _____

Email - _____

Parent or Guardian name (please print): _____

Parent or Guardian signature _____ Date: _____



Needham Public Health



UNDERAGE BUYER AGREEMENT

Name (please print) _____

Address _____

Telephone _____ Date of Birth _____

INSTRUCTIONS: Please read each item below. Your signature at the end of this agreement signifies your willingness to abide by all of the terms listed.

1. I understand that the purpose of the Needham Board of Health Tobacco Control Program is to encourage the increased enforcement of laws that prohibit the sale of tobacco to underage youth.
2. I agree that I will meet with Board of Health or law enforcement staff at the location and time specified for each compliance check.
3. I understand that specific information about the compliance checks I will conduct are confidential, and that I will not discuss such details as store names and locations unless directed to do so by the Board of Health staff.
4. I understand that Massachusetts law does not prohibit underage youth from attempting to purchase tobacco; therefore, I will not be violating any laws while participating in this activity.
5. I agree not to pursue or participate in any attempt to purchase tobacco products except when I am supervised by the Board of Health staff.
6. I agree to relinquish to the Board of Health staff any tobacco products, change or unused money that is not my own.
7. I am aware that I may be called as a witness to testify regarding the compliance check in which I participated.
8. I agree to participate in an underage buyer training session and will follow the procedures explained to me for conducting tobacco compliance checks.

Signature of teen

Date _____

Parent Signature

Date _____

MTCP ID: 01026

Tobacco Compliance Check Form

Section 1:

Establishment

Name: _____

Address: _____

City: _____

Type of Establishment: ☐ Chain ☐ Independent ☐ Not Known

Survey Participants

ID of Purchaser: _____

Age: ☐ 15 ☐ 16 ☐ 17 ☐ 18 ☐ 19 ☐ 20

Sex: ☐ Male ☐ Female

Name of Adult Supervisor: _____

Time of Check: _____ am ☐ pm ☐

Date of Check: _____

Day of the Week: ☐ Mon ☐ Tues ☐ Wed
☐ Thurs ☐ Fri ☐ Sat ☐ Sun

Style of Establishment (Check Only One):

☐ Convenience Store	☐ Grocery Store	☐ Bar
☐ Department Store	☐ Liquor Store	☐ Private Club (VFW, Legion, etc.)
☐ Gas Station Only	☐ Pharmacy/Drug Store	☐ Restaurant
☐ Gas Mini-Mart	☐ Other (bowling alley, golf club, etc.)	☐ Tobacconist

Section 2:

Was Compliance Check completed? Yes ☐ No ☐

If Yes please continue on to the next question, if No please skip this section and go to section 3.

How was tobacco marketed?

- ☐ Over-the-counter: youth asks the clerk for the product.
- ☐ From a vending machine **with** a lockout device.
- ☐ Other
- Describe: _____

Was the Purchaser asked for ID? Yes ☐ No ☐ **Was this an ID-based check?** Yes ☐ No ☐

Was the Purchaser asked his/her age? Yes ☐ No ☐

Sex of Clerk: Male ☐ Female ☐ Approximate age of clerk: ☐ Teen ☐ Young Adult ☐ Adult ☐ Older Adult

Type of tobacco asked for: ☐ Cigarettes **Brand of cigarettes asked for:** ☐ Marlboro ☐ Newport ☐ Other: _____
☐ Chew/Dip ☐ Cigars ☐ Other _____ **Brand:** _____

Was the sale made? Yes ☐ No ☐

If "Yes" how much did the product cost: \$ _____ **Was a receipt given?** Yes ☐ No ☐

Purchaser made payment using: ☐ \$1 bills ☐ \$5 bill(s) ☐ \$5 bill and \$1 bills/or change ☐ \$10 bills(s) ☐ \$20 bill ☐ change

Section 3:

If the youth did not enter the premises or did not attempt to purchase tobacco products please indicate why:

☐ Out of Business	☐ Temp. long term closure	☐ In operation, closed at time of visit	☐ Drive thru only
☐ Does not sell tobacco	☐ Unlocatable	☐ Unsafe to access	☐ Tobacco out of stock
☐ Inaccessible by youth	☐ Wholesale only/cartons	☐ Presence of police	☐ Permit suspended
☐ Private club/personal residence	☐ Machine broken	☐ Youth inspector knows salesperson	☐ Other
		☐ "Don't sell" but tobacco seen in store/has permit	_____