

# CommonWealth

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## BEACON

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**THE GENERATIONAL TOBACCO** ban implemented first in Brookline and approved by the state's Supreme Judicial Court is starting to catch on in Massachusetts.

Six communities have already approved their own bans and a number of others are considering them. Peabody is the latest. Its board of health is holding a public comment period on a proposed ban on October 24.

"We're aware of Brookline having done it, and the success of the courts in upholding that regulation," said Peabody Board of Health Chairman Thomas J. Durkin III.

Rather than setting a minimum age to buy tobacco and nicotine products, generational bans bar anyone born after a certain date from purchasing the

products. As the name implies, the generational ban means tobacco and nicotine products will be off-limits forever to a younger generation within the geographical area covered by the ban.

Brookline in 2020 barred anyone born after January 1, 2000 – age 21 at the time – from purchasing tobacco and nicotine products from retailers in the municipality. Retailers appealed, saying the town's bylaw was in conflict with a state law setting the legal age to buy tobacco products at 21. The retailers pointed out that Brookline's bylaw, as the town's population ages over time, would effectively ban the sale of tobacco products.

[A unanimous Supreme Judicial Court](#) sided with Brookline, holding that the generational ban didn't conflict with the state law, but instead augmented it. The generational ban, the court said, reflected "the legislative intent to protect young persons and other vulnerable populations from the deleterious health effects of tobacco product use."

Since the Supreme Judicial Court's decision, six communities – Melrose, Wakefield, Stoneham, Malden, Reading, and Winchester – have adopted their own generational bans. Others, including Lexington, Medford, and now Peabody, are considering generational bans, according to [Boston.com](#).

Katharine Silbaugh a Boston University law professor, said the generational bans may be effective in curbing smoking at an early age. "It's the largest preventable cause of death in the United States, and so I'm interested in it for that reason, because there's so much good that can be done in helping the next generation to avoid its harms," Silbaugh said.

Smoking during childhood or adolescence leads to an addiction that can last into adulthood. For adults who smoke daily, 87 percent tried a cigarette before they were 18. People who started smoking at a young age are more likely to develop a nicotine addiction, according to the [American Lung Association](#).

"It's the addiction that keeps people purchasing nicotine products," Silbaugh said.

Opponents of the ban say it is too broad.

It could "create another class of citizens based on the time they were born," said Peabody City Councilor at Large Anne Manning-Martin. "[They] won't have the same opportunities to make individual decisions about their health. Even as unhealthy a decision this may be, it's really [their] right for them to make decisions."

Small businesses could also be impacted by this as most of their sales come from cigarettes and lottery, said Peabody Ward 5 Councilor David Gamache. "I don't think that this is the time or the place to do it," Gamache said. "Small businesses are hurting."

But Silbaugh said the bans are meant to work with education to help adolescents.

“We’re just trying to create a generational fire break so that the next generation doesn’t suffer the way this one has but be compassionate towards people who are currently using so they can continue to buy,” Silbaugh said.

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