

1 **BOARD BILL #169 INTRODUCED BY ALDERWOMAN FLOWERS**

2 An ordinance amending Chapter 11 of the Revised Code of the City of St. Louis by
3 repealing and re-enacting sections 11.32.110, 11.32.120, 11.32.130, 11.32.140, 11.32.150,
4 11.32.160, 11.32.170, 11.76.010, 11.76.020, 11.76.030 and 11.76.040 to raise the age to 21 years
5 old for sales and distribution of tobacco products, containing definitions; establishing penalties
6 for violations; and containing a severability and an emergency clause.

7 **WHEREAS**, 95% of smokers begin smoking before the age of 21 years old, according to
8 a survey published by the Substance Abuse and Mental Health Services Administration; and

9 **WHEREAS**, raising the age of sales and distribution of tobacco products, alternative
10 nicotine products, and vapor products would reduce the number of younger students under age
11 18 years old who use them and rely on 18 and 19 year olds to buy them; and

12 **WHEREAS**, the Institute of Medicine has estimated that raising the minimum age for
13 acquiring tobacco products to 21 years would result in a 12 percent decrease in smoking
14 prevalence across the nation; and

15 **WHEREAS**, the State of Missouri in Chapter 191.777 of the Revised Statutes of
16 Missouri allows local political subdivisions to enact ordinances more stringent than state law as
17 regards the smoking of tobacco products;

18 **WHEREAS**, nicotine is a highly addictive substance and a neurotoxin for adolescent
19 brains; and

20 **WHEREAS**, tobacco use is one of the leading causes of preventable death in the U.S.

21 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

1 **SECTION ONE:** Chapters 11.32 and 11.76 of the Revised Code of the City of St. Louis
2 are hereby amended by repealing and re-enacting Sections 11.32.110, 11.32.120, 11.32.130,
3 11.32.140, 11.76.010, 11.76.020, 11.76.030 and 11.76.040 of the Revised Code of the City of
4 St. Louis as follows:

5 **11.32.110 – Sale of tobacco products to minors – Unlawful.**

6 A. For the purposes of this chapter, the following definitions shall apply:

7 1. “Tobacco” or “Tobacco Product” means any substance containing tobacco
8 leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff,
9 chewing tobacco or dipping tobacco, and also means smokeless tobacco
10 products, hookah tobacco and cigarette papers;

11 2. “Vending Machine” means any mechanical, electric or electronic self-
12 service device which upon insertion of money, tokens or any other form of
13 payment, dispenses tobacco products, alternative nicotine products or
14 vapor products.

15 3. “Department” means the Department of Health of the City of St. Louis.

16 4. “Proof of Age” means a driver’s license or other documentary or written
17 evidence that the individual is twenty-one years old or older.

18 B. Sale or Distribution To Person Under 21 Years Old Prohibited.

19 1. No person shall sell or distribute tobacco products to any person under
20 twenty one (21) years old.

21 2. Any person found to have sold or distributed any tobacco product to a
22 family member who is under twenty one (21) years old shall be deemed to
23 be in violation of subsection B (1) of this section.

1 3. It shall be unlawful for any person under the age of twenty one (21) years
2 old to represent that he or she has attained the age of twenty-one (21)
3 years old for the purpose of purchasing, asking for in any way, or
4 receiving tobacco products, except in cases authorized by law, including
5 as authorized by the Department or law enforcement.

6 4. It shall be unlawful for any person to give, lend, sell or otherwise provide
7 any person under the age of twenty-one (21) years old any falsified
8 identification or identification of another person for the purpose of
9 establishing the age of the individual as being twenty-one (21) years old or
10 older.

11 5. Any person selling or distributing tobacco products shall require proof of
12 age from the prospective purchaser or recipient is twenty-one (21) years
13 old or older.

14 6. If a sale or distribution of tobacco products is made by an employee of the
15 owner of an establishment in violation of this section, the employee acting
16 on behalf of the owner, as well as the owner of the establishment shall be
17 in violation of this section.

18 C. Sales or Distribution in Public Areas Prohibited.

19 No person shall sell or distribute tobacco products, alternative nicotine products
20 or vapor products to any person in or on any public street, public sidewalk, park,
21 school, playground, or other property owned by the City of St. Louis or owned by
22 another governmental entity.

1 D. Vending Machines.

2 1. Any vending machine used for the sale or distribution of tobacco products,
3 alternative nicotine products or vapor products may only dispense tobacco
4 products, alternative nicotine products and/or vapor products.

5 2. Any vending machine must only be located in an area –

6 a) where persons under the age of twenty-one (21) years old are
7 denied access; or

8 b) in public places where persons under the age of twenty-one (21)
9 years old are granted access, but only if the vending machine –

10 i. is located in areas of factories, businesses, offices or other
11 places that are not open to the public; or

12 ii. is under the continuous active supervision of the owner or
13 lessee of the premises or an employee thereof; or

14 iii. can be operated only by the activation of an electronic
15 switch by the owner or lessee of the premises or an
16 employee thereof prior to such purchase; and

17 iv. is inaccessible to the public when the premises are closed.

18 E. Pack of Cigarettes.

19 It shall be unlawful to sell to any person cigarettes in any number amounting to
20 less than one pack containing twenty (20) cigarettes.

21 F. Penalties.

22 Any person who is determined to have violated any provision of this section shall
23 be fined not less than one hundred dollars (\$100) for the first conviction; not less

1 than two hundred fifty dollars (\$250) for the second such conviction; and not
2 more than five hundred dollars (\$500) for any subsequent conviction.

3 G. Enforcement.

4 1. The Department may engage in activities calculated to measure and assure
5 compliance with the provisions of this section. Private organizations and
6 individuals, as may be designated by the Department, may engage in such
7 to measure and assure compliance with the provisions of this section when
8 such activity is authorized and approved by the Department.

9 2. The authority to enforce the provisions of this ordinance is vested in the
10 Department and in the St. Louis Metropolitan Police Department.

11 3. The Department may choose to utilize the provisions of Chapter 11.95 for
12 administrative citations to enforce the provisions of this section.

13 4. Persons under the age of twenty-one (21) years old may be enlisted to test
14 compliance with the provisions of this section, provided however, that
15 juveniles who are under the age of 18 years old may be used to test
16 compliance only if written consent of such person's natural or adoptive
17 parent of a juvenile, any person having legal custody of a juvenile, or an
18 adult who has assumed responsible custody or control of a juvenile is on
19 file with the Department and only under the auspices of the Department.

20 **11.32.120 Prohibition of Selling, Distributing or Vending Without a Sign.**

21 A. It shall be unlawful for any person to sell, distribute or vend, or permit the sale,
22 distribution or vending of tobacco products, on premises he owns or leases unless
23 the premises upon which such items are sold, distributed or vended prominently

1 displays a sign which shall contain in red capital lettering at least one-half inch
2 high on white background, and spaced so the sign is clear and readable: IT IS A
3 VIOLATION OF THE LAW FOR TOBACCO PRODUCTS TO BE SOLD OR
4 DISTRIBUTED TO ANY PESON UNDER THE AGE OF TWENTY-ONE (21).

5 B. Penalties.

6 Any person who is determined to have violated any provision of this section shall
7 be fined not less than one hundred dollars (\$100) for the first conviction; not less
8 than two hundred fifty dollars (\$250) for the second conviction, and five hundred
9 dollars (\$500) each subsequent conviction discretion may impose an equivalent
10 combination of fine and community service.

11 C. Enforcement.

12 1. The Department may engage in activities calculated to measure and assure
13 compliance with the provisions of this section. Private organizations and
14 individuals, as may be designated by the Department may engage in such
15 activities to measure and assure compliance with the provisions of this
16 section when such activity is authorized and approved by the Department.

17 2. The authority to enforce the provisions of this section is vested in the
18 Department and in the St. Louis Metropolitan Police Department.

19 3. The Department may choose to utilize the provisions of Chapter 11.95 for
20 administrative citations to enforce the provisions of this section.

21 **Severability Clause.**

22 The provision of this ordinance shall be severable. In the event that any provision of this
23 ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining

1 provisions of this ordinance are valid unless the court finds the valid provisions of this ordinance
2 are so essentially and inseparably connected with, and so dependent upon, the void provision that
3 it cannot be presumed that the Board of Aldermen would have enacted the valid provisions
4 without the void ones or unless the Court finds that the valid provisions, standing alone, are
5 incomplete and incapable of being executed in accordance with the legislative intent.

6 **Emergency Clause.**

7 This being an ordinance for the preservation of public peace, health and safety, it is
8 hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of
9 Articles IV of the Charter of the City of St. Louis; and therefore, shall become effective
10 immediately upon its passage and approval by the Mayor.