

CHAPTER 38

Massachusetts Tobacco Control Program

The Massachusetts Tobacco Control Program (MTCP) works to improve public health in the Commonwealth by reducing death and disability from tobacco use.

- Tobacco use is the leading cause of preventable death and illness in Massachusetts and in the nation.
- More than 9,000 Massachusetts residents die each year from tobacco-related causes.
- Tobacco-related illnesses cost the Massachusetts health care system more than \$2.7 billion each year.
- Smokers' lost productivity accounts for an additional \$1.5 billion lost each year to the Massachusetts economy.
- Though they are not smokers themselves, an estimated 1, 000 or more Massachusetts adults and children die each year from secondhand smoke.
- Tobacco kills more people each year than car accidents, AIDS, homicides, suicides and poisonings combined.

In order to reduce the public health costs of tobacco use, the MTCP addresses four main goals:

- prevent initiation of tobacco use among youth
- eliminate exposure to second-hand tobacco smoke
- persuade and help young people and adult tobacco users to quit smoking
- identify and eliminate tobacco-related disparities in specific population groups.

MTCP funds 36 local and statewide programs in order to achieve these goals.

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Local Programs

MTCP funds the following local tobacco control programs.

22 Boards of Health programs that work in 180 municipalities, 5 youth access programs to work in 93 municipalities and several community-based demonstration, planning and pilot projects. The community-based programs are generally in high risk communities and are geared toward lowering smoking prevalence in these municipalities.

Local Boards of Health Programs – Scope of Service:

- Enact and enforce local laws to prevent illegal sales of tobacco products to youth under age 18
- Conduct compliance checks to identify stores that illegally sell tobacco to youth
- Educate local businesses, including restaurants and bars, about the Massachusetts smoke-free Workplace Law

Youth Access Programs – Scope of Service:

Beginning in October of 2006, Youth Access Programs will serve a group of municipalities that do not have board of health funding from the Massachusetts Tobacco Control Program. The Youth Access Programs will conduct compliance checks, provide retailer education, community education and other activities to reduce the illegal sale of tobacco products to minors and prevent initiation of tobacco use among youth. Compliance checks conducted by the Youth Access Programs will be used by MTCP to complete an annual report on compliance with the Synar Amendment to the federal Substance Abuse and Mental Health Services Administration (SAMHSA).

Youth Access Programs are expected to work towards establishing strong partnerships with local boards of health and other municipal officials to promote policies and strategies to reduce youth access to tobacco. The Youth Access Programs will work with tobacco retail store owners, tobacco retail chain store management, local boards of health and community groups to develop innovative education and intervention strategies to reduce the illegal sale of tobacco to minors.

Programs are required to:

- Develop and maintain an accurate database of retailers who sell tobacco products in the catchment area;
- Provide culturally appropriate education to tobacco retailers about local and state laws and regulations that apply to businesses selling tobacco products;
- Conduct at least one round of compliance checks following MTCP protocols and fiscal guidelines between October 1 and March 31 of each year of the contract or as otherwise directed by MTCP. A compliance check “round” is defined as one attempt to purchase tobacco at every tobacco sales location in each municipality in the catchment area;
- Maintain a compliance check database to record compliance checks completed and to track repeat sales to minors;
- Notify tobacco retailers and other stakeholders (example: local boards of health) of illegal sales to minors;

- Within six months of illegal sales of tobacco, conduct follow-up compliance checks at tobacco retailers that sold;
- Visit each tobacco retailer at least twice per year to educate retailers and to document compliance with local, state and Attorney General's regulation requirements including signage requirements and bans on self-service displays;
- Educate the community about youth access laws and publicize the MTCP complaint number 1-800-992-1895 to parents and other concerned adults.
- Conduct an annual survey of boards of health in the catchment area to determine the status of their local youth access regulations, permit fees and other tobacco control issues;
- Provide assistance to local boards of health and other municipal officials interested in promulgating or strengthening youth access regulations;
- Develop a mini-grant program to provide funds to interested boards of health in catchment areas so boards can conduct compliance checks and follow-up enforcement activities (funding permitted, beginning second year);
- Complete an annual work plan that states objectives for the required activities as well as for additional educational and counter-marketing activities to prevent initiation of tobacco use by youth. During FY 07, at least two additional activities focused on tobacco retail stores are required. Work plan activities should be determined by documented community needs.

Specific local programs in cities and towns in Massachusetts can be found at www.mass.gov/dph/mtcp/programs/local.htm.

Additional funding opportunities for local Boards of Health

Boards of Health that do not currently receive funding from MTCP are eligible to apply for funding from MAHB for the purposes of conducting compliance checks to enforce local laws to prevent the sale of tobacco products to minors. This funding is provided pursuant to a **mini-grant**. Information about these mini-grants is available at www.mahb.org by clicking on the "Tobacco" link or by emailing Cheryl Sbarra, J.D. at sbarra@mahb.org.

Regulation of Tobacco in Massachusetts

Regulation of tobacco in Massachusetts depends on a variety of approaches. State laws govern tobacco products (*e.g. testing of nicotine yield*); restrict access to tobacco (*e.g. sales to minors*); and limit use of tobacco in workplaces to reduce involuntary exposure to environmental tobacco smoke. State laws also determine licensing and retail practices for the sale of tobacco, and establish the authority of the Department of Health to regulate tobacco products.

In addition, in Massachusetts some of the laws regulating youth access to tobacco and involuntary exposure to environmental tobacco smoke are enacted and enforced locally and are specific to individual communities. Local laws are usually enacted and enforced by Boards of Health. Some Boards of Health receive MTCP funding for tobacco control activities including enforcement.

Local Tobacco Laws

Local laws can be passed by Boards of Health (regulations), City Councils (ordinances), or Town Meetings (town by-laws). Many of the cities and towns in Massachusetts have passed local tobacco control laws. The majority of these laws have been Board of Health regulations.

Secondhand Smoke

Effective July 5, 2004, State law prohibits smoking in enclosed workplaces. This law amends the 1988 Massachusetts Clean Indoor Air Law.

Resources and training on enforcing local tobacco control policies are available from MTCP and from MAHB. For additional information, call 1-800-992-1895.

Information about the impact of local laws is available in reports produced by MTCP; and a report on local secondhand smoke laws in restaurants, bars and private clubs in Massachusetts are available on the MTCP website mentioned above.

Sales to Minors – State Law Summary

It is illegal to sell tobacco products to any person under the age of 18. It is illegal for anyone, except a parent or guardian, to give a tobacco product to an individual under the age of 18. Under regulations passed by the Massachusetts Attorney General, retailers must card anyone who appears to be 27 years old or younger before selling him or her tobacco products. The retailer may only accept a government-issued, photographic identification to verify a purchaser's age. The sole exception is for parents and legal guardians who give their child a tobacco product. (MGL c. 270 s. 6; 940 CMR s.21.04(2); 22.06(2).)

Owners of vending machines that contain cigarettes or tobacco must have attached on the front of the machine a notice furnished by the Commissioner of Revenue reading "Persons under 18 are prohibited from using this machine." (MGL c. 64C s.10)

Massachusetts requires that notice of the minimum legal age sales law is posted at retail establishments selling tobacco. State law provides detailed instructions that proprietors must display a sign at each cash register. A forty-eight inch sign must be posted at the cash register that handles the greatest volume of tobacco product sales. All other cash registers in a retail establishment must display the same message in a smaller nine square inch sign. The sign will be provided by the Massachusetts Department of Public Health or the local Board of Health. (MGL c.270 s.7; 105 CMR s.590.009(f).)

Under regulations of the Massachusetts Attorney General, any retailer who sells hand rolled cigars or displays for purchase manufactured cigars outside of their original packaging must display a state-mandated warning about cigar consumption in a sign at

least 50 square inches in size (940 CMR 22.06(2).) These signs are available from the website of the Attorney General.

Massachusetts only allows self-service displays in adult-only facilities. Massachusetts prohibits self-service displays from which customers may take a tobacco product without assistance from a store employee. Tobacco must be kept beyond reach of all consumers (940 CMR 21.04 (2); 22.06(2).)

Massachusetts bans vending machines containing tobacco products, except in establishments licensed to sell alcohol for consumption on the premises. There are three requirements for all vending machines containing tobacco products. First, they must feature lock-out devices requiring an employee to unlock the vending machine for each sale. Second, they must be located where all sales are easily observed by an employee. Third, they must display a sign stating that minors are not permitted to purchase tobacco and notifying customers of the lock-out device. (940 CMR.211.04(4); 22.06 (4).)

Massachusetts prohibits any person from selling single unpackaged cigarettes, little cigars and portions of a smokeless tobacco container. (MGL c.94 s.307A; 940 CMR 21.04 (1)(b); 22.06 (1)(b).)

A comprehensive compilation of all tobacco control related laws in Massachusetts is available at www.mahb.org at the Tobacco link. The publication is entitled *Laying a Solid Foundation – Tobacco Laws Pertaining to the Commonwealth of Massachusetts*.

MTCP Statewide Services

The Massachusetts Tobacco Control Program funds several external agencies to provide the following statewide services:

The **Try to Stop Resource Center** includes the **Smoker's Quitline** (1-800-TRY-TO STOP), a telephone helpline that provides support, self-help materials and referrals to smokers. www.trytostop.org offers smokers expert information, peer support and the Quit Wizard to help smokers quit. Recorded Quit Tips are available 24 hours a day at 1-800-9-GET-A-TIP (1-800-943-8284).

The Try-to-Stop Tobacco Resource Center of Massachusetts is also funded by the Massachusetts Tobacco Control Program to serve the general public, tobacco control professionals, educators and health care providers. Massachusetts residents can call 1-800-trytostop for information and resources on a variety of tobacco issues.

The Center for Tobacco Prevention and Control at the University of Massachusetts Medical School is committed to providing the most recent science-based information on the prevention and treatment of nicotine dependence. The Massachusetts Tobacco Treatment Specialist (TTS) Training and Certification Program, housed at the Center is a nationally recognized, professional certification program. For information about training and certification for clinicians, contact the Center for Tobacco Prevention and Control at www.umassmed.edu/behavmed/tobacco.

The Community Action Statewide Team (CAST) provides technical assistance and training to local communities regarding the enactment and enforcement of local tobacco control policies. The Massachusetts Municipal Association and the Massachusetts Association of Health Boards have attorneys who are available to provide technical assistance to Boards of Health, City Councils, municipal officials and community residents. For additional information, please see the program directory at www.mass.gov/dph/mtcp.

In addition to these funded activities, MTCP staff participate in a variety of statewide and regional coalitions and committees on health issues related to tobacco control.

Additional resources, such as youth access and smoke-free workplace law signage are available from the MA Health Promotion Clearinghouse, accessible from the MTCP website as well.