

Comprehensive Tobacco-Free SCHOOL POLICY TOOL KIT



Tools and Resources for North Dakota Schools



NORTH DAKOTA
DEPARTMENT *of* HEALTH



**TOBACCO
PREVENTION & CONTROL
PROGRAM**



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August 2010



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INTRODUCTION

North Dakota's youth are precious. We nurture them, embrace them and invest many hours of time educating them. We also need to protect them – from the effects of tobacco use and from the influences of adults using tobacco around them.

Tobacco is a powerful, addictive drug, and many teens begin using cigarettes or spit tobacco at a young age. In 2007, 21.1 percent of North Dakota's high school students were current cigarette smokers, and 11.7 percent were current spit tobacco users.

Schools in North Dakota have the opportunity to take the next step and help improve the statistics. It's important that those who educate our students lead by example and set high standards for them to follow. Setting a comprehensive tobacco-free school policy that prohibits all tobacco use is one step in building a healthier future for our youth.

This tool kit provides the details needed to institute a comprehensive tobacco-free school policy. It contains helpful information about adopting, communicating and enforcing your policy.

It's important to continue the effort of teaching North Dakota's youth about socially responsible and healthy behavior, including not using tobacco. They are worth the investment. They are our future.



Why Tobacco-Free Schools?





EFFECTIVENESS OF COMPREHENSIVE TOBACCO-FREE SCHOOL POLICIES

A comprehensive tobacco-free school policy does more than deter individual tobacco use. It benefits everyone by reducing exposure to secondhand smoke and creating frameworks and systems that reinforce tobacco-free norms and attitudes. These in turn affect the current and future use of tobacco, thereby having an impact on the health of the entire community.

It is well established that tobacco use is the leading preventable cause of death and disease in the United States and that more than 80 percent of adult users started before age 18. Each day, 3,000 young people in the U.S. begin smoking. Reasons that young people start smoking or chewing are varied. Influences come from parents, teachers, coaches and other adults, peers, mass media and the price/availability of tobacco products. Because there are so many influences, efforts to reduce tobacco use must include more than one strategy.

Research documented in the 2000 Surgeon General's Report, "Reducing Tobacco Use," states that comprehensive school-based programs, combined with community and mass-media efforts, can effectively prevent or postpone smoking onset in 20 percent to 40 percent of U.S. adolescents.

A description of comprehensive school-based programs is defined by the Centers for Disease Control and Prevention (CDC) in its "Guidelines for School Health Programs to Prevent Tobacco Use and Addiction." The first guideline recommends that schools develop and enforce policies to prohibit tobacco use by students, staff, parents and visitors on school grounds; in school vehicles; and at all school-sponsored events, on or off school property. The other guidelines include cessation support for both students and staff and involvement of parents or families in supporting programs to prevent tobacco use.

In Oregon between 1999 and 2000, smoking rates among eighth graders dropped by 22 percent overall in schools that implemented the CDC guidelines. There was a dose-response relationship in smoking rates in schools with the highest degree of implementation compared to schools with lower degrees of implementation. (*Effectiveness of School-Based Programs as a Component of a Statewide Tobacco Control Initiative – Oregon, 1999-2000, Centers for Disease Control and Prevention, MMWR 2001: 50: 663-6.*)

Although much of the research has focused on smoking, the same concept extends to spit tobacco. When students see coaches, bus drivers, sports players, resource officers and other adults chewing or dipping, it sends the message that it's okay. However, we know that even minimal use can result in addiction, and spit tobacco leads to gum disease, mouth and throat cancer, and other serious health problems.

As the research shows, observing others using tobacco has a significant influence on children. The importance of de-normalizing tobacco use through positive role modeling cannot be overlooked. It is as necessary as the classroom education. A no-tolerance policy enables administrators to take a stronger stand; allows staff, volunteers, parents and students to participate in enforcement; and sends a stronger prevention message to young people.

North Dakota has made significant progress in reducing youth tobacco use. For more information, visit www.ndhealth.gov/tobacco/Facts.htm. Many North Dakota schools have become Gold Star schools, while many more are working toward that distinction. For more information about North Dakota's Gold Star schools, visit www.ndhealth.gov/tobacco/Schools.htm.

In order to protect all North Dakota students, a comprehensive approach is necessary. A clearly articulated tobacco-free school policy, applied fairly and consistently, can help students decide not to start using tobacco or to quit using tobacco products.

VALUES AND BENEFITS OF TOBACCO-FREE SCHOOLS

Enforcing a tobacco-free policy provides the following benefits.

1. Provides positive role modeling by adult employees and visitors.

Implementation of a comprehensive tobacco-free school policy represents a firm commitment by school administration, teachers and parents to prohibit tobacco use by students, employees and visitors. Enforcement of the tobacco-free policy confirms this commitment and provides opportunities for adults and peers to serve as role models for not using tobacco.

2. Reduces children’s observation of tobacco use and takes a firm stand against it.

Adult attitudes towards tobacco use and adult tobacco-use behaviors can perpetuate the perception of acceptance. School policies that include information about the importance of positive adult role modeling in their rationale can provide administrators with support for policy change.

3. Provides a safe environment for students by reducing exposure to secondhand smoke.

Students often become the involuntary victims of secondhand smoke. Smoking outside near building entrances or fresh air intakes often results in migration of smoke indoors. Clusters of employees or visitors smoking at entrances and smoking at school-sponsored events can make it difficult for students who do not wish to have smoke on their clothes and in their hair. Passing through the smoking area may trigger an asthma attack or exacerbate respiratory problems in students. Secondhand smoke is known to cause cancer in humans. There is no risk-free level of exposure to secondhand smoke.

4. Protects children from a dangerous drug. Tobacco use is not just a “bad habit”; it is a powerful addiction.

The U.S. Food and Drug Administration has classified nicotine, found in tobacco products, as a drug. School policies do not allow the use of other drugs such as alcohol, marijuana or cocaine on school grounds or at school-sponsored events; therefore, no exception should be made for nicotine and tobacco.

5. Complies with federal legislation prohibiting smoking inside school buildings.

The Pro Children Act of 1994 was reauthorized under the No Child Left Behind Act of 2001 and states the following: “No person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.” This law applies to all schools and programs that are funded by the federal government or through state and local government by federal grant, loan and loan guarantee or contract programs.

6. Prepares students for the reality of smoke-free workplaces and communities.

Employers are becoming more reluctant to hire smokers due to increased absenteeism, health-care costs and disability. In a competitive job market and nonsmoking community environment, it is important that all students leave their school years as nonsmokers. Additionally, special attention should be paid to alternative schools that are sometimes exempt from tobacco-free policies or practices.

7. Proactively protects schools from unnecessary risk of future liability by prohibiting smoking on school premises.

Litigation related to exposure to secondhand smoke is growing. Individuals have recovered damages in lawsuits because their employers failed to provide a safe, smoke-free work environment. With the rise in the number of children with asthma, there may be more cause for concern, particularly if an asthma attack or other respiratory problems are triggered because a child is exposed to tobacco smoke in a school setting.

8. Supports North Dakota's state law on smoking in public places.

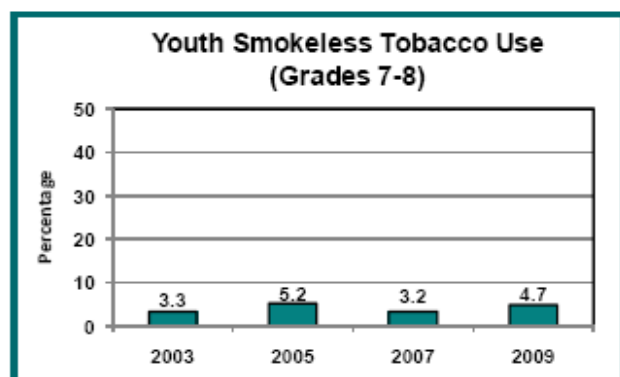
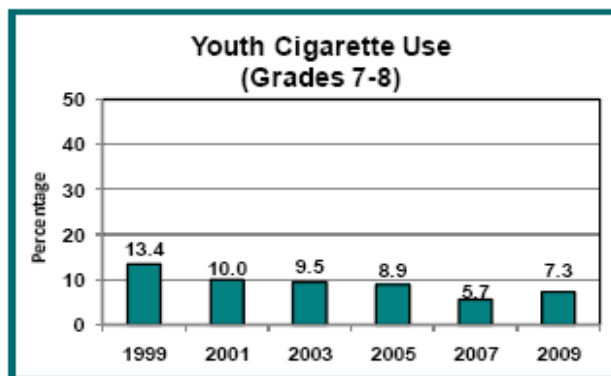
North Dakota's smoke-free law, passed during the 2005 legislative session, says that smoking is not allowed in enclosed areas of public places and places of employment. The law includes a provision that there be no smoking in outdoor sports arenas. (To view North Dakota's tobacco-control laws impacting youth, refer to Appendix G of this tool kit.)

TOBACCO *Facts*

Trends in Youth Tobacco Use (Grades 7-8)

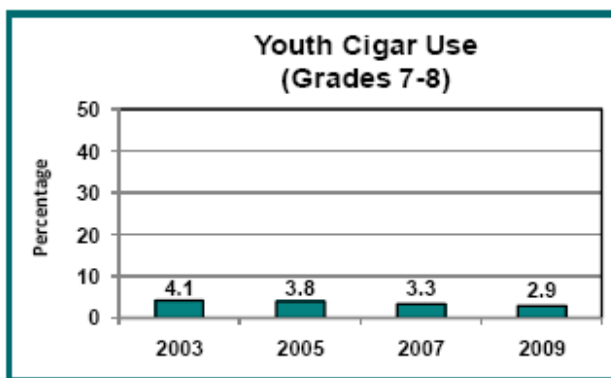
Current tobacco use is defined as having used the product (i.e., cigarettes, smokeless tobacco, cigars) on one or more of the past 30 days.

The percentage of students in grades seven and eight who currently smoke showed a steady decline from 13.4 percent in 1999 to 5.7 percent in 2007, and then increased to 7.3 percent in 2009.



The current use of smokeless tobacco products among students in grades seven and eight remained at approximately the same level between 2003 and 2009.

The percentage of students in grades seven and eight who currently smoke cigars, cigarillos or little cigars remained at approximately the same level between 2003 and 2009.



Source: The Youth Risk Behavior Survey (YRBS) monitors priority health-risk behaviors among youth and young adults. The North Dakota Department of Health and the North Dakota Department of Public Instruction conduct the survey biennially. Weighted results are obtained and are considered representative of all students in the grades surveyed.



For more information, contact:
 Tobacco Prevention & Control Program
 North Dakota Department of Health
 600 E. Boulevard Ave., Dept. 301
 Bismarck, N.D. 58505-0200



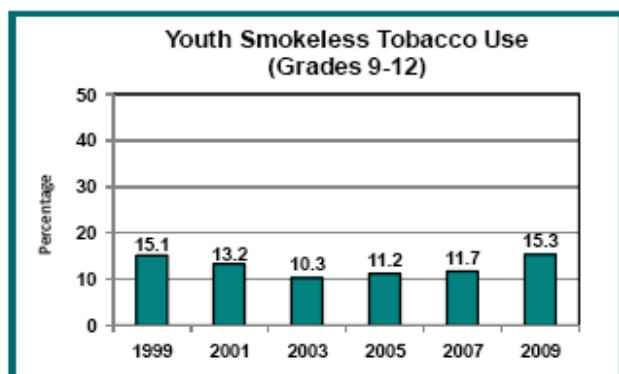
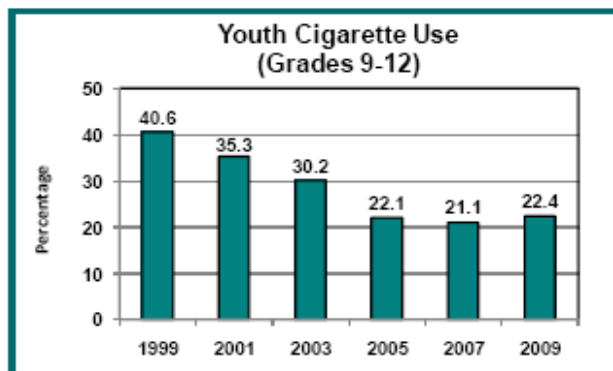
701.328.3138 or 800.280.5512 / www.ndhealth.gov/tobacco

TOBACCO *Facts*

Trends in Youth Tobacco Use (Grades 9-12)

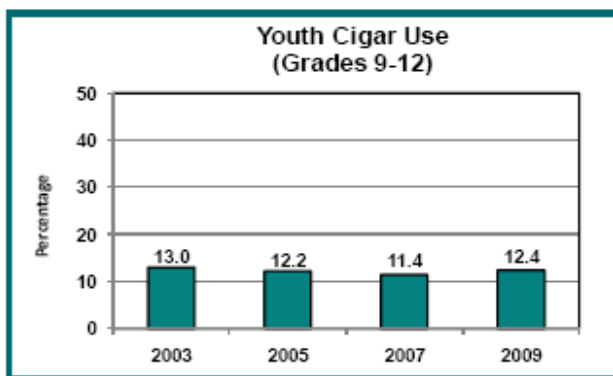
Current tobacco use is defined as having used the product (i.e., cigarettes, smokeless tobacco, cigars) on one or more of the past 30 days.

The percentage of students in grades nine through 12 who currently smoke cigarettes significantly decreased from 40.6 percent in 1999 to 22.4 percent in 2009.



The current use of smokeless tobacco products among students in grades nine through 12 decreased slightly from 15.1 percent in 1999 to 11.7 percent in 2007 and then increased to 15.3 percent in 2009.

The percentage of students in grades nine through 12 who currently smoke cigars, cigarillos or little cigars remained at approximately the same level between 2003 and 2009.



Source: The Youth Risk Behavior Survey (YRBS) monitors priority health-risk behaviors among youth and young adults. The North Dakota Department of Health and the North Dakota Department of Public Instruction conduct the survey biennially. Weighted results are obtained and are considered representative of all students in the grades surveyed.



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Adopting a Comprehensive Tobacco-Free School Policy





ADOPTING A POLICY

Policy development and implementation

- **Timing of policy**
Select an implementation date with significance, such as the start of the new school year. Allow sufficient time for people to prepare for implementation. Identify cessation resources available to tobacco users – in the school district and the community. Let tobacco users know about these options well in advance of the day the policy goes into effect.
- **Community partnerships**
Include the wider community in discussions about the implementation of a tobacco-free policy. Provide a forum in which businesses and community residents can express concerns to school administrators and board members. Explore partnerships with local hospitals, nonprofits, and mental health or public health departments to offer programs such as alternative-to-suspension (ATS), cessation and promotion activities. School districts should coordinate with local tobacco prevention and control coalitions to organize and sponsor tobacco prevention initiatives.
- **Student involvement**
Involve students in the development and enforcement of policies and in promoting a tobacco-free lifestyle on campus. Include them on the team that establishes standards for enforcement. The planning and implementation of promotional activities, either through student clubs or as peer educators, is another way to involve students. Create an environment that emphasizes it is everyone's responsibility to promote a tobacco-free school environment.
- **Alternative-to-suspension and cessation program facilitation**
Screen potential cessation participants to determine tobacco use and motivation to quit. Offer cessation programs multiple times during the school year to the entire student body, as well as to ATS students. Generate potential participants through school-wide promotion activities that focus on quitting tobacco use.

NORTH DAKOTA'S COMPREHENSIVE MODEL SCHOOL POLICY FOR TOBACCO USE

Updated August 24, 2010

RATIONALE FOR REGULATING POSSESSION AND USE

The health hazards of tobacco use have been well established. This policy is established to:

1. Reduce the high incidence of tobacco use in North Dakota.
2. Protect the health and safety of all students, employees and the general public.
3. Set a non-tobacco-use example by adults.

Tobacco use is the leading cause of preventable death and disability in North Dakota. To support and model a healthy lifestyle for our students, the School Board of [*name of school district*] establishes the following tobacco-free policy:

DEFINITIONS

For purposes of this policy, “tobacco” is defined to include any product that contains tobacco, is manufactured from tobacco, or contains nicotine. This excludes any FDA-approved nicotine replacement therapy.

USE AND POSSESSION PROHIBITIONS

Students:

Possession and/or use of tobacco products by students on district property, in district vehicles and at school-sponsored events (whether on or off district property) is prohibited at all times.

Staff/Visitors:

The use of tobacco products by all school employees and visitors on district property, in district vehicles and at school-sponsored events (whether on or off district property) is prohibited.

This policy includes all events sponsored by the school and all events on school property that are not sponsored by, or associated with, the school.

Additional:

The School District will not allow advertising of tobacco products in school buildings, on school property, at school functions on district property and in all school publications. This includes clothing that advertises tobacco products.

The School District will not accept any gifts (such as curriculum, book covers, speakers, etc.) or funds from the tobacco industry.

COMMUNICATING TO STUDENTS, STAFF AND PUBLIC

This policy will be printed in employee and the student handbooks. It should be posted in highly visible places in all schools of the district, such as, but not limited to: all entrances of school buildings, school playgrounds, athletic fields and school-sponsored events (on district property). Parents will be sent notification in writing, and the local media will be asked to communicate this tobacco-free policy communitywide.

RESPONSIBILITY FOR POLICY VIOLATIONS

All individuals on the district's premises share in the responsibility for adhering to and enforcing this policy. The Superintendent shall develop regulations for the enforcement and implementation of this policy.

TOBACCO CESSATION SERVICES

Individuals requesting assistance with tobacco cessation services will be referred to North Dakota Tobacco Quitline or North Dakota QuitNet. These are free cessation services provided to citizens of North Dakota.

(Reference: *Creating and Maintaining a Tobacco-Free School Policy*, Bureau of Health, Maine Department of Human Services; *Fit, Healthy, and Ready to Learn*, A School Health Policy Guide, National Association of State Boards of Education, North Dakota School Board Association)



Communication





COMMUNICATING THE POLICY

Tobacco policy implementation can be challenging. Without effective communication, the policy will be unenforceable. The following lists include some communication ideas and strategies to ensure that all members of the school and community – students, staff and visitors – are aware of the policy, understand the rationale behind it and are clear about the consequences if the policy is violated. No matter what stage your district is in – just getting started, implementation or dealing with enforcement issues – experience shows that communication must be clear, ongoing and consistent. Be sure to work with members of your school and community to identify the best strategies for your school district.

To students

- ❑ Post tobacco-free school signs at all entrances to school buildings, school grounds, parking lots and athletic facilities; and in school and activity buses.
- ❑ Print details in student handbooks and orientation guides.
- ❑ Review and discuss the policy at student orientation meetings, including meetings with new and transfer students.
- ❑ Spread the information through student organizations, activities and newspapers.
- ❑ Make announcements over morning broadcasts at school and over loudspeaker systems at school events. Print reminders of the policy in school event programs.
- ❑ Tell students about opportunities for tobacco-cessation support programs in the community and provide information about how students can access these programs.
- ❑ Ask student groups or clubs to assist in communicating the policy – such as Teens Against Tobacco Use (TATU), Students Against Destructive Decisions (SADD), etc.
- ❑ Encourage, support and empower students to appropriately confront other students and visitors who are violating the policy.
- ❑ Include information in student newspaper articles and on school websites, including those that target students.

To employees

- ❑ Post tobacco-free school signs at all entrances to school buildings, school grounds, parking lots and athletic facilities and in vehicles.
- ❑ Provide every school district employee with a copy of the policy and a letter of explanation from the school board.
- ❑ Discuss the policy at staff meetings and new staff orientation.
- ❑ Conduct an in-service presentation on tobacco-related school policies for all staff, including teaching staff, bus drivers, aides, food service workers and maintenance staff.
- ❑ Post information, along with a copy of the policy, in staff lounges or offices.
- ❑ Include information in staff newsletters.
- ❑ Tell staff about opportunities for tobacco cessation support programs in the community, and provide information regarding how staff can access these programs.

-
- ❑ Inform potential employees of the policy in all job interviews. Include a statement that the school district is tobacco-free on all job applications.

To parents/guardians

- ❑ Provide information at parent open houses at the start of the new school year.
- ❑ Post tobacco-free school signs at all entrances to school buildings, school grounds, parking lots and athletic facilities.
- ❑ Send a letter to each parent or guardian that (1) explains the policy change; (2) provides the health, academic and social reasons for the change; (3) outlines the consequences for violators; and (4) asks for support in enforcement.
- ❑ Ask parents to sign student-school contracts that address the tobacco policy for participation in extra- and co-curricular activities.
- ❑ Include an article outlining the policy and implications of the policy in parent-oriented newsletters and school or community newspapers.
- ❑ Announce the policy at all athletic events, meetings, concerts and plays. Have students develop and/or deliver announcements. Include written reminders in event programs.

To the public/community

- ❑ Place an ad in the paper thanking the school board for its decision to make the school district 100 percent tobacco-free.
- ❑ Ask other community agencies such as local public health units, tobacco-free coalitions, Alcohol, Tobacco and Other Drugs (ATOD) coalitions, parent teacher associations, parent teacher organizations and asthma coalitions to include an article about the new tobacco-free school policy in their newsletters. (Provide them with a short article, if necessary.)
- ❑ Post tobacco-free school signs at all entrances to school buildings, school grounds, parking lots and athletic facilities. Other places to post signs include gathering places, restrooms, loading areas and stairwells.
- ❑ Remove all ashtrays from school property.
- ❑ Announce the policy at all athletic events, meetings, concerts and plays. Include written reminders in event programs.
- ❑ Ask students, staff and community volunteers to assist in distributing informational flyers regarding the policy at school events.
- ❑ Communicate the policy to parents and business volunteers who assist in supervising youth during off-campus activities, including field trips, job shadowing or community service.

(Adapted from *School Tobacco Policies*, Oregon Department of Human Services, 2002.)

TIPS FOR COMMUNICATING THE POLICY

Even with signs, written materials and event announcements, some school visitors may not realize that the school district has a comprehensive tobacco-free school policy in place. This is why all school staff should be trained to communicate the policy – one-on-one – to the public. Gentle, positive and clear messages will let violators know that the policy is in place, and that it will be enforced. Knowing how to communicate the policy effectively will go a long way toward relieving stress school staff may have regarding enforcement and will help to avoid negative confrontations with parents, workers and other school visitors.

Here are some tips for communicating the policy:

- **Use announcements.**

Regular announcements at school events are a simple and effective strategy for getting the message across, especially when used in combination with signage and information in event brochures.

- **Positive, pro-health announcement.** Announcements should be positive – reminding visitors that the policy exists to protect the health of students, staff and visitors.
- **At least three announcements.** Provide at least three announcements – at the beginning of the event; at half time/intermission; and end of the event – to ensure everyone is aware of the policy.
- **Youth participation.** Invite youth groups such as Teens Against Tobacco Use (TATU), Students Against Destructive Decisions (SADD) or Students Working Against Tobacco (SWAT) teams to create and make the announcements.
- **Sample announcement.** Here is a sample announcement for you to use at your school-sponsored events:
 - *“To protect the health of our students, staff and visitors, we would like to remind you that our school is 100 percent tobacco-free. Please refrain from using tobacco products anywhere on campus. Thank you for your cooperation.”*

- **Understand the need for gentle reminders.**

Even after announcements are made, chances are a person in violation of the policy is unaware that it is in place. This is particularly true if your school district recently adopted the policy. Politely and firmly let the violator know that the campus, as well as the entire school district, is now 100 percent tobacco-free.

- **Have a rationale for the policy.**

Inform violators of the reasons for the policy in a positive manner. Let them know the school board enacted the policy to protect students, school staff and visitors from secondhand smoke, to ensure a safe learning and work environment for students and staff, and to model healthy and positive behaviors for students.

- **Use a range of communication strategies**

Make sure that several communication strategies are in place. Visitors at events should see signs and information in event programs that communicate the policy and should hear oral announcements that are made throughout the event.

Enforcement





ENFORCING THE POLICY

Considerations about enforcement should be woven into all phases of policy development, communication, implementation and monitoring. Here are some strategies for enforcement problem solving that other school administrators have found helpful.

Enforcement responsibility

- **Everyone's responsibility**
Consider including everyone on enforcement responsibilities: students, staff, principals, teachers and others. Encourage members of student organizations, PTA/PTO members, and other groups with members attending events to remind spectators of the policy. When using volunteers – especially students – provide some guidance on tactful, non-confrontational approaches.
- **Enforcement officers**
Use the same monitors used for aggressive behavior and truancy to monitor tobacco use on school grounds. Monitors should be trained on the enforcement protocol. If police officers or school resource officers currently monitor the school grounds for compliance with laws and other school regulations, they should be responsible for tobacco monitoring as well. Visibility of these law enforcement personnel may reduce visitor policy violations.
- **Consistency**
Make a firm commitment to enforce the policy consistently. Expect some people to “test” enforcement of the new policy. Remember that consistent enforcement sends a clear message about the importance of the policy.

Communication

- **Proactive, clear and consistent communication**
This is a very important part of enforcement. Post the written policy and signage around campus for visitors and students to read. Announce the policy at athletic events, plays, dances and concerts. Put information about the policy in programs and student and staff newsletters. Place contracts in student handbooks that detail the tobacco policy. Have both students and parents sign and return the contract stating they have read and understand the policy. Mention tobacco-free policies at new student orientations for middle school, high school, alternative school and for transfer students. Point out the tobacco-free policies during the employee hiring or contracting process.

- **Positive message**

Present the policy in a positive light while at the same time acknowledging that students, staff and visitors may find it initially challenging. Emphasize the health, academic and social benefits of a tobacco-free school to staff and students. Encourage students to make responsible decisions about the health of their bodies and to have respect for other students and staff by not using tobacco on campus.

- **Focus on behavior**

Focus on the use of tobacco as an unhealthy behavior – not on the user. For example, teachers who use tobacco may still be great role models for youth but their tobacco use promotes an unhealthy behavior. Make sure adults are not alienated because of their tobacco use.

(Adapted from *School Tobacco Policies*, Oregon Department of Human Services, 2002.)

Appendices





APPENDIX A

FREQUENTLY ASKED QUESTIONS ABOUT TOBACCO-FREE SCHOOLS

1. What is a comprehensive tobacco-free school policy?

- A comprehensive school policy includes all of the components in the Gold Star School Tobacco Policy Program Checklist (located in Appendix F).

2. We are mostly tobacco-free, so what will be gained by adopting a comprehensive tobacco-free policy?

- According to a 2006 Surgeon General's Report, there is no risk-free level of exposure to secondhand smoke. Secondhand smoke contains known carcinogens (cancer-causing agents). As little as 30 minutes of exposure to secondhand smoke can affect the coronary arteries of healthy, young nonsmokers. It causes acute and chronic respiratory disease and causes or exacerbates asthma, ear infections and upper respiratory infections – primary causes of school absence.
- Asthma is a major cause of school absenteeism. Reducing secondhand smoke as an asthma trigger will result in reduced absenteeism.
- Positive adult role modeling for students is critical to send a message to our youth that is consistent with the tobacco-use prevention curriculum taught in the classroom.
- A comprehensive tobacco-free school policy will help establish a tobacco-free norm.
- A tobacco-free policy prepares students for the realities of an increasingly tobacco-free world – one where tobacco use is prohibited at worksites, in restaurants, on airplanes, in malls and in other places.

3. Will we risk losing staff that might be tobacco users?

According to personnel at school districts that have adopted a comprehensive tobacco-free policy, teacher attrition is not an issue. Most administrators report that teacher recruitment and retention issues are related to local supplements, geographical location and family situations – not to the implementation of a tobacco-free school policy. Furthermore, anecdotal information from administrators in tobacco-free school districts suggests that many job applicants want a tobacco-free work environment and view this policy as an asset.

4. What are the benefits of offering cessation programs for staff?

Experience shows that employees from school districts adopting a comprehensive tobacco-free school policy often use this as an opportunity to cut down their tobacco use or quit. This can lead to decreased absences due to tobacco-related illnesses, decreased tobacco-related health-care costs and increased productivity. School districts are strongly encouraged to talk with these employees about the kinds of support they may need to be successful in quitting and to consider offering these services and resources. Resources and support to assist employees in quitting should be provided early in the policy development process so that the staff is prepared when the campus becomes tobacco-free. For information about local cessation programs or the North Dakota Tobacco Quitline, go to www.ndhealth.gov/tobacco.

5. Will we risk losing our adult supporters at athletic events?

It is highly unlikely that you will lose adult supporters at athletic events. Administrators in school districts that have adopted a comprehensive tobacco-free policy have noted that the vast majority of adults have willingly complied with the tobacco-free school policy during athletic events. This makes sense, as these adults are school supporters and often have children attending the school. They understand and appreciate that school policies, such as ones prohibiting tobacco use and alcohol/drug use on campus, are designed to protect the safety of youth and offer a positive environment for students and families. Furthermore, the expectation that an event or a facility is tobacco-free has become more common in many social situations as we have become more aware of the health risks of secondhand smoke. As malls, movie theaters, restaurants and air travel have become smoke-free, we have not seen a drop off in patronage. The school policy does not require people to quit using tobacco; it simply asks them to refrain from tobacco use on school property and at school-sponsored events.

6. If we develop a comprehensive policy, how will we enforce it?

Experience has shown that early and frequent communication such as signage, letters home, information in event programs and announcements during outdoor athletic events is the key to enforcing the policy successfully.

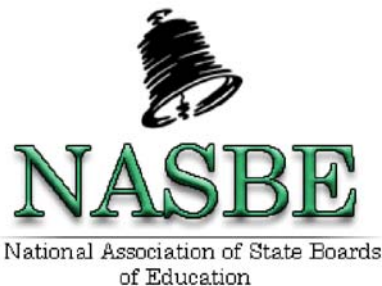
7. What about the argument that it's legal for adults to use tobacco?

Schools have the authority to develop, adopt and implement policies that are in the best interest of the students and staff. A tobacco-free school policy restricts tobacco use on the school campus and at school-sponsored events only. Tobacco is a legal product for adults to purchase and use. Adult tobacco users have the option of going off campus to use tobacco.

APPENDIX B

MODEL POLICY TO DISCOURAGE TOBACCO USE

(Courtesy of the National Association of
State Boards of Education [NASBE])



In partnership with CDC-DASH and many collaborators, NASBE has developed research-based, best practice model policy language on various school health topics that states, districts and schools can adopt or adapt for themselves. The points they address were suggested by the CDC's scientifically rigorous school health guidelines, state and local policies and comments from expert reviewers.

Topic-specific policies should be adopted within an overall coordinated school health program policy framework. For further explanation, see Chapter C: General School Health Policies of *Fit, Healthy, and Ready to Learn*.

Note: NASBE offers its model policy language free of copyright; courtesy attribution is requested. Users will need to adapt this model policy to fit their state and local education governance structure and established policy format, particularly the phrases in italics.

Comprehensive School Tobacco-Use Prevention Policy

Note: Underlined and italicized phrases should be customized or are optional.

INTENT: District/school leaders shall develop a comprehensive policy/program/plan to prevent tobacco use that is based on current research and best practices. The policy/program/plan shall be developed in partnership with families, health-care providers, and community organizations; shall be implemented within the context of a coordinated school health program; and shall include the following provisions:

- establish and enforce a prohibition on all use of tobacco products by students, staff, and school visitors at all times in school buildings, on school grounds, in school vehicles, and at all school-sponsored events on or off campus;
- prohibit all promotion of tobacco products and companies in school settings;
- implement a sequential educational program to prevent tobacco use that is integrated within the K-12 health education curriculum; is aimed at influencing students' knowledge, attitudes, skills, and behaviors; and is taught by well-prepared and well-supported staff;

- collaborate on community-wide efforts to prevent tobacco use and support students' participation in them;
- provide appropriate counseling services or referrals for students and staff to help stop tobacco use and overcome nicotine addiction;
- participate in the administration of anonymous surveys to assess students' tobacco use and other health risk behaviors; and
- designate a specific school official to be responsible for policy implementation.

POLICY EVALUATION. The district/school shall participate in the administration of anonymous student surveys to assess tobacco use and other health risk behaviors. The school health coordinator/other shall regularly monitor, evaluate, and submit an annual report to the school health advisory council/board of education/other on the implementation of this policy and its effectiveness at reducing tobacco use, along with recommendations for improvement.

Optional: Many policies include a statement of facts to justify the policy:

RATIONALE: Cigarette smoking continues to be the chief preventable cause of premature disease and death in the United States. Schools have a responsibility to help prevent tobacco use for the sake of students' and staff members' health and the well-being of their families. Research conclusively proves the following:

- regular use of tobacco is ultimately harmful to every user's health, directly causing cancer, respiratory and cardiovascular diseases, adverse pregnancy outcomes, and premature death;
- secondhand smoke is a threat to the personal health of everyone exposed to it, especially persons with asthma and other respiratory problems;
- nicotine is a powerfully addictive substance;
- tobacco use most often begins during childhood or adolescence;
- the younger a person starts using tobacco, the more likely he or she will be a heavy user as an adult; and
- many young tobacco users will die an early, preventable death because of their decision to use tobacco.

Additional reasons why schools need to strongly discourage tobacco use are as follows:

- the use of tobacco can interfere with students' attendance and ability to learn;
- *the purchase and possession of tobacco products is illegal for persons younger than age 18 [state laws vary];*
- students need to be prepared for adult life and most workplaces are now smoke-free;
- smoking is a fire safety issue for schools; and
- use of spit tobacco is both a health and sanitation issue in school facilities.

Tobacco-Free School Environment

TOBACCO USE AND POSSESSION PROHIBITED. No student, staff member, or school visitor is permitted to smoke, inhale, dip, or chew tobacco at any time, including non-school hours:

- in any building or facility;
- on school grounds, athletic grounds, or parking lots;
- in any vehicle owned or otherwise used by the school; and
- at any school-sponsored event on or off campus.

No student is permitted to possess a tobacco product on school grounds. School authorities shall consult with local law enforcement agencies to enforce laws that prohibit the possession of tobacco by minors within the immediate proximity of school grounds.

TOBACCO PROMOTION PROHIBITED. Tobacco promotional items, including clothing, bags, lighters, and other personal articles, are not permitted on school grounds, in school vehicles, or at school-sponsored events. Tobacco industry advertising, including advertising of commercial films in which tobacco smoking is featured, is prohibited in schools, school-sponsored publications, and school-sponsored events.

*[optional] **CLOSED CAMPUS.** No student may leave the school campus during breaks in the school day to use a tobacco product. Signs to this effect will be posted at appropriate locations.*

SIGNS AND OTHER NOTICES. The superintendent/principal/other shall notify students, families, education personnel, and school visitors of the tobacco-free policy in handbooks, newsletters, announcements, and event programs; on posted notices or signs at every entrance and other prominent locations, and by other efficient means. To the extent possible, schools and districts will use local media to publicize the policies and help influence community norms about tobacco use.

POLICY ENFORCEMENT. It is the responsibility of all students, employees, and visitors to verbally admonish any person using or possessing a tobacco product or promotional item. Any tobacco product found in the possession of a student who is a minor shall be confiscated by staff and discarded. The provisions of existing policies that address the use and possession of drugs shall apply to all tobacco products.

The superintendent/principal/other shall develop and administer a range of helping and punishing enforcement responses to tobacco-use violations appropriate to the violation and the individual student or staff member. These will include educational assignments and tobacco-use cessation services as well as relevant sanctions such as community service, referral to student court, and disciplinary actions as codified in written school policy. All school staff shall participate in training on the correct, fair, and consistent enforcement of tobacco-free school policies.

Tobacco-Use Prevention Education

INSTRUCTIONAL PROGRAM DESIGN. As part of a comprehensive tobacco-use prevention program, tobacco-use prevention education shall be integrated within the health education program and be taught at every grade level, pre-kindergarten through twelfth. Instruction shall be most intensive in grades six through eight and reinforced in all later grades.

The educational program shall be based on theories and methods that have been proven effective by published research and consistent with the *state's/district's/school's* health education *standards/guidelines/framework*. Instructional activities shall be participatory and developmentally appropriate. The program shall be designed to accomplish the following:

- instruct about immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use;
- decrease the social acceptability of tobacco use;
- address reasons why young people use tobacco, such as its use as a method of weight control;
- teach how to recognize and refute advertising and other social influences that promote tobacco use;
- develop students' skills for resisting social influences that promote tobacco use;
- develop necessary assertiveness, communication, goal setting, and problem solving skills that may enable students to avoid tobacco use and other health-risk behaviors; and
- engage families as partners in their children's education.

The *state/district/school* is prohibited from accepting funding, curricula, or other materials provided by the tobacco industry or its agents.

STUDENT ASSESSMENT: Tobacco-use prevention topics and skills shall be incorporated into the health education assessment program.

STAFF PREPARATION. Staff responsible for teaching tobacco-use prevention shall receive preservice training and participate in ongoing professional development activities to effectively deliver the education program as planned. Preparation and professional development activities shall provide basic knowledge about the effects of tobacco use and skill practice in effective instructional techniques.

COMMUNITY COLLABORATION. School leaders are expected to collaborate on common messages and coordinated activities with agencies and groups that conduct tobacco-use prevention education in the community. School staff shall also help interested students become involved with agencies and other organizations in the community that are working to prevent tobacco use. Guest speakers invited to address students shall receive appropriate orientation to the relevant policies of the *school/district*.

POLICY EVALUATION. The *school health coordinator/other* shall prepare an annual report to the *school health advisory council/board of education/other* on the implementation of this policy and its effectiveness at preventing tobacco use, with recommendations for improvement.

Tobacco-Use Cessation Services

PROGRAM AVAILABILITY. As part of a comprehensive tobacco-use prevention program, the school shall provide referrals to community resources and programs to help students and staff members overcome nicotine addiction. School counselors or community agencies are encouraged to establish voluntary tobacco-use cessation programs at school. Planning for such services should be based on findings from needs assessment activities and periodically evaluated for effectiveness and participant satisfaction.

PROGRAM ATTENDANCE. Attendance or completion of a tobacco-use cessation program shall not be mandatory for anyone or used as a penalty. Attendance or completion of a tobacco-use cessation program is allowed as a voluntary substitute to suspension for use or possession of tobacco.

MEDICATIONS. Nicotine is a highly addictive and harmful drug. Existing policies regarding the possession, use, and storage of medications at school shall apply to medications containing nicotine that are prescribed to relieve withdrawal symptoms, including gum, patches, lozenges, snus, sprays, inhalers, and tablets.

POLICY EVALUATION. The school health coordinator/other shall prepare an annual report to the school health advisory council/board of education/other on the implementation of this policy and its effectiveness at helping students and staff members stop using tobacco, with recommendations for improvement.

APPENDIX C

SAMPLE LETTER TO PARENTS

Dear Parents:

On *[date]*, the *[name of school district]* School Board adopted a comprehensive tobacco-free school policy. This policy prohibits all tobacco use by everyone, everywhere on campus, at all times – including school events after regular school hours. This policy also prohibits students from bringing tobacco products on campus. A copy of the new policy is attached.

The School Board adopted this policy for three reasons:

- **To support families in keeping their children tobacco-free**

Tobacco use is the leading cause of preventable death and disease in our state and nation. Eighty percent of adults who are addicted to tobacco began using it before the age of 18, with the average age of initiation between 12 and 14 years old. Most parents, even those who use tobacco, do not want their children to become addicted. Youth spend a great deal of time at school and school-related events. Allowing the use of tobacco products on campus implies school approval of such use. Keeping tobacco off campus means students have less opportunity to see others using tobacco and have less access to tobacco products. This means they will be less likely to try, and possibly become addicted to, tobacco.

- **To provide a safe environment for students and staff**

We have an obligation to provide a safe learning and work environment for students and staff. Exposure to secondhand smoke can trigger an asthma attack or make respiratory problems worse. Clusters of adults smoking outside near building entrances during school-sponsored events places others at risk.

- **To provide a cleaner campus**

Discarded smoking and spit-tobacco materials litter school grounds, parking lots and vehicles. Cleaning or replacing items damaged by smoke or discarded smoking/spit-tobacco materials is costly. Prohibiting tobacco from campus will mean a cleaner environment for students, staff and visitors.

Over the next few months, we will be placing signs promoting the new policy on all school campuses, and making announcements at all school-sponsored events. We also will be letting you know of upcoming tobacco education and cessation classes for students who use tobacco and want to stop. If you have questions or comments about the policy or if you want more information about these programs or services, please call the principal at your child's school.

Thank you for your support.

Sincerely,

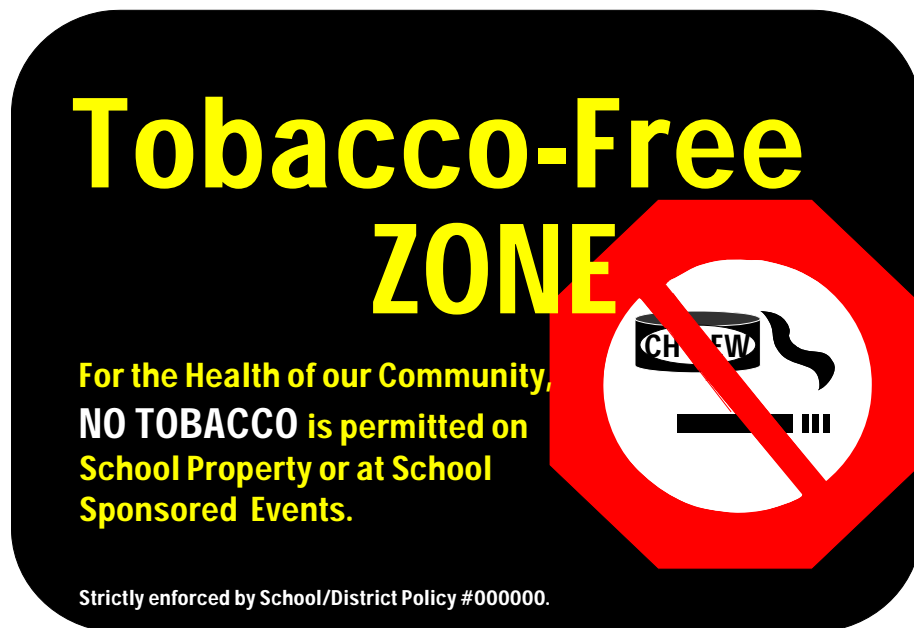
[Name of Superintendent or Board Chair]

APPENDIX D SAMPLE SIGNAGE

Actual example: Four Winds Community School, Ft. Totten, N.D.



Template example:



APPENDIX E

SAMPLE CONSEQUENCES FOR POLICY VIOLATIONS

Across the state, school tobacco-policy enforcement varies with respect to consequences or penalties for tobacco violations and provisions for positive options for punishment. Talk with administrators, staff, students and parents to identify the best strategies for enforcing the policy within the school district. What follows are some suggestions based on the experiences of other school districts across the country. Experience shows that the most effective enforcement policies are based on the following key principles.

For students

- **Parent/guardian notification**
The policy should address parent/guardian notification procedures. The parent/guardian should be notified of all violations and actions taken by the school.

- **Support**
Refer students to the guidance counselor, school nurse, or other health or counseling services for all offenses for screening, information, counseling and referral. Tobacco use is an addictive disease, not merely a discipline problem. It usually indicates psychosocial concerns of the adolescent, and the student may engage in other unhealthy behaviors such as drug or alcohol use. Students who use tobacco also may have developed or exacerbated health problems as a result of their use. A screening will help to identify these at an early stage. The tobacco policy will be more effective if there are clear procedures for identification, intervention and referral of students with tobacco-related problems.

- **Cessation**
Research tells us that half of all young people who use tobacco want to quit. Offering cessation classes or helping to link students who violate the policy to community-based cessation programs will motivate students to quit and introduce skills and techniques they can use to accomplish this. It will also help students develop coping methods to prevent relapse. Scheduling of teen cessation programs vary. They can be offered after school, weekly during consecutive periods (so students won't miss too much class), on Saturdays or during lunch. Some school districts offer teen cessation programs multiple times per year to the entire school body, as well as to ATS students.

- **Suspension**

Suspension rarely helps a student's tobacco addiction. Ideally, suspension would be used only after a student has had several prior violations or refused to participate in other outlined measures. To provide uniformity and fairness in the decision-making process, school districts should clearly outline conditions that will lead to suspension. Students and parents should be shown the steps of enforcement so that they understand the seriousness of this action. Suspension always should be accompanied by counseling. A re-entry conference should be held prior to the student's return to school with the student, parent or guardian, and administrator. If suspension is deemed absolutely necessary, such as in the case of a repeat offender who refuses to participate in other options offered, alternative forms of suspension, such as in-school suspension, are preferable to out-of-school suspension.

For staff

- **Education and support**

Encourage staff to talk with their health professional regarding their tobacco use. As noted previously, tobacco use is an addictive disease, and staff who use tobacco may have developed health problems as a result. It is strongly recommended that all staff violators be provided with information about the dangers of tobacco use and about cessation options available to them in the community and from the North Dakota Tobacco Quitline.

- **Disciplinary action**

After the second offense, staff violations should be considered as insubordination and subject to disciplinary action as they would be for any other school policy violation. Staff must be expected to adhere to the policy stipulations as outlined.

For parents, family members and the public

- **Communication**

Communication with the public should focus on positive messages to enforce the policy. Enlist the support of the public in enforcing the policy through ongoing communication of the policy and involvement in positive tobacco prevention activities.

- **Progressive enforcement**

A progressive enforcement policy is recommended. Public sanctions should involve the following: (a) request the individual to stop and refer to the school policy; (b) if the person refuses to stop, request that the individual leave the site of the school function and refer to the school policy; (c) if the person refuses to leave or is a repeat violator, refer to local authorities, and the person is subject to a fine or other usual measure.

APPENDIX F

Checklist for Model Comprehensive Tobacco-Free School Policy

Instructions: Review your school districts' current School Tobacco Policy and use the checklist below as a guide to determine where changes need to be made. Refer to the *Model Comprehensive Tobacco-Free School Policy* to assist your school district in achieving a comprehensive status for your School Tobacco Policy.

	1. The policy includes a statement explaining the rationale for the policy and definitions of tobacco and tobacco use.
	2. Tobacco is specifically named in the policy, not implied by prohibiting drugs (such as alcohol and other drugs).
	3. All components of the policy are effective at all times.
	4. All school buildings, grounds, campuses, housing, property (including vehicles/busses), are tobacco-free at all times.
	5. Students are prohibited from possessing and/or using tobacco products on school grounds or at school events on school district property.
	6. School staff is prohibited from using tobacco products on school grounds or at school events on school district property.
	7. Visitors are prohibited from using tobacco on school grounds or at school events on school district property.
	8. Wearing clothing or using other items that advertise or promote tobacco products is prohibited.
	9. Tobacco advertising and acceptance of gifts from the tobacco industry is prohibited.
	10. A plan to communicate the tobacco policy to all students, employees and visitors is outlined.
	11. An enforcement plan for students is outlined and provides cessation resource information.
	12. An enforcement plan for employees is outlined and provides cessation resource information.
	13. An enforcement plan for visitors is included.



Updated 8/24/10

APPENDIX G

NORTH DAKOTA TOBACCO CONTROL LAWS IMPACTING YOUTH

Youth Access

NDCC § 12.1-31-03. Sale of tobacco to minors and use by minors prohibited.

1. It is an infraction for any person to sell or furnish to a minor, or procure for a minor, cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing. As used in this subsection, “sell” includes dispensing from a vending machine under the control of the actor.

2. It is a noncriminal offense for a minor to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing. However, an individual under eighteen years of age may purchase and possess tobacco as part of a compliance survey program when acting with the permission of the individual’s parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

3. It is a noncriminal offense for a minor to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually the minor’s own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing.

4. A city or county may adopt an ordinance or resolution regarding the sale of tobacco to minors and use of tobacco by minors which includes prohibitions in addition to those in subsection 1, 2, or 3. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 3 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for a minor fourteen years of age or older who has been charged with an offense under subsection 2 or 3. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.

5. A minor fourteen years of age or older found to have violated subsection 2 or 3 must pay a fee of twenty-five dollars.

a. Any individual who has been cited for a violation of subsection 2 or 3 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual’s action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.

b. If an individual cited for a violation of subsection 2 or 3 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the

issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.

c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.

6. The prosecution must prove the commission of a cited violation under subsection 2 or 3 by a preponderance of the evidence.

7. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

8. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.

NDCC § 12.1-31-03.1. Vending machines prohibited - Penalty.

1. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing through a vending machine, except as provided in subsection 2.

2. Subsection 1 does not apply to:

a. A vending machine that is located in an area in which minors are not permitted access; or

b. A vending machine that dispenses cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing through the operation of a device that requires a salesperson to control the dispensation of such product.

3. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing through any vending machine, if those products are placed together with any nontobacco product, other than matches, in the vending machine.

NDCC § 12.1-31-10. Sale of bidis prohibited - Penalty.

It is an infraction for any person to sell the tobacco product commonly referred to as bidis or beedies. For purposes of this section, “bidis” or “beedies” means a product containing tobacco which is wrapped in temburni leaf, also known as diospyros melanoxylon, or tendu leaf, also known as diospyros exculpra.

NDCC § 15.1-24-05. Law enforcement agencies - Duty to inform team.

1. A law enforcement agency shall notify a school principal in writing if the agency has probable cause to believe that a student enrolled in the school has violated section 5-01-08, section 12.1-31-03, chapter 19-03.1, chapter 19-03.2, chapter 19-03.4, section 39-08-01, or section 39-08-18. The law enforcement agency shall provide the notice within two weeks of an incident.

2. The principal shall forward the notice to the school's chemical abuse pre-assessment team or support team referenced in section 15.1-24-03.

3. Subsection 1 does not apply if, in the opinion of the law enforcement agency, providing the notice would jeopardize the conclusion of a criminal investigation.

NDCC § 51-32-01. Prohibited acts regarding sale of tobacco products to minors.

It is unlawful for any person in the business of selling tobacco products to take an order for a tobacco product, other than from a person who is in the business of selling tobacco products, through the mail or through any telecommunications means, including by telephone, facsimile, or the internet, if in providing for the sale or delivery of the product pursuant to the order, the person mails the product or ships the product by carrier, and the person fails to comply with each of the following procedures:

1. Before mailing or shipping the product, the person receives from the individual who places the order the following:
 - a. A copy of a valid government-issued document that provides the name, address, and date of birth of the individual; and
 - b. A signed statement from the individual providing a certification that the individual:
 - (1) Is a smoker of legal minimum purchase age in the state;
 - (2) Has selected an option on the statement as to whether the individual wants to receive mailings from a tobacco company; and
 - (3) Understands that providing false information may constitute a violation of law.
2. Before mailing or shipping the product, the person:
 - a. Verifies the date of birth or age of the individual against a commercially available data base; or
 - b. Obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order.
3. Before mailing or shipping the product, the person provides to the prospective purchaser, by electronic mail or other means, a notice that meets the requirements of section 51-30-04.
4. In the case of an order for a product pursuant to an advertisement on the internet, the person receives payment by credit card, debit card, or check for the order before mailing or shipping the product.
5.
 - a. The person employs a method of mailing or shipping the product requiring that the individual purchasing the product:
 - (1) Be the addressee;
 - (2) Have an individual of legal minimum purchase age sign for delivery of the package; and
 - (3) If the individual appears to the carrier making the delivery to be under twenty-seven years of age, take delivery of the package only after producing valid government-issued identification that bears a photograph of the individual, indicates that the individual is not under the legal age to purchase cigarettes, and indicates that the individual is not younger than the age indicated on the government-issued document.
 - b. The bill of lading clearly states the requirements in subdivision a and specifies that state law requires compliance with the requirements.

6. The person notifies the carrier for the mailing or shipping, in writing, of the age of the addressee as indicated by the government-issued document.

NDCC § 51-32-02. Rule of construction regarding common carriers.

This chapter may not be construed as imposing liability upon any common carrier, or officer or employee of the carrier, when acting within the scope of business of the common carrier.

NDCC § 51-32-03. E-mail addresses.

A person taking a delivery sale order may request that a prospective purchaser provide an e-mail address for the purchaser.

NDCC § 51-32-04. Disclosure requirements.

The notice required under subsection 3 of section 51-32-01 must include:

1. A prominent and clearly legible statement that cigarette sales to consumers below the legal minimum age are illegal;
2. A prominent and clearly legible statement that consists of one of the warnings set forth in section 4(a)(1) of the federal Cigarette Labeling and Advertising Act [15 U.S.C. 1333(a)(1)] rotated on a quarterly basis;
3. A prominent and clearly legible statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with section 51-32-01; and
4. A prominent and clearly legible statement that cigarette sales are subject to tax under sections 57-36-06 and 57-36-32, and an explanation of how the tax has been, or is to be, paid with respect to the delivery sale.

NDCC § 51-32-05. Registration and reporting requirements.

1. Before making a delivery sale or shipping cigarettes in connection with a sale, a person shall file with the tax commissioner a statement setting forth the person's name, trade name, and the address of the person's principal place of business and any other place of business.
2. Not later than the tenth day of each month, each person that has made a delivery sale or shipped or delivered cigarettes in connection with any sale during the previous calendar month shall file with the tax commissioner a memorandum or a copy of the invoice, which provides for each delivery sale:
 - a. The name and address of the individual to whom the delivery sale was made;
 - b. The brand of the cigarettes that were sold in the delivery sale; and
 - c. The quantity of cigarettes that were sold in the delivery sale.

NDCC § 51-32-06. Taxes.

Each person accepting a purchase order for a delivery sale of any tobacco product shall remit to the tax commissioner any taxes due under chapter 57-36 with respect to the delivery sale. This section does not apply if the person has obtained proof, in the form of the presence of applicable tax stamps or otherwise, that the taxes already have been paid to this state.

NDCC § 51-32-07. Penalties.

1. Except as otherwise provided in this section, a person that violates this chapter is

subject to a fine of not more than one thousand dollars. In the case of a second or subsequent violation of this chapter, the person is subject to a fine of not less than one thousand dollars nor more than five thousand dollars.

2. Any person who knowingly violates any provision of this chapter is guilty of a class C felony.

3. Any individual who knowingly and falsely submits a certification under subdivision a of subsection 5 of section 51-32-01 in another individual's name is guilty of a noncriminal offense and is subject to the penalty provided under subsection 1.

NDCC § 51-32-08. Enforcement.

The attorney general or any person who holds a permit under 26 U.S.C. 5712 may bring an action in the appropriate court in the state to prevent or restrain a violation of this chapter by any person.

NDCC § 57-36-07. Packaging - Presumption from possession.

Cigarettes must be packaged as follows:

1. All cigarettes sold or distributed in this state must be in packages containing twenty or more cigarettes each.

2. Each package of cigarettes displayed, exhibited, stored, or possessed in original cartons or containers upon the premises where consumer sales are made is conclusively presumed to be for sale to consumers.

3. All packages of roll-your-own tobacco sold or distributed in this state must be in packages containing at least 0.60 ounces [17 grams] of tobacco.

4. Any person that fails to pay any tax required in connection with a delivery sale shall pay, in addition to any other penalty, a penalty of fifty percent of the tax due but unpaid.

5. Any cigarettes sold or attempted to be sold in a delivery sale that does not meet the requirements of this chapter are forfeited to the state and must be destroyed.

Smoke-Free Air

NDCC § 23-12-09. Smoking in public places and places of employment - Definitions.

In sections 23-12-09 through 23-12-11, unless the context or subject matter otherwise requires:

1. "Bar" means a retail alcoholic beverage establishment licensed under chapter 5-02 that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages. The term includes a bar located within a hotel, bowling center, or restaurant that is not licensed primarily or exclusively to sell alcoholic beverages if the bar is in a separately enclosed area.

2. "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and other entities where professional services are delivered.

3. "Employee" means an individual who is employed by an employer in consideration for direct or indirect monetary wages or profit, or an individual who volunteers services for an employer.

4. “Employer” means an individual, business, or the state and its agencies and political subdivisions that employs the services of one or more individuals.
5. “Enclosed area” means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.
6. “Health care facility” means any office or institution providing health care services, including a hospital; clinic; ambulatory surgery center; outpatient care facility; nursing, basic, or assisted living facility; and laboratory.
7. “Health care services” include medical, surgical, dental, vision, chiropractic, and pharmaceutical services.
8. “Place of employment” means an area under the control of a public or private employer that employees normally frequent during the course of employment, including work areas, auditoriums, classrooms, conference rooms, elevators, employee cafeterias, employee lounges, hallways, meeting rooms, private offices, restrooms, and stairs.
9. “Public place” means an enclosed area to which the public has access or in which the public is permitted, including a publicly owned building or office, and enclosed areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including bars; bingo facilities; child care facilities subject to licensure by the department of human services, including those operated in private homes when any child cared for under that license is present; convention facilities; educational facilities, both public and private; facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; financial institutions; health care facilities; hotels and motels; laundromats; any common areas in apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; museums, libraries, galleries, and aquariums; polling places; professional offices; public transportation facilities, including buses and taxicabs, and ticket, boarding, and waiting areas of public transit depots; reception areas; restaurants; retail food production and marketing establishments; retail service establishments; retail stores; rooms, chambers, places of meeting or public assembly, including school buildings; service lines; shopping malls; sports arenas, including enclosed places in outdoor arenas; theaters; and waiting rooms.
10. “Publicly owned building or office” means a place owned, leased, or rented by any state or political subdivision, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of taxes.
11. “Restaurant” includes every building or other structure, or any part thereof, and all buildings in connection therewith that are kept, used, maintained, advertised, or held out to the public as a place where food is served, including coffee shops, cafeterias, private and public school cafeterias, kitchens, and catering facilities in which food is prepared on the premises for serving elsewhere, and a bar area within a restaurant.
12. “Retail tobacco store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
13. “Shopping mall” means an enclosed public walkway or hall area that serves to connect retail or professional businesses.
14. “Smoking” means possessing a lighted cigar, cigarette, pipe, weed, plant, or any other lighted tobacco product in any manner or in any form.

15. "Sports arena" means any facility or area, whether enclosed or outdoor, where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling centers.

16. "Truckstop" means a roadside service station and restaurant that caters to truckdrivers.

NDCC § 23-12-10. Smoking restrictions - Exceptions - Retaliation - Application.

1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke-free air, smoking is prohibited in all enclosed areas of:
 - a. Public places; and
 - b. Places of employment.
2. The following areas are exempt from subsection 1:
 - a. Private residences, except when operating as a child care facility subject to licensure by the department of human services and when any child cared for under that license is present in that facility.
 - b. Hotel and motel rooms, and other places of lodging, that are rented to guests and are designated as smoking rooms.
 - c. Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under this section.
 - d. Outdoor areas of places of employment, except a sports arena.
 - e. Any area that is not commonly accessible to the public and which is part of an owner-operated business having no employee other than the owner-operator.
 - f. Bars.
 - g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.
 - h. Separately enclosed areas in truckstops which are accessible only to adults.
3. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited.
4. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.
5. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

NDCC § 23-12-10.1. Responsibility of proprietors. Repealed by S.L. 2005, ch. 239, § 7.

NDCC § 23-12-10.2. Complaints and enforcement - City and county ordinances and home rule charters.

1. State agencies with statutory jurisdiction over a state-owned building or office shall enforce section 23-12-10. These agencies include the fire marshal department, state department of health, department of human services, legislative council, and office of management and budget. The agencies may mutually agree as to the manner in which

enforcement is to be accomplished and may adopt administrative rules to ensure compliance with section 23-12-10, including referral of violations to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11.

2. A city or county ordinance, a city or county home rule charter, or an ordinance adopted under a home rule charter may not provide for less stringent provisions than those provided under sections 23-12-09 through 23-12-11. Nothing in this Act shall preempt or otherwise affect any other state or local tobacco control law that provides more stringent protection from the hazards of environmental tobacco smoke. This subsection does not preclude any city or county from enacting any ordinance containing penal language when otherwise authorized to do so by law.

NDCC § 23-12-10.3. Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff.

2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or a licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility.

NDCC § 23-12-11. Penalty.

1. An individual who smokes in an area in which smoking is prohibited under section 23-12-10 is guilty of an infraction.

2. An owner or other person with general supervisory responsibility over a public place or place of employment who willfully fails to comply with section 23-12-10 is guilty of an infraction, subject to a fine not to exceed one hundred dollars for the first violation, to a fine not to exceed two hundred dollars for a second violation within one year, and a fine not to exceed five hundred dollars for each additional violation within one year of the preceding violation.

