



# South Carolina

## Smoking Restrictions

### Overall Summary of Smoking Restrictions

Smoking is prohibited or restricted to specific designated areas in some specific public places, including: elevators, public transportation vehicles, except taxis, indoor areas of facilities providing children's services, most parts of public schools and preschools, including libraries, and most areas of almost all state and local government buildings. Smoking is allowed completely in private workplaces, restaurants and bars.

S.C. CODE ANN. §§ 44-95-10 et seq. (2012).

### Exceptions to the Law

Smoking is still allowed in many public places and workplaces, including all private workplaces, restaurants and bars. Smoking is also specifically allowed as part of a legitimate theatrical performance.

S.C. CODE ANN. §§ 44-95-10 et seq. (2012).

### Stronger Local Laws on Smoking

Stronger local laws/ordinances further restricting smoking are specifically allowed, see information on court decision below confirming this.

In March 2008, the South Carolina Supreme Court ruled unanimously (5-0) that existing South Carolina law does not prevent local communities from passing stronger ordinances restricting or prohibiting smoking in public places and workplaces. This allows the city of Greenville, South Carolina's law to go back into effect and provides legal justification for other stronger local smokefree ordinances in South Carolina.

Foothills Brewing Concern v. City of Greenville (2008).

### Government Buildings

Smoking is prohibited in most areas of buildings leased or operated by the state or any of its political subdivisions, but is permitted in private enclosed offices and designated areas of employee break areas. Smoking policies in the state Capitol and legislative office buildings shall be determined by the office of government having control over such buildings. 'Government buildings' means buildings or portions of buildings which are leased or operated under the control of the state or any of its political subdivisions, except those buildings or portions of buildings which are leased to other organizations or corporations.

S.C. CODE ANN. §§ 44-95-10 et seq. (2012).

### Private Workplaces

No restrictions.

## **Schools**

Smoking is restricted in public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held, including libraries. Private offices and teacher lounges which are not adjacent to classrooms or libraries are excluded unless the offices and lounges are included specifically in a directive by the local school board. This section does not prohibit school district boards of trustees from providing for a smokefree campus. Smoking is also prohibited in buildings, or portions thereof, and the outside areas immediately contiguous to these buildings owned, leased, operated, or maintained by a public institution of higher learning as defined, that the governing board of the institution has designated as nonsmoking.

S.C. CODE ANN. §§ 44-95-10 et seq. (2012).

Smoking on school buses is prohibited while the bus is in operation.

S.C. CODE ANN. § 59-67-150 (1962).

## **Child Care Facilities**

Smoking is prohibited in licensed child care facilities, and all other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law. 'Childcare facilities' means a facility which provides care, supervision, or guidance for a minor child who is not related by blood, marriage, or adoption to the owner or operator of the facility whether or not the facility is operated for profit and whether or not the facility makes a charge for services offered by it. This definition includes, but is not limited to, day nurseries, nursery schools, childcare centers, group childcare homes, and family childcare homes.

S.C. CODE ANN. §§ 44-95-10 et seq. (2012).

## **Health Care Facilities**

Smoking in health care facilities is restricted to designated employee break areas. 'Health care facility' means acute care hospitals, psychiatric hospitals, alcohol and substance abuse hospitals, methadone treatment facilities, tuberculosis hospitals, nursing homes, ambulatory surgical facilities, hospice facilities, radiation therapy facilities, rehabilitation facilities, residential treatment facilities for children and adolescents, habilitation centers for mentally retarded persons or persons with related conditions, and any other facility for which Certificate of Need review is required by federal law. Nothing in this chapter prohibits or precludes a health care facility from being smokefree.

S.C. CODE ANN. §§ 44-95-10 et seq. (2012).

## **Restaurants**

No restrictions.

## **Bars**

No restrictions.

## **Penalties/Enforcement**

The owner, manager or agent in charge of the premises shall make reasonable efforts to prevent designated smoking areas from impinging upon designated smokefree areas by the use of existing physical barriers and ventilation systems and by conspicuously posting the appropriate signs. A person who smokes in a smokefree area or a person in charge who fails to meet these requirements, is guilty of a misdemeanor and, upon conviction, must be fined between \$10 and \$25.

S.C. CODE ANN. §§ 44-95-10 et seq. (2012).

## **Tobacco Taxes**

### **Tax on Cigarettes**

Tax rate per pack of 20: 57 cents

Date last changed: July 1, 2010 -- from 7 cents to 57 cents

Year first enacted: 1923

S.C. CODE ANN. §§ 12-21-620(1) & 12-21-625(A) (2010).

### **Use of Cigarette Tax Revenue - Summary**

Revenue from 50 cents of the cigarette tax is allocated to tobacco-related cancer research, tobacco prevention/cessation programs and the South Carolina Medicaid reserve fund.

S.C. CODE ANN. § 12-21-625(B) (2010).

### **Use of Cigarette Tax Revenue - Detailed Information**

Revenue from the 50 cents of the cigarette tax imposed by South Carolina Code Annotated, section 12-21-625, is allocated as follows: 1) \$5 million annually to the Medical University of South Carolina Hollings Cancer Center for tobacco-related cancer research; 2) \$5 million annually to the Smoking Prevention and Cessation Trust Fund, which will fund a state tobacco control program; and 3) the remaining revenue to the South Carolina Medicaid Reserve Fund.

S.C. CODE ANN. § 12-21-625(B) (2010).

### **Taxes on Other Tobacco Products**

All other tobacco products: 5% of the manufacturer's price.

S.C. CODE ANN. § 12-21-620(2) (1977).

## **Revenue Collected from Cigarette Taxes**

Revenue collected in Fiscal Year 2012 (July 1, 2011 to June 30, 2012): \$159,166,000

## **Tobacco Control Program Funding**

### **Source of funding**

State funding for South Carolina's tobacco control program comes from state cigarette tax revenue.

## **State Funding Details**

**South Carolina appropriated \$5,000,000 for tobacco prevention and cessation programs in FY2015 (July 1, 2014 to June 30, 2015). In FY2014, the same amount was appropriated.**

**FY2015 Annual Budget (H.B. 4701) enacted (some line-item vetoes overridden) 6/18/14 and effective 7/1/14.**

### **Tobacco Control Program Related Laws**

The legislature directed the Department of Health and Environmental Control to develop and implement a youth smoking prevention plan for the purpose of preventing and reducing cigarette smoking by minors. The youth smoking prevention plan must address prevention, cessation, and control of smoking by minors and may include but is not limited to media campaigns; school based youth programs; community based youth programs; business, community, and school partnerships; programs focusing on the enforcement and administration of state minor-related tobacco laws, including retailer education; surveillance and evaluation; chronic disease and health-related programs. To assist in carrying out the purposes of the plan, the department may award youth smoking prevention grants to local agencies, organizations, and entities based on criteria developed by the department. The state plan further shall provide for a grant for an annual statewide school-based survey to measure cigarette use and behavior towards cigarette use by individuals in grades six through 12. The South Carolina Youth Smoking Prevention Advisory Commission was also established to advise the department in the development, implementation, and evaluation of the state youth smoking plan.

S.C. CODE ANN. § 44-128-30 et seq. (2000).

### **Funding for Tobacco Control Programs**

FY2015 State Funding for Tobacco Control Programs: \$5,000,000

FY2015 Federal Funding for State Tobacco Control Programs: \$1,837,239\*

FY2015 Total Funding for State Tobacco Control Programs: \$6,837,239

Funding Level Recommended by CDC: \$51,000,000

Percentage of CDC-Recommended Level: 13.4%

\*Includes regular and supplemental quitline funding from the Centers for Disease Control and Prevention and state youth access contract funding from the U.S. Food and Drug Administration.

## **Laws Restricting Youth Access to Tobacco Products**

### **Compliance/Enforcement**

The Director of the Department of Revenue shall provide for the enforcement of sections 16-17-500 and 16-17-502 South Carolina Code in a manner that reasonably may be expected to reduce the extent to which tobacco products or alternative nicotine products are sold or distributed to persons under the age of 18 and annually shall conduct random, unannounced inspections at locations where tobacco products or alternative nicotine products are sold or distributed to ensure compliance with the section. The department shall designate an enforcement officer to conduct the annual inspections.

S.C. CODE ANN. §§ 16-17-501 & 16-17-503 (2013).

### **Penalties for Sales to Minors**

It shall be unlawful for any person to sell, furnish, give, distribute, purchase for or provide a tobacco product or alternative nicotine product to a minor under the age of 18 years. 'Alternative nicotine product' means a product, including electronic cigarettes as defined separately, that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any other means; but does not include a cigarette or other tobacco product as already defined in state law or a product that is a drug, device or combination product under federal law. An individual who knowingly violates these provisions is guilty of a misdemeanor punishable by a fine of \$100 to \$200 for a first offense, \$200 to \$300 for a second offense within three years of the first offense and \$300 to \$400 for a third or subsequent offense within three years of the first offense. In lieu of the fine, the court may require an individual to successfully complete a Department of Alcohol and Other Drug Abuse Services approved merchant tobacco enforcement education program. A retail establishment that distributes tobacco products or alternative nicotine products must train all retail sales employees regarding the unlawful distribution of such products to minors.

S.C. CODE ANN. §§ 16-17-500 & 16-17-501 (2013).

### **Sign Posting Requirements**

No state law/regulation.

### **Purchase/Possession of Tobacco Products by Minors**

A minor under the age of 18 years must not purchase, attempt to purchase, possess, or attempt to possess a tobacco product or alternative nicotine product, or present or offer proof of age that is false or fraudulent for the purpose of purchasing or

possessing such products. A minor who knowingly violates this provision in person, by agent, or in any other way commits a non-criminal offense and is subject to a civil fine of \$25. In lieu of the civil fine, the court may require a minor to successfully complete a Department of Health and Environmental Control approved smoking cessation or tobacco prevention program, or to perform not more than five hours of community service for a charitable institution. If a minor fails to pay the civil fine, successfully complete a smoking cessation or tobacco prevention program, or perform the required hours of community service as ordered by the court, the court may restrict the minor's driving privileges to driving only to and from school, work, and church, or as the court considers appropriate for a period of 90 days beginning from the date provided by the court, or delay the issuance of the minor's driver's license or permit for a period of 90 days beginning from the date the minor applies for a driver's license or permit. This section does not apply to the possession of a tobacco product by a minor working within the course and scope of their duties as an employee or participating within the course and scope of an authorized inspection or compliance check.

S.C. CODE ANN. §§ 16-17-500 & 16-17-501 (2013).

## **Placement of Tobacco Products**

No state law/regulation.

## **Internet Sales of Tobacco Products**

A person engaged in the sale of alternative nicotine products made through the Internet or other remote sales methods shall perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process that establishes the individual is eighteen years of age or older. Violation is subject to the same penalties as selling or giving tobacco products to persons under age 18.

S.C. CODE ANN. §§ 16-17-500(C) & 16-17-501 (2013).

## **State Preemption of Local Youth Access Laws**

Stronger local laws/ordinances further restricting youth access to tobacco products are not allowed, see below.

Sections 16-17-500, 16-17-502, and 16-17-503 must be implemented in an equitable and uniform manner throughout the state and enforced to ensure the eligibility for and receipt of federal funds or grants the state receives or may receive relating to these sections. Any laws, ordinances, or rules enacted pertaining to tobacco products or alternative nicotine products may not supersede state law or regulation.

S.C. CODE ANN. § 16-17-504 (2013).

## **Photo Identification Requirements to Buy Tobacco Products**

It is unlawful to sell a tobacco product or an alternative nicotine product as defined to an individual who does not present upon demand proper proof of age. 'Proof of age' is defined as a driver's license or identification card issued by this state or a United States Armed Services identification card. Failure to demand identification to verify an individual's age is not a defense to selling tobacco products or alternative nicotine products to minors. However, proof that is demanded, is shown, and reasonably is relied upon for the individual's proof of age is a defense to a violation.

S.C. CODE ANN. §§ 16-17-500 & 16-17-501 (2013).

## **Minimum Sales Age for Tobacco Products**

18

## **Tobacco Product Samples/Minimum Sales Amounts for Tobacco Products**

### **Tobacco Product Samples**

It is unlawful for a person to distribute a tobacco product or alternative nicotine product sample to a person under the age of 18. A person engaged in sampling shall demand proof of age from a prospective recipient if an ordinary person would conclude on the basis of appearance that the prospective recipient may be under the age of 18. Violation of this law is subject to a civil penalty of not more than \$25 for a first offense, not more than \$50 for a second offense and not less than \$100 for a third or subsequent offense. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age is a defense to an action brought pursuant to this section.

S.C. CODE ANN. §§ 16-17-501 & 16-17-502 (2013).

### **Minimum Tobacco Products Sales Amounts**

It is unlawful to sell, hold for sale, or distribute a package of cigarettes if the package differs in any respect with the requirements of the Federal Cigarette Labeling and Advertising Act, for the placement of labels, warnings, or any other information upon a package of cigarettes. A person who knowingly sells, holds for sale, or distributes cigarette packages in violation of this is guilty of a misdemeanor and, upon conviction, shall be imprisoned not more than three years and/or be subject to a \$1,000 fine.

S.C. CODE ANN. § 16-17-505 (1996).

### **State Preemption of Local Samples Laws**

Stronger local laws/ordinances further restricting sampling or minimum sales amounts of tobacco products are not allowed, see below.

Sections 16-17-500, 16-17-502, and 16-17-503 must be implemented in an equitable and uniform manner throughout the state and enforced to ensure the eligibility for and receipt of federal funds or grants the state receives or may receive relating to these sections. Any laws, ordinances, or rules enacted pertaining to tobacco products or alternative nicotine products may not supersede state law or regulation.

S.C. CODE ANN. § 16-17-504 (2013).

## **Sales of Tobacco Products from Vending Machines**

### **Vending Machine Placement**

It is unlawful to sell a tobacco product or alternative nicotine product as defined through a vending machine unless the vending machine is located in an establishment, which is open only to individuals who are 18 years of age or older; or where the vending machine is under continuous control by the owner or licensee of the premises, or an employee of the owner or licensee, can be operated only upon activation by the owner, licensee, or employee before each purchase, and is not accessible to the public when the establishment is closed.

S.C. CODE ANN. §§ 16-17-500 & 16-17-501 (2013).

### **Penalties for Vending Machine Violations**

Violation is subject to the same penalties as selling or giving tobacco products to minors.

S.C. CODE ANN. § 16-17-500 (2013).

### **Sign Posting Requirements for Vending Machines**

No state law/regulation.

### **State Preemption of Local Vending Machine Laws**

Stronger local laws/ordinances further restricting the placement of and/or required sign posting on tobacco product vending machines are not allowed, see below.

Sections 16-17-500, 16-17-502, and 16-17-503 must be implemented in an equitable and uniform manner throughout the state and enforced to ensure the eligibility for and receipt of federal funds or grants the state receives or may receive relating to these sections. Any laws, ordinances, or rules enacted pertaining to tobacco products or alternative nicotine products may not supersede state law or regulation.

S.C. CODE ANN. § 16-17-504 (2013).

## **Licensing Requirements for Tobacco Products**

### **Overall Summary of Licensing Requirements**

Every person engaged in the business of purchasing, selling or distributing tobacco products at wholesale or through vending machines shall file with the Department of Revenue for a license to do so. When such business is conducted at two or more separate places, a separate license for each place of business shall be required. However, a person whose business is conducted through vending machines needs to obtain only one license but shall maintain an up-to-date list of the location of each vending machine operated under this license. No penalty is specified for selling tobacco products without a license.

S.C. CODE ANN. §§ 12-21-660 & 12-21-670 (1993).

### **License Fees**



No fee specified for licenses.

## **License Suspension for Sales to Minors**

No provisions.

## **License Required for Retailers of Cigarettes**

No

## **License Required for Retailers of Other Tobacco Products**

No

## **License Required for Wholesalers/Distributors of Cigarettes**

Yes

## **License Required for Wholesalers/Distributors of Other Tobacco Products**

Yes

## **Smoking Protection Laws**

### **Smoking Protection Law**

The use of tobacco products outside the workplace must not be the basis of personnel action, including, but not limited to, employment, termination, demotion, or promotion of an employee. No specific penalties specified for violation.

S.C. CODE ANN. § 41-1-85 (1991).

## **Advertising & Promotion**

### **Advertising & Promotion**

No state law/regulation.

## **Product Disclosure**

### **Product Disclosure**

No state law/regulation.

## **Divestment**

### **Divestment**

No state law/regulation.

## **Liability**

### **Tobacco Industry Liability**

The appeal of a judgment awarding relief in a civil action, under any legal theory, involving a signatory of the Master Settlement Agreement, or a successor to or affiliate of a signatory to the agreement, automatically stays the execution of that judgment. The stay is effective upon the filing of the notice of appeal and during the entire course of appellate review of the judgment.

**S.C. CODE ANN. § 11-47-40 (2004).**

## **Use of Tobacco Settlement Dollars**

### **Use of Tobacco Settlement Dollars - Summary**

The rights to almost all of South Carolina's Master Settlement Agreement (MSA) payments have been sold as bonds through the Tobacco Settlement Revenue Management Authority to obtain a smaller lump sum payment up front. See Securitization section below for additional details. The FY2015 budget bill (HB 4701) does specify how any MSA funds available in FY2015 will be allocated.

S.C. CODE ANN. §§ 11-49-10 et seq. (2014) & H.B. 4701, sect. 118.15 enacted 6/11/14 and effective 7/1/14.

### **Use of Tobacco Settlement Dollars - Detailed Information**

South Carolina established the Healthcare Tobacco Settlement Trust Fund in the state treasury. Earnings on this fund must be credited to the fund. The principal must remain in the fund and only the interest earnings may be appropriated and used for a variety of public health policy purposes, which can include youth smoking cessation and prevention programs coordinated by the Department of Health and Environmental Control and the Department of Alcohol and Other Drug Abuse Services. Proceeds from the MSA have been deposited in the fund in the past.

S.C. CODE ANN. § 11-11-170 (2000).

Note: For FY2015, to the extent funds are available from payments received on behalf of the state by the Tobacco Settlement Revenue Management Authority from the Tobacco Master Settlement Agreement, the State Treasurer is authorized, after transferring funds sufficient to cover the operating expenses of the Authority, to transfer the remaining funds as follows: (1) \$2,028,000 to several state agencies to diligently enforce Chapter 47 of Title 11, the Tobacco Escrow

Fund Act; (2) \$1,500,000 to the Department of Agriculture; and (3) The remaining balance shall be transferred to the Department of Health and Human Services for the state Medicaid program. The requirements of section 11-11-170 South Carolina Code are suspended for FY2015.

H.B. 4701, sect. 118.15 enacted 6/11/14 and effective 7/1/14.

## **Securitization**

South Carolina created the Tobacco Settlement Revenue Management Authority. The purpose of the authority is to receive all of the state's tobacco receipts and to issue bonds payable solely from and secured solely by the state's tobacco receipts. The state's tobacco receipts due to the state after June 30, 2001, and the right to receive them as they are distributed from the escrow are assigned to the authority. All bonds must be secured solely by and payable solely from the state's tobacco receipts, or the portion of the state's tobacco receipts the board determines to pledge for payment. The authority may not issue any bond with a scheduled maturity later than 30 years after the date of issuance.

S.C. CODE ANN. §§ 11-49-10 et seq. (2014).

## **Fire Safety Standards for Cigarettes**

### **Law Setting Fire Safety Standard for Cigarettes**

To help prevent cigarette-caused fires, except as provided in subsection (O) of section 23-51-30 South Carolina Code, cigarettes may not be sold or offered for sale in South Carolina or offered for sale or sold to persons located in South Carolina unless: 1) the cigarettes have been tested in accordance with the test method and meet the performance standard specified in section 23-51-30 South Carolina Code; 2) a written certification has been filed by the manufacturer with the state Fire Marshal in accordance with Section 23-51-40 South Carolina Code; and 3) the cigarettes have been marked in accordance with section 23-51-50 South Carolina Code.

S.C. CODE ANN. §§ 23-51-10 to 23-51-110 (2010).

### **Penalties for Fire Safety Violations**

A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of section 23-51-30 above shall be subject to a civil penalty not to exceed \$100 for each pack of cigarettes sold or offered for sale. Penalties for any person or entity shall not exceed \$100,000 during a 30-day period. A retail dealer shall be subject to the same civil penalty for violation, but penalties may not exceed \$25,000 for any one person or entity during a 30-day period. A corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification as required by section 23-51-40 above is subject to a civil penalty of at least \$75,000 and not to exceed \$250,000 for each such false certification.

S.C. CODE ANN. §§ 23-51-10 to 23-51-110 (2010).

## **Preemption**

### **Summary of all Preemptive Tobacco Control Laws**

All laws, ordinances or rules further restricting youth access to tobacco products may not supersede state law/regulation.

## **Activity**

### **Recent Legislative Activity**

**Tobacco Control Program Funding:** Appropriated \$5,000,000 for tobacco prevention and cessation programs in FY2015. FY2015 Annual Budget (H.B. 4701) enacted (some line-item vetoes overridden) 6/18/14 and effective 7/1/14.

**Use of Tobacco Settlement Dollars:** Specifies how any tobacco Master Settlement Agreement dollars available in FY2015 will be allocated.

H.B. 4701, sect. 118.15 enacted 6/11/14 and effective 7/1/14.

**Tobacco Use/State Employee Health Plans:** In FY2015, the state Budget and Control Board is authorized to impose a surcharge on enrollee rates based on tobacco use. The surcharge cannot exceed \$40 per month for a subscriber or \$60 per month for a subscriber and dependents.

H.B. 4701, sect. 105.3 enacted 6/11/14 and effective 7/1/14.