

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated. ~~Do not~~ use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

SEP 3 1991

County of
City of
Town of
Village of
ERIE

Local Law No. 3 of the year 1991
prohibiting the distribution of tobacco products at less than basic cost

A local law in public places and at public events.
(Insert Title)

Be it enacted by the ERIE COUNTY LEGISLATURE of the
(Name of Legislative Body)

County of
City of
Town of
Village of
ERIE as follows:

Section 1. Declaration of legislative findings and intent. The legislature finds that cigarette smoking greatly increases the risk of cancer, heart disease, lung disease and other disorders. It is further found that the use of other forms of tobacco, such as cigars, pipe tobacco, chewing tobacco and snuff, also increases the risk of diseases such as throat and mouth cancer. The legislature finds that the distribution of tobacco products for commercial purposes to the general public without charge or for a nominal price encourages and facilitates the use of such products. And it is further found that the distribution of free or nominally priced tobacco products encourages and facilitates use by minors, and that such use is detrimental to the public health and in contravention of the public policy of this county and state. It is further found that enforcement of an age-related restriction on the commercial distribution of free or nominally priced tobacco samples to be impractical and ineffective. It is the intent of the legislature to control the distribution of these products by prohibiting all

(If additional space is needed, attach pages the same size as this sheet, and number each.)

commercial distribution of free or nominally priced tobacco products, except as allowed in this local law.

2. Definitions. For purposes of this local law:

a. "Distribute" means to give, sell, deliver, offer to give, sell or deliver, or cause or hire any person to give, sell, deliver or offer to give, sell or deliver.

b. "Less than basic cost" means free of charge, a nominal or discount price, or any other price less than the distributor's cost, to which shall be added the full value of any stamps or taxes which may be required by law.

c. "Person" means any natural person, corporation, partnership, firm, organization or other legal entity.

d. "Public event" means any event to which the general public is invited or permitted, including but not limited to musical concerts or performances, athletic competitions, public fairs, carnivals, flea markets, bazaars and artistic or cultural performances or exhibitions. A private function such as a wedding, party, testimonial dinner or other similar gathering in which the seating arrangements are under the control of the organizer or sponsor of the event, and not the person who owns, manages, operates or otherwise controls the use of the place in which the function is held, is not a public event within the meaning of this paragraph.

e. "Public place" means any area to which the general public is invited or permitted, including but not limited to retail stores, parks, streets, sidewalks or pedestrian concourses.

sports arenas, pavilions, gymnasiums, public malls and property owned, operated or occupied by the county of Erie or a unit thereof.

f. "Tobacco product" means any substance which contains tobacco, including but not limited to cigarettes, cigars, smoking tobacco and smokeless tobacco.

3. Distribution of tobacco products to the general public at less than basic cost prohibited in public places and at public events. No person shall distribute a tobacco product for commercial purposes at less than the basic cost of such product to members of the general public in public places or at public events.

4. Exemptions. The provisions of subdivision b shall not apply to (i) the redemption of manufacturer's cents-off coupons, dollars-off coupons, buy-one receive one free or similar promotional coupons to persons of legal age in stores that sell tobacco products to the general public; or (ii) the distribution of tobacco products at less than basic cost by retailers, manufacturers or distributors of such products to any employees of such companies who are of legal age.

5. Penalties. (a) Any person found to be in violation of this section shall be guilty of a violation and liable for a fine of not more than one hundred dollars or no more than three days imprisonment, or both such fine and imprisonment for the first violation and not more than two hundred fifty dollars or no more than fifteen days imprisonment or both such

fine and imprisonment for the second and each subsequent violation.

(b) A proceeding to recover a civil penalty for violation of the provisions of this section may be commenced by the service of a notice of violation which shall be returnable to the city, town or village court in the city, town or village in which the notice of violation is issued. Such court shall have the power to impose a civil penalty in the amount of five hundred dollars.

(c) The commissioner of health of the county of Erie may make an application to the supreme court for an order restraining the continued violation of this section or enjoining the future commission of such practice.

6. This local law shall take effect thirty days after its enactment.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

~~1. (Final adoption by local legislative body only.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 19____, in accordance with the applicable provisions of law.~~

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 1991 of the (County)(City)(Town)(Village) of ERIE was duly passed by the ERIE COUNTY LEGISLATURE on July 25 1991, and was (approved)(not disapproved)(repassed after disapproval) by the COUNTY EXECUTIVE (Elective Chief Executive Officer*) and was deemed duly adopted on August 23 1991, in accordance with the applicable provisions of law.

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.~~

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on 19 , became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the County of , State of New York, having been submitted to the electors at the General Election of November , 19 , pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 , above.

Clerk of the County legislative body, City, Town or Village, or
Officer designated by local legislative body
Date: August 28 1991

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK ERIE
COUNTY OF _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

COUNTY ATTORNEY
Title

County
City of ERIE

Date: August 26, 1991