

1 September 19, 1988
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INTRODUCED BY: Sullivan
Sims, Gruger

PROPOSED NO. 88-494

3 **ORDINANCE NO. 8659**

4 AN ORDINANCE relating to the enforcement
5 of the prohibition of sales of cigarettes
6 and other tobacco products to minors;
7 banning the use of cigarette vending
8 machines, requiring licenses for retail
9 sales of cigarettes and tobacco products,
10 prohibiting the purchase of tobacco
11 products by minors, establishing civil
12 penalties and repealing Resolution 30668
13 as amended and K.C.C. 6.72.010-140.

14 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

15 SECTION 1. Legislative intent. The King County council finds
16 cigarette smoking by minors to be a continuing problem with grave
17 social consequences. In recognition of the Surgeon General's
18 recent report finding cigarette smoking is as addictive as cocaine
19 and heroin, much more strenuous action to curtail the availability
20 of cigarettes and tobacco products to minors is necessary. The
21 National Institute on Drug Abuse and the U.S. Public Health
22 Service have concluded that the nicotine in tobacco is a powerful,
23 habit-forming drug and described nicotine addition as the most
24 widespread example of drug dependence in our country. It is
25 imperative to take more vigorous enforcement action to implement
26 the existing prohibition of sales to minors. The American Medical
27 Association has concluded cigarette smoking is the chief avoidable
28 cause of death in our society. We seek to act now to avoid public
29 and private costs of future health care for youths who develop the
30 habit of smoking in adolescence. The King County council further
31 finds that decades of experience with the present system of
32 prohibiting sales of cigarettes to minors has been proven
33 significantly defective. The King County council seeks to develop
a strict, comprehensive, effective and enforceable system to
control the sale of cigarettes to minors.

1 SECTION 2. Definitions.

2 A. "Director" means the manager of the general services
3 division, King County department of executive administration, or
4 his duly authorized representative.

5 B. "Minor" means any individual who is less than 18 years old.

6 C. "Retailer" means any person, firm, association, company,
7 partnership or corporation who operates a store, stand, booth,
8 concession or other place at which sales are made to purchasers
9 for consumption or use.

10 D. "Sales conducted in person" means payment for the purchase
11 of the tobacco item is received directly and in person from the
12 purchaser by the seller or his employee. Tobacco vending machines
13 which are located in plain view of the seller or his employee and
14 controlled by an electronic device activated by the seller or his
15 employee, upon the buyer's presentation of acceptable
16 identification as required in Section 4, shall be deemed "sales
17 conducted in person."

18 E. "Tobacco vending machine" means and includes any machine
19 or device designated for or used for the vending of cigarettes,
20 cigars, tobacco, or tobacco products upon the insertion of coins,
21 trade checks or slugs.

22 SECTION 3. After February 1, 1989, tobacco vending machines
23 or any other mechanism or method of retail sales of cigarettes or
24 other tobacco products which do not require a sale to be conducted
25 in person by the seller or agent of the seller are prohibited in
26 unincorporated King County; provided that this section shall not
27 prohibit the installation and use of a tobacco vending machine by
28 a proprietor, his agents or employees eighteen years or greater in:

29 A. Any premises or portion thereof to which access by minors
30 is expressly prohibited by law if, and only if, the tobacco
31 vending machine is located fully within such premises from which
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1 minors are prohibited and not less than ten (10) feet from all
2 entrance and/or exit ways; or

3 B. Commercial buildings or industrial plants or portions
4 thereof where the public is expressly prohibited and where such
5 machines are strictly for the use of the employees therein;
6 provided that the area must be signed as not open to the public
7 and no minor employees are usually admitted.

8 SECTION 4. Identification required. No retailer shall sell
9 or permit to be sold cigarettes or other tobacco products to any
10 individual without requesting and examining identification from
11 the purchaser positively establishing the purchaser's age as
12 eighteen (18) years or greater unless the seller has some other
13 conclusive basis for determining the buyer is over the age of
14 eighteen (18) years.

15 In the event the seller does not request and examine
16 identification from the purchaser, the seller shall be deemed to
17 have not had "a conclusive basis" under this section if the
18 purchaser is in fact a minor.

19 Identification shall be by means of an officially issued card
20 accepted as proof of age for the sale of alcoholic beverages
21 pursuant to RCW 66.16.040.

22 SECTION 5. License required. After February 1, 1989 it shall
23 be unlawful for any retailer in unincorporated King County to sell
24 cigarettes or any tobacco products unless that retailer first
25 obtains and maintains a valid license from King County for each
26 location where cigarette sales are conducted. The license shall
27 be good for a three-year term if the licensee complies with the
28 provisions of this chapter.

29 SECTION 6. Unless otherwise specified, the general licensing
30 provisions, contained in K.C.C. Chapter 6.01 shall apply to this
31 license.

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1 SECTION 7. Sanctions. A license shall be suspended by King
2 County upon a finding, after notice and opportunity to be heard,
3 that the licensee has failed to comply with any provision of this
4 chapter as follows:

5 A. In the case of a first and single violation, the licensee
6 shall be fined one hundred dollars and shall be given
7 notification, in writing, of provisions for penalties to be levied
8 in the event of additional or further violations; and

9 B. In the case of a second or two violations, the licensee
10 shall be fined five-hundred dollars and the license shall be
11 suspended for not less than 90 consecutive business days nor more
12 than 6 months; and

13 C. In the case of a three or more violations, the licensee
14 shall be fined one thousand dollars and the license shall be
15 revoked not less than nine months and no more than eighteen months
16 from the date of revocation.

17 D. Each sale to a minor shall constitute a separate
18 violation.

19 SECTION 8. License application and issuance. A. Application
20 for a tobacco retailers license shall be submitted in the name of
21 the entity or person proposing to conduct retail tobacco sales on
22 the business premise and shall be signed and notarized by such
23 person or his agent. All applications shall be submitted on a
24 form supplied by the director and contain the following
25 information:

26 1. The name, home address, home telephone number, date and
27 place of birth, and social security number of the applicant if the
28 applicant is an individual;

29 2. The names, addresses, telephone numbers, and social
30 security numbers of any partners or corporate officers;

31 3. The business name, address, and telephone number of each
32 establishment where tobacco is retailed.
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1 B. Upon receipt of an application for a tobacco retail
2 license the director shall issue a license which must be
3 prominently displayed at the location where tobacco retail sales
4 are conducted.

5 SECTION 9. Fee. The fee for a three-year tobacco retailer's
6 license is \$210 for each tobacco retail location.

7 SECTION 10. Non-transferability. A tobacco retail license is
8 non-transferable, except, if a tobacco retailer changes location,
9 a new tobacco retail license will be issued for the new address
10 upon receipt of an application for change of location. The
11 license will retain the same expiration date as that previously
12 issued.

13 SECTION 11. It is prohibited for a retailer to sell
14 cigarettes not in a package provided by the manufacturer with
15 required health warnings.

16 SECTION 12. Penalty for Minors. A. Minors are prohibited
17 from purchasing tobacco products. Purchase by a minor of tobacco
18 products is hereby designated an infraction.

19 1. In the case of a ruling that a first infraction was
20 found to have been committed by a minor purchaser, the minor shall
21 be required to perform up to ten hours of community service.

22 2. In the case of a ruling that a second or two infractions
23 were found to have been committed by a minor purchaser, the minor
24 purchaser shall be required to perform a minimum of fifteen hours
25 community service.

26 3. In the case of a ruling that three or more infractions
27 were found to have been committed by a minor purchaser, the minor
28 purchaser shall be required to perform a minimum of twenty-five
29 hours community service.

30 B. Smoking cessation classes can be ordered in addition to or
31 in lieu of the community service for violations.

1 C. Each purchase by a minor shall constitute a separate
2 violation.

3 SECTION 14. Resolution 30668 as amended in its entirety and
4 K.C.C. 6.72.01 through 6.72.140 are repealed effective February 1,
5 1989.

6 SECTION 15. Should any section, subsection, paragraph,
7 sentence, clause or phrase of this ordinance be declared
8 unconstitutional or invalid for any reason, such decision shall
9 not affect the validity of the remaining portion of this ordinance.

10 INTRODUCED AND READ for the first time this 27th day
11 of June, 19 88.

12 PASSED this 19th day of September, 1988.

13 KING COUNTY COUNCIL
14 KING COUNTY, WASHINGTON

15 Gary Grant
16 Chairman

17 ATTEST:

18 Dorothy M. Owens
19 Clerk of the Council

20 APPROVED this 30 day of September, 1988.

21 Don Hill
22 King County Executive
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