

LOCAL LAW NO. 7-08  
CHAUTAUQUA COUNTY

A LOCAL LAW PROHIBITING THE USE AND POSSESSION OF TOBACCO PRODUCTS  
BY MINORS

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York, as follows:

Section 1. Finding and Intent

The Chautauqua County Legislature hereby finds that while the laws of New York State prohibit the sale and distribution of harmful tobacco products to minors, it is not illegal for children to use or possess tobacco products. Yet besides the well-documented health hazards of smoking, tobacco is a “gateway drug” used by young people, who may then go on to use alcohol and other illegal drugs. A study from the National Institute on Drug Abuse found that teens who smoke are fourteen (14) times more likely than nonsmokers to use alcohol, one hundred (100) times more likely to use marijuana, and thirty-two (32) more times likely to use cocaine. The Chautauqua County Legislature therefore declares the intent and purpose of this Local Law is to reduce all of the harmful effects and consequences of the use of tobacco products by minors.

Section 2. Unlawful Use and Possession of Tobacco by Minors

A. Except as hereinafter provided, no person under the age of eighteen (18) years shall possess, receive, purchase, sell, distribute, use, or consume tobacco products, as defined in Article 13-F of the New York State Public Health Law, or attempt any of the foregoing by fraudulent means or otherwise.

B. A person under the age of eighteen (18) years may possess but not use, purchase, sell, or distribute tobacco products in the course of employment, as may be permitted by other applicable law.

C. A person under the age of eighteen (18) years may possess, receive, or purchase, sell, or distribute tobacco products as part of a law enforcement actions on behalf of the Chautauqua County Department of Health or other law enforcement agencies.

Section 3. Enforcement

A. Whenever a peace officer as defined in Subdivision 33 of Section 1.20 of the New York Criminal Procedure Law or police officer as defined in Subdivision 34 of Section 1.20 of such law shall observe a person under eighteen (18) years of age openly in possession of tobacco product(s), said officer may seize the tobacco product(s), and shall deliver them to the custody of his or her department; provided, however, that nothing contained herein shall authorize, or construed to authorize, a peace officer or police officer to arrest or charge a person who unlawfully uses or possess tobacco products pursuant to this Local Law.

B. Any tobacco product(s) seized in violation of this Local Law are hereby declared a nuisance. The official to whom the tobacco product(s) have been delivered shall, no earlier than fourteen days after seizure, dispose of or destroy the tobacco product(s) seized or cause them to be disposed of or destroyed. Any person claiming ownership of tobacco product(s) seized under this Local Law may, within seven days after seizure, apply to any court of competent jurisdiction for an order preventing the destruction or disposal of the tobacco product(s) seized and ordering their return. Any such application shall be upon three days notice, exclusive of Saturdays, Sundays, and holidays, to the official or department in possession of the tobacco product(s). This court may order the tobacco products returned if it is determined that return of the tobacco products would be in the interest of justice or that the tobacco products were improperly seized.

Section 4. Effective Date

This Local Law shall become effective upon filing with the Secretary of State.

Mailed: 5/16/08

Adopted: 5/28/08

Public Hearing: 6/17/08

Adopted as Local Law 7-08