

FIRST READING: November 17, 2020

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 5 OF THE LOVELAND MUNICIPAL CODE AND CREATING CHAPTER 5.45 CONCERNING THE LICENSURE OF TOBACCO PRODUCT RETAILERS AND THE SALE OF TOBACCO PRODUCTS

WHEREAS, smoking rates in the U.S. have declined substantially since the Surgeon General's 1964 report, from 42 percent to now 13.7 percent; however, it remains one of the biggest public health problems in the United States as almost 500,000 Americans still die prematurely each year from diseases related to cigarette smoking. This makes up approximately 85% of deaths from lung cancer. In Colorado, like most other states, it is the number one cause of preventable death, and accounts for 5,100 deaths a year; and

WHEREAS, 95% of adult smokers started smoking before the age of 21 and each day more than 1,900 adolescents in the U.S. try their first cigarette; and

WHEREAS, after decades of effective anti-smoking campaigns and decreasing tobacco use rates in the U.S., youth tobacco use is now at its highest rate since 2000; and

WHEREAS, federal law now prohibits retailers from selling tobacco products to anyone under the age of 21, and over 540 U.S. localities and 32 states have enacted into law regulations prohibiting the sale of tobacco products to individuals under the age of 21 and

WHEREAS, research has shown that many teens obtain tobacco products from “social sources” (family and friends). With the minimum legal sale age set at 21 instead of 18, legal purchasers would be less likely to be in the same social networks as high school students and therefore less able to sell or give cigarettes to them.; and

WHEREAS, each day, about 1,900 children in the United States try their first cigarette; and another 250 children under 18 years of age become new regular, daily smokers; and

WHEREAS, the Centers for Disease Control and Prevention has reported that from 2017 to 2019, e-cigarette use more than doubled among high school students to 27.5 percent of students and more than tripled among middle school students to 10.5 percent of students; and

WHEREAS, the Colorado General Assembly adopted HB20-1001 raising the minimum age of sale for all tobacco products to twenty-one years of age; and

WHEREAS, HB20-1001 specifies that municipalities may adopt provisions that are more restrictive than what the General Assembly has provided in HB20-1001; and

WHEREAS, it is the intent of the Loveland City Council that each and every term proscribed herein does not impermissibly conflict with any state provisions, all relevant terms of this ordinance shall be interpreted in such a manner as to resolve conflicts in a manner that preserves the City's constitutional home rule authority under Article 20 Section 6 Colorado Constitution; and

WHEREAS, the City Council finds that this ordinance furthers and is necessary for the promotion of the public health, safety, and welfare to reduce the appeal of tobacco to youth and to reduce the likelihood that young people will become tobacco users by prohibiting Tobacco Product Retailers from selling, offering for sale, or possessing with the intent to sell, tobacco products, without a license or otherwise inconsistent with this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That a new Chapter 5.45 of the Loveland Municipal Code shall read as follows:

Chapter 5.45 - Licensing of Tobacco Retailers

5.45.005 - Incorporation of general licensing provisions.

The provisions of Chapter 5.04 of the Loveland Municipal Code shall apply to this Chapter except where they are specifically modified by the provisions of this Chapter.

5.45.010- Definitions.

The following definitions shall apply throughout this Chapter:

- 1) *Cigar* means any roll of tobacco other than a Cigarette wrapped entirely or in part in tobacco or any other substance containing tobacco. For purposes of this Chapter, cigar includes, but is not limited to tobacco products known or labeled as "cigar," "cigarillo," or "little cigar."
- 2) *Cigarette* means any product that contains tobacco or nicotine, that is intended to be burned or heated under ordinary conditions of use, and consists of or contains:
 - a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
 - b) Tobacco in any form that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by consumers as a cigarette; or

- c) Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1)(a) above; and
 - d) The term includes all “roll-your-own,” i.e., any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by consumers as tobacco for making cigarettes.
- 3) *Department* means the City of Loveland Police Department, or any agency or person designated by the City Manager to enforce or administer the provisions of this Chapter.
 - 4) *Electronic Smoking Device* means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.
 - 5) *Labeling* means written, printed, pictorial, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.
 - 6) *Licensee* means the owner or holder of a Tobacco Product Retailer License.
 - 7) *License* means a license authorizing a Tobacco Product Retailer to Sell Tobacco Products.
 - 8) *Licensing Administrator* means the person(s) within the City government designated with responsibilities by the City Manager for license issuance, renewal and collection of fees.
 - 9) *Manufacturer* means a Person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for Sale or distribution into the United States.
 - 10) *Minimum Legal Sales Age* means twenty-one (21) years of age or older.
 - 11) *Moveable Place of Business* means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and not a fixed-location store front or other permanent type of structure authorized for Sales transactions.
 - 12) *Package or Packaging* means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for Sale to a consumer.
 - 13) *Person* in this Chapter means any natural person, partnership, cooperative association, corporation, limited liability company, personal representative, receiver, trustee, assignee or other legal entity.
 - 14) *Sale or Sell* means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner, for any form of consideration or by any means whatsoever.
 - 15) *Self-Service Display* means the open display or storage of Tobacco Products in a manner that is physically accessible in any way to the general public without the assistance of the Retailer or employee of the Retailer and a direct person-to-person transfer between the purchaser and the Retailer or employee of the Retailer. A Vending Machine is a form of Self-Service Display.

- 16) *Tobacco Paraphernalia* means any item designed for the consumption, use, or preparation of Tobacco Products.
- 17) *Tobacco Product* means:
- a) Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but not limited to, cigarettes, cigars, chewing tobacco, pipe tobacco, snuff, bidis, snus, mints, or hand gels;
 - b) Any Electronic Smoking Device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
 - c) Any component, part, or accessory of a) or b), whether or not any of these contains tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, flavor enhancers, hookahs, and pipes or other Tobacco Paraphernalia, whether or not sold separately.
 - d) The term “Tobacco Product” does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food Drug, and Cosmetic Act.
- 18) *Tobacco Product Retailer* means any Person who engages in the Sale of Tobacco Products directly to the public, without regard to the quantity of Tobacco Products sold or offered for Sale. “Tobacco Product Retailer” includes, but is not limited to, any hookah bar, lounge or café, or any fixed-location store front or other permanent type of structure authorized for Sales transactions such as convenience stores, grocery stores, or tobacconist shops.
- 19) *Tobacco Product Retailing* means the act of Selling, offering for Sale or exchanging or offering to exchange, Tobacco Products.
- 20) *Vending machine* means any mechanical, electrical, or electronic self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses product.
- 21) *Youth Populated Area* means:
- a) a private or public kindergarten, elementary, middle, junior high, or high school; or
 - b) a library open to the public; or
 - c) a playground open to the public; or
 - d) a youth center, defined as a facility where children, ages 6 to 17, inclusive, come together for programs and activities; or
 - e) a recreation facility open to the public, defined as an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes. “Recreation facility” includes, but is not limited to, a gymnasium, playing court, playing field, and swimming pool; or
 - f) an arcade open to the public; or
 - g) a park open to the public or to all the residents of a private community; or
 - h) a licensed child-care facility or preschool.

5.45.020 - Minimum Legal Sales Age.

Tobacco Products shall not be sold to any person under the Minimum Legal Sales Age.

5.45.030 License requirements and prohibitions.

1) Tobacco Product Retailer License required.

- a) It shall be unlawful for any Person to act as a Tobacco Product Retailer in the City unless he or she has obtained a License and maintains the same in full force and effect pursuant to this Chapter for each location where Tobacco Product Retailing occurs.
- b) No License may be issued to authorize Tobacco Product Retailing anywhere other than at a fixed location that is designated in the License application and approved by the Licensing Administrator. Tobacco Product Retailing by a Moveable Place of Business is prohibited.
- c) Tobacco Product Retailing without a valid License is a nuisance as a matter of law.

2) Posting requirements.

- a) Each License shall be prominently displayed in a publicly visible location on the licensed premises.
- b) The requirement that Tobacco Products may not be sold to individuals under the Minimum Legal Sales Age shall be prominently displayed in a publicly visible location on the licensed premises.

3) Other Prohibitions.

- a) A Tobacco Product Retailer may only have one active License per location at one time. Every License is separate and distinct and specific to a designated location. The License cannot be assigned, delegated, sold, inherited or otherwise transferred between persons or transferred to a different location, except as provided in this Chapter. No Licensee shall exercise the privileges of any other License or delegate the privileges of its own License.
- b) A Person or entity may not apply for a License for a three-year period after a License has been revoked.
- c) No License shall be issued to any Person under twenty-one (21) years of age.
- d) No Licenses shall be issued for locations within 500 feet from schools or Youth Populated Areas, as measured by the shortest line from the nearest point of the property line of the parcel on which the school or youth populated area is located to the nearest point of the property line of the parcel on which the Tobacco Product Retailer is located. This restriction shall not apply to a Tobacco Product Retailer within 500 feet from a school or

Youth Populated Area if it can demonstrate it has been selling Tobacco Products in that location for at least one year before the date this section was enacted into law.

5.45.040 - Tobacco Product Retailer requirements and prohibitions.

Tobacco Product Retailers must abide by the following requirements and prohibitions:

- 1) No Person who is younger than eighteen years of age, shall, while employed by a Tobacco Product Retailer, sell, stock, retrieve, or otherwise handle Tobacco Products.
- 2) No Tobacco Product Retailer shall Sell or offer for Sale Tobacco Products by means of any Self-Service Display. Tobacco Product Retailers shall stock and display all Tobacco Products in a manner so as to make all such products inaccessible to customers without the assistance of a retail clerk, thereby requiring a direct face-to-face exchange of the Tobacco Product from an employee of the business to the customer.
- 3) No Tobacco Product Retailer shall Sell a Tobacco Product to anyone who appears to be under the age of fifty (50) years without first examining the identification of the recipient to confirm that the recipient is the Minimum Legal Sales Age.

5.45.050 - Application procedure.

- 1) An application for a License shall be submitted and signed by an individual authorized by the Person or entity making application for the License. It is the responsibility of each applicant or Licensee to be informed regarding all laws applicable to the regulation of Tobacco Products, including those laws affecting the issuance of said License. No applicant or Licensee may rely on the issuance of a License as a determination by the City that the proprietor has complied with all applicable Tobacco Product regulation laws.
- 2) All applications shall be submitted on a form supplied by the Licensing Administrator.
- 3) A licensed Tobacco Product Retailer shall inform the Licensing Administrator in writing of any change in the information submitted on an application for a License within thirty (30) business days of a change.
- 4) All License applications shall be accompanied by the payment in full of all fees as required in this Chapter.

5.45.060 - Issuance of a Tobacco Product Retailer License.

Upon the receipt of a completed application for a License as required by this Chapter, the Licensing Administrator shall sign and issue a License within thirty (30) days. Said period may be extended

by the Licensing Administrator for good cause unless substantial evidence demonstrates that one or more of the following bases for denial exists:

- 1) The information presented in the application is incomplete, inaccurate or false;
- 2) The applicant seeks authorization for a License at a location where this Chapter prohibits the issuance of a License;
- 3) The applicant seeks a License for a location that is not appropriately zoned for the use;
- 4) The applicant seeks authorization for a License and the applicant's current License is suspended or revoked;
- 5) The applicant is not qualified to hold the requested License under the provisions of this Chapter; or
- 6) The applicant and/or retail location is not in compliance with all City, state or federal laws;
- 7) The applicant is indebted to, or obligated in any manner to the City for unpaid taxes, liens or other monies as provided by the various City Departments (notwithstanding LMC 3.16.230, the Licensing Administrator shall receive sufficient information from the City's Finance Department); or
- 8) The payment of the licensing fee in the full amount chargeable for such License does not accompany such License application.

5.45.070 - Denial of Tobacco Product Retailer License.

- 1) If the Licensing Administrator denies the issuance of the License, the Licensing Administrator shall notify the applicant in writing by regular mail postage prepaid on the address shown in the application. The notice shall include the grounds for denial. Notice is deemed to have been properly given upon mailing.
- 2) An applicant has the right to appeal the Licensing Administrator's denial of an application to the "Hearing Officer" that shall be appointed by the City Manager. Such an appeal shall be initiated by filing a written request with the Licensing Administrator within twenty (20) days of the date of the notice of denial of the issuance of a License.

- 3) The applicant's failure to timely appeal the decision of the Licensing Administrator is a waiver of the applicant's right to contest the denial of the issuance of the License.
- 4) The appeal, including any right to further appeals, shall be conducted and controlled by the provisions of Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The standard of proof at such appeal shall be a preponderance of the evidence and the burden of proof shall be upon the applicant.

5.45.080 - License term, renewal and expiration.

- 1) All Licenses issued under this Code shall be for the period of one (1) year or a fraction thereof and shall expire on the last day of December of each calendar year unless otherwise specifically provided.
- 2) A Licensee shall apply for the renewal of the License and submit the renewal License fee no later than thirty (30) days prior to expiration of the existing term. The Licensing Administrator shall renew the License prior to the end of the term, provided that the renewal application and fee were timely submitted and the Licensing Administrator is not aware of any fact that would have prevented issuance of the original License or issuance of the renewal.
- 3) A License that is not timely renewed shall expire at the end of its term. The failure to timely obtain a renewal of a License requires submission of a new application. There shall be no Sale of any Tobacco Products after the License expiration date and before the new License is issued.

5.45.090 - License non-transferable.

- 1) A License shall not be transferred from one (1) person to another or from one location to another.
- 2) When a License has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new License for the remainder of the term of that License. All rights and privileges granted under the original License shall continue in full force and effect as to such survivors for the balance of the term of the License.

5.45.100 - Fee for License.

- 1) The annual fee for original issuance of a License for applications filed in 2021 shall be three hundred dollars (\$300). The fee to issue or to renew a License may be changed from time to time by resolution of the City Council. The fee shall be calculated so as to recover the direct and indirect costs of administration and enforcement of this Chapter, including, for example, issuing a License, administering the License program, retailer education and training, retailer inspection, compliance checks, community outreach and education, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Chapter. Fees are nonrefundable except as may be required by law. In addition, from time to time, as deemed appropriate by License Administrator, the License fee may be increased in accordance with Article X Section 20 of the Colorado Constitution.
- 2) All fees and interest from proceeds of License fees under this Chapter shall be deposited in a separate cash account established by the City. These funds are to be used exclusively to defray the costs of the local licensing program.
- 3) As part of the annual budget process, the amount of fees charged by the City pursuant to this Section shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the City in connection with the adoption, administration and enforcement of this Chapter.
- 4) Beginning with the fiscal 2022 budget, the amount of the fees charged by the City pursuant to this Section shall be fixed by City Council as part of its annual budget process. If, for any reason, such fees are not fixed by City Council as part of its annual budget process, the fees for the preceding year shall continue to in full force and effect until changed by City Council.

5.45.110 - Compliance monitoring.

- 1) Compliance monitoring of this Chapter shall be by the Department.
- 2) The Department shall inspect each Tobacco Product Retailer at least two (2) times per twelve (12) month period. The Department shall have discretion to consider previous compliance check history or prior violations in conducting more frequent compliance checks. Nothing in this paragraph shall create a right of action in any Licensee or other Person against the City or its agents.
- 3) Compliance checks shall be conducted as the Department deems appropriate so as to allow the Department to determine, at a minimum, if the Tobacco Product Retailer is conducting business in a manner that complies with laws regulating the Sale of Tobacco Products. When the Department deems appropriate, the compliance checks shall determine compliance with other laws applicable to Tobacco Products.

- 4) The Department is encouraged to conduct compliance checks by engaging persons between the ages of 18 and 20 to enter the Tobacco Product Retailer to attempt to purchase Tobacco Products. Unannounced follow-up compliance checks of all non-compliant Tobacco Product Retailers are required within three months of any violation of this Chapter. The results of all compliance checks shall be published by the Department, at least annually, and made available to the public upon request.

5.45.120 - Suspension or Revocation of License.

- 1) Any of the following shall be grounds for suspension or revocation of the Licensee's License:
 - a) A violation by a Licensee or Licensee's officers, agents, or employees of any of the provisions of this Chapter, or any laws of the United States, the State of Colorado or ordinances of the City relating to the regulation of Tobacco Products.
 - b) Violations of any conditions imposed by the Licensing Administrator or Hearing Officer in connection with the issuance or renewal of a License.
 - c) Failure to pay State or local taxes that are related to the operation of the business associated with the License.
 - d) Loss of right to possession of the licensed premises.
 - e) Fraud, misrepresentation, or a false statement of material fact contained in the original or renewal license application.
- 2) The City Manager shall appoint a Hearing Officer to hear all actions relating to the suspension or revocation of Licenses pursuant to this Chapter. The Hearing Officer shall have the authority to suspend, revoke, or impose remedial sanctions for violations.
- 3) The Licensing Administrator and/or the Department shall commence suspension or revocation proceedings by petitioning the Hearing Officer to issue an order to the Licensee to show cause why the Licensee's License should not be suspended or revoked. The Hearing Officer shall issue such an order to show cause if the petition demonstrates that probable cause exists to determine that one or more grounds exist pursuant to this LMC Section 5.45.120 to suspend or revoke the Licensee's License. The order to show cause shall set the matter for a public hearing before the Hearing Officer.

- 4) Notice of the order to show cause and hearing date shall be mailed to Licensee by regular mail, postage prepaid, at the address shown on the License no later than thirty (30) days prior to the hearing date. Notice is deemed to have been properly given upon mailing.
- 5) The notice to show cause hearing and any subsequent right to appeal shall be conducted and controlled by the provisions of Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The standard of proof at such hearings shall be a preponderance of the evidence and the burden of proof shall be upon the Licensing Administrator and/or Department. The Licensee's failure to timely respond or appeal the decision is a waiver of the Licensee's right to contest the suspension or revocation of the License.
- 6) In determining whether a License should be suspended or revoked, and in determining whether to impose conditions in the event of a suspension, the Hearing Officer shall consider the following factors:
 - a) The nature and circumstances of the violation; and
 - b) Corrective action, if any taken by the Licensee; and
 - c) Prior violations, if any by the Licensee; and
 - d) The likelihood of recurrence of the violation; and
 - e) Whether the violation was willful; and
 - f) Previous sanctions, if any, imposed on the Licensee.

5.45.130 - Penalties and fines.

- 1) In addition to any other penalty authorized by law, and if the Hearing Officer determines based on a preponderance of the evidence, that the Tobacco Product Retailer, or any of its agents or employees, has violated any of the requirements, conditions, or prohibitions of this Chapter, or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law relating to the Sale of Tobacco Products, including, but not limited to, C.R.S. section 18-13-121, the Hearing Officer shall impose sanctions consistent with C.R.S. section 44-7-106, as amended from time to time, upon a Tobacco Product Retailer.
- 2) After the effective date of this ordinance, it shall be unlawful for any Tobacco Product Retailer to Sell or offer for Sale a Tobacco Product without a License as mandated under this Chapter, or with a suspended or revoked License. The Hearing Officer may impose civil penalties consistent with C.R.S. section 44-7-106, as amended from time to time. A Tobacco Product Retailer whose License has been suspended or revoked shall not display Tobacco Products in public view or otherwise offer for Sale, market, or advertise Tobacco Products for Sale in the City during the timeframe in which the License is suspended or revoked.

5.45.140 - Enforcement.

- 1) The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity. In addition to other remedies provided by this Chapter or by other law, any violation of this Chapter may be remedied by a civil action brought by the City Attorney, including but not limited to nuisance abatement proceedings and injunctive relief.
- 2) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall cause the offender to be subject to the penalties set forth herein or in the Loveland Municipal Code.
- 3) When this Chapter makes reference to an act being “unlawful” the City may, upon a determination of probable cause, prosecute any person so alleged in Loveland Municipal Court consistent with LMC 1.12.010(A).

5.45.150 - No Rights in License.

Every License issued under this Chapter confers only a limited and conditional privilege subject to the requirements, conditions, limitations and qualifications of this Chapter. The License does not confer a property right of any kind. The License and privilege created by the License may be further regulated, limited or completely extinguished at the discretion of City Council or the electorate of the City, as provided in this Chapter, without any compensation to the Licensee. Nothing contained in this Chapter grants to any Licensee any vested right to continue operating under the provisions of this Chapter as they existed at the time the License was approved or issued, and every License shall be subject to any ordinance or prohibition adopted after the License was approved or issued.

5.45.156 – No Conflict with Federal or State Law

Nothing in this Chapter is intended to and shall not be interpreted or applied so as to create any impermissible conflict with federal or state law.

5.45.160 - Effective Date.

This Chapter shall become effective as of January 1, 2021 and enforceable on and after that date. Any Tobacco Product Retailer without a License after July 1, 2020 will be in violation of this Chapter.

Section 2: This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances

repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 3: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 4. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this ____ day of _____, 2020.

CITY OF LOVELAND, COLORADO:

Jacki Marsh, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AN ORDINANCE AMENDING TITLE 5 OF THE LOVELAND MUNICIPAL CODE AND CREATING CHAPTER 5.45 CONCERNING THE LICENSURE OF TOBACCO PRODUCT RETAILERS AND THE SALE OF TOBACCO PRODUCTS