

CITY OF BOISE

To: Mayor and Council

FROM: Jodi Nafzger, Assistant City Attorney

ORDINANCE NUMBER: O-28-09

DATE: June 17, 2009

SUBJECT: Amendment to existing tobacco ordinance, BCC § 6-1-4

ACTION REQUIRED: Ordinance approval

BUDGET IMPACT: None

BACKGROUND: The Mayor's Office and Chief Masterson requested that Legal prepare an ordinance to prohibit access by minors to retail tobacco businesses. This is a penal ordinance companion to another new ordinance regulating retail tobacco businesses. The proposed ordinance is attached, specifically amending Boise City Code § 6-1-4, to prohibit access to minors, to require that tobacco retailers check photographic identification at the entrance(s) to the premises, and to require persons to present photographic identification when requested by law enforcement.

ORDINANCE NO. _____

BY THE COUNCIL:

BISTERFELDT, CLEGG, EBERLE, JORDAN,
SHEALY AND TIBBS

AN ORDINANCE AMENDING BOISE CITY CODE TITLE 6, CHAPTER 1, SECTION 4, ENTITLED “USE OF TOBACCO BY MINORS; SALES TO MINORS” TO ADD A SECTION PROHIBITING ACCESS BY MINORS TO RETAIL TOBACCO BUSINESSES, TO REQUIRE RETAIL TOBACCO BUSINESSES TO CHECK IDENTIFICATION OF PATRONS AT THE ENTRANCE, TO REQUIRE PERSONS TO PRESENT IDENTIFICATION TO LAW ENFORCEMENT UPON REQUEST WHILE ON PREMISE OF A RETAIL TOBACCO BUSINESS, TO PROVIDE FOR PENALTIES, AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:

Section 1. That Title 6, Chapter 1, Section 4, Boise City Code, be, and the same is hereby amended to read as follows:

Section 6-01-04 USE OF TOBACCO BY MINORS; SALES TO MINORS

A. Every person under eighteen (18) years of age who shall buy, accept, or have in his or her possession any cigarette, cigar or tobacco in any form, or any cigarette paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or compounds of tobacco used in the filling or makeup of cigarettes, shall be guilty of a misdemeanor.

B. Every person who shall give, sell or furnish, directly or indirectly, any cigarettes, cigars or tobacco in any form or any cigarette paper or other paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or any compound of tobacco used in the filling or makeup of cigarettes, or any other equipment or materials used for the consumption of tobacco to any person under the age of eighteen (18) years, or shall permit such minor persons to frequent any premises owned, held or managed by him for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be guilty of a misdemeanor.

C. No person under the age of eighteen (18) years shall enter, remain, or loiter in or about the premises of any retail tobacco business, as defined by Boise City Code § 5-09-01J, nor shall any owner, employee, agent or other person in charge of such business permit or allow any person under the age of eighteen (18) years to enter, remain, or loiter in or

about the premises of such place. Any person who violates this section shall be guilty of a misdemeanor.

D. Every retail tobacco business shall employ a person to sit or stand at each entrance to the retail tobacco business and such person shall demand photographic identification, as defined by Boise City Code § 5-09-01E, from each person desiring entrance to the business. The failure of the owner, employee, agent or other person in charge of the business to demand and examine photographic identification from all persons prior to the entry into a retail tobacco business shall be a misdemeanor.

E. It shall be a misdemeanor for a person under the age of eighteen (18) years to provide false identification, or make any false statement, regarding his or her age in an attempt to obtain tobacco products, as defined by Boise City Code § 5-09-01K, or enter a retail tobacco business, as defined by Boise City Code § 5-09-01J.

F. It shall be a misdemeanor for any person to refuse to present identification indicating age, when requested by a peace officer of the state of Idaho when: (a) he or she shall possess, purchase, attempt to purchase or use tobacco products, as defined by Boise City Code § 5-09-01K; or (b) he or she is on the premise of a retail tobacco business, as defined by Boise City Code § 5-09-01J.

G. Exceptions:

1. A person under the age of eighteen (18) years who is assisting with a random unannounced inspection in accordance with Idaho Code § 39-5710(2) shall not be in violation of this chapter.

2. A person under the age of eighteen (18) years may possess, but not sell or distribute tobacco products, in the course of employment, for duties such as stocking shelves or carrying purchases to customers' vehicles.

3. A person under the age of eighteen (18) years may enter a tobacco business temporarily with a parent or guardian in order for the parent or guardian to purchase tobacco products.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the Council of the City of Boise, Idaho, this _____ day _____ of _____, 2009.

APPROVED by the Mayor of the City of Boise, Idaho this _____ day of _____, 2009.

ATTEST:

APPROVED:

CITY CLERK

MAYOR