

By Ms. Wilkerson, a petition (accompanied by bill, Senate, No. 178) of Dianne Wilkerson, David Paul Linsky and Richard T. Moore for legislation to ban the sale of tobacco through the use of vending machines. Community Development and Small Business.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT BANNING THE SALE OF TOBACCO THROUGH THE USE OF VENDING MACHINES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 270 of the General Laws, as appearing in the 2000  
2 Official Edition, is hereby amended by inserting after section 22  
3 the following new section:—

4 Section 23. Notwithstanding any general or special law to the  
5 contrary, it shall be unlawful for any person or entity to sell or  
6 distribute any tobacco product through a vending machine within  
7 the Commonwealth. For purposes of this section, “vending  
8 machine” shall mean any machine or device used for the distribu-  
9 tion of tobacco products upon the insertion of coins, trade checks,  
10 slips or any other form of payment. Any person or entity who sells  
11 or distributes any tobacco product through a vending machine  
12 within the Commonwealth shall:

13 1. In the case of a first violation of this section, receive a fine  
14 of one hundred dollars;

15 2. In the case of a second violation of this section, receive a  
16 fine of two hundred dollars; and

17 3. In the case of a third or subsequent violations, receive a fine  
18 of three hundred dollars.

19 Each day on which a violation exists shall be deemed to be a  
20 separate offense for the purposes of this section. The Common-  
21 wealth or its agents, including, but not limited to, the attorney  
22 general, the department of public health, the state police, any

23 municipal government or its agent, any board of health or its  
24 agent, or any local policy may enforce the provisions of this  
25 section.

26 If the enforcing authority is a board of health or its authorized  
27 agent, any violation of this section may be disposed of by the non-  
28 criminal method of disposition procedures contained in section  
29 twenty-one D of chapter forty without an enabling ordinance or  
30 bylaw. If non-criminal procedures are employed, the fine for the  
31 first violation shall be one hundred dollars, the fine for the second  
32 violation shall be two hundred dollars, and the fine for the third or  
33 subsequent violations shall be three hundred dollars. Each day on  
34 which a violation exists shall be deemed to be a separate offense  
35 for the purposes of this section. Enforcing authorities are autho-  
36 rized and shall adopt appropriate regulations that provide for the  
37 orderly implementation of this section. In the city of Boston, the  
38 commissioner of health and his authorized agents shall enforce  
39 this section.

40 Nothing in this section shall be construed to preempt the  
41 authority of any local government, board of health or health  
42 agency to promulgate, enact or enforce any law, ordinance, bylaw  
43 or regulation which requires a permit for the sale of tobacco prod-  
44 ucts, or which regulates the sale, use or distribution of tobacco  
45 products.