

By Mrs. Walrath of Stow, petition of Patricia A. Walrath, other members of the General Court and another for legislation to protect the public health by banning the public distribution of free smoking or tobacco products for commercial purposes. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT TO PROTECT THE PUBLIC HEALTH BY BANNING THE PUBLIC DISTRIBUTION OF FREE SMOKING OR TOBACCO PRODUCTS FOR COMMERCIAL PURPOSES.

*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 is hereby amended by  
2 inserting, after section 22, the following section:—

3 Section 23. (a) No person, manufacturer, distributor, or retailer  
4 shall distribute, or cause to be distributed free samples of ciga-  
5 rettes, smokeless tobacco or other tobacco product for any com-  
6 mercial purposes in or upon any part of the streets, parks public  
7 grounds, publicly owned buildings, or other public places within  
8 the Commonwealth. Any person who violates this section shall be  
9 punished by a fine of not less than \$25 nor more than \$50 for each  
10 day on which any such violation occurs. Each such day shall con-  
11 stitute a separate offense.

12 (b) In addition to other authorized persons, the department of  
13 public health, local boards of health and in Boston the commis-  
14 sioner of health and hospitals shall enforce the provisions of this  
15 section. Any such enforcing authority or its authorized agent may  
16 dispose of a violation of this section pursuant to the noncriminal  
17 disposition procedures in section 21D of chapter 40 without an  
18 enabling ordinance or by-law. If non criminal procedures are  
19 employed, the fine for a first offense shall be \$25, the fine for the  
20 second offense shall be \$35, and the fine for a third or subsequent  
21 offense shall be \$50.

22 (c) Enforcing authorities may adopt appropriate regulations  
23 providing for the orderly implementation of the section.

24 (d) Nothing in this section shall be construed to preempt the  
25 authority of any municipal government, board of health or health  
26 agency to promulgate, enact, or enforce any law, ordinance, by-  
27 law, or regulation that requires a permit or license for the sale of  
28 tobacco products or that regulates the sale, use or distribution of  
29 tobacco products.