

SENATE . . . . . No. 1119

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act modernizing tobacco control and protecting the health of minors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	First Worcester
Jeffrey Sánchez	15th Suffolk
Jonathan Hecht	29th Middlesex
Barbara L'Italien	Second Essex and Middlesex
Sal N. DiDomenico	Middlesex and Suffolk
Denise Provost	27th Middlesex
Jason M. Lewis	Fifth Middlesex
John F. Keenan	Norfolk and Plymouth
Jeffrey N. Roy	10th Norfolk
William N. Brownsberger	Second Suffolk and Middlesex
Gailanne M. Cariddi	1st Berkshire
Carolyn C. Dykema	8th Middlesex
James M. Cantwell	4th Plymouth
Angelo J. Puppolo, Jr.	12th Hampden
Michael J. Barrett	Third Middlesex
Marjorie C. Decker	25th Middlesex
James B. Eldridge	Middlesex and Worcester
Danielle W. Gregoire	4th Middlesex

<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>

**SENATE . . . . . No. 1119**

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By Ms. Chandler, a petition (accompanied by bill, Senate, No. 1119) of Harriette L. Chandler, Jeffrey Sánchez, Jonathan Hecht, Barbara L'Italien and other members of the General Court for legislation relative to modernizing tobacco control and protecting the health of minors. Public Health.

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The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
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An Act modernizing tobacco control and protecting the health of minors.

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

1 SECTION 1. Section 2A of chapter 71 of the General Laws is hereby amended by  
2 inserting after the word “use”, in line 3, the following words:- “a tobacco product, as defined in  
3 section 6 of chapter 270,”.

4 SECTION 2. Section 37H of chapter 71 of the General Laws is hereby amended by  
5 inserting after the word “use”, in line 3, the following words:- “a tobacco product, as defined in  
6 section 6 of chapter 270,”.

7 SECTION 3. Chapter 94 of the General Laws is hereby amended by striking out section  
8 307C, as appearing in the 2012 Official Edition, and inserting in place thereof the following  
9 section: -

10 Section 307C. The department of public health may, in consultation with the attorney  
11 general and the department of revenue, establish regulations for persons engaged in the sale or

12 shipment of a tobacco product, as defined in section 6 of chapter 270, in any of its forms, to  
13 prevent the sale or delivery of a tobacco product in any of its forms to children under 18 years of  
14 age in the commonwealth.

15 SECTION 4. Chapter 270 of the General Laws is hereby amended by striking out section  
16 6, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

17 Section 6. (a) As used in this section, the following terms shall have the following  
18 meanings:

19 “Manufacturer”, any person who manufactures or produces a tobacco product in any of  
20 its forms.

21 “Retail establishment”, any physical place of business or section of a physical place of  
22 business where a tobacco product in any of its forms is offered to consumers, and which also  
23 includes portions of any physical place of business where vending machines that dispense a  
24 tobacco product in any of its forms are located.

25 “Retail tobacco store”, an establishment which is not required to possess a retail food  
26 permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, a  
27 tobacco product in any of its forms and paraphernalia in which the sale of other products is  
28 merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times,  
29 and maintains a valid permit for the retail sale of a tobacco product in any of its forms as  
30 required to be issued by the appropriate authority in the city or town where the establishment is  
31 located.

32 “Retailer”, any person who operates a store or concession for the purposes of making  
33 sales of a tobacco product in any of its forms at retail, and any person selling a tobacco product  
34 in any of its forms through vending machines.

35 “Smoking bar”, an establishment that occupies exclusively an enclosed indoor space and  
36 that primarily is engaged in the retail sale of a tobacco product in any of its forms for  
37 consumption by customers on the premises; derives revenue from the sale of food, alcohol or  
38 other beverages that is incidental to the sale of a tobacco product in any of its forms; prohibits  
39 entry to a person under the age of 18 years of age during the time when the establishment is open  
40 for business; prohibits any food or beverage not sold directly by the business to be consumed on  
41 the premises; maintains a valid permit for the retail sale of a tobacco product in any of its forms  
42 as required to be issued by the appropriate authority in the city or town where the establishment  
43 is located; and, maintains a valid permit to operate a smoking bar issued by the department of  
44 revenue.

45 “Tobacco product”, any product containing, made, or derived from tobacco or nicotine  
46 that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled,  
47 snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars,  
48 little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars,  
49 electronic pipes, or other similar products that rely on vaporization or aerosolization. “Tobacco  
50 product” includes any component, part, or accessory of a tobacco product. “Tobacco product”  
51 does not include any product that has been approved by the United States Food and Drug  
52 Administration for sale as a tobacco cessation product and is being marketed and sold solely for  
53 the approved purpose.

54 (b) No person shall sell a tobacco product in any of its forms to any person under the age  
55 of 18 or, not being his parent or guardian, give a tobacco product in any of its forms to any  
56 person under the age of 18.

57 (c) No manufacturer or retailer shall distribute or cause to be distributed any free samples  
58 of a tobacco product in any of its forms in any retail establishment, excluding retail tobacco  
59 stores and smoking bars.

60 (d) Anyone in violation of the provisions of this section shall be punished by a fine of not  
61 less than 100 dollars for the first offense, not less than 200 dollars for a second offense and not  
62 less than 300 dollars for any third or subsequent offense.

63 (e) The Department of Public Health shall promulgate regulations for implementation of  
64 the provisions of this section.

65 (f) Nothing in this section shall permit the sale of a tobacco product in any of its forms in  
66 which such sale is prohibited or may hereafter be prohibited by law including, without limitation,  
67 any other law or ordinance or by-law or any fire, health or safety regulation. Nothing in this  
68 section shall preempt further limitation of the sale of a tobacco product in any of its forms by the  
69 commonwealth or any department, agency or political subdivision of the commonwealth.

70 SECTION 5. Section 22 of chapter 270 of the General Laws is hereby amended by  
71 striking out, in subsection (a) in lines 90 to 92, as appearing in the 2012 Official Edition, the  
72 definition for “Smoking” or “Smoke”, and inserting in place thereof the following definitions:-

73 “Smoking” or “smoke”, the inhaling, exhaling, burning, or carrying of any lighted or  
74 heated cigar, cigarette, pipe or other tobacco product or plant product intended for inhalation in

75 any manner or any form. “Smoking” or “smoke” also includes the use of electronic cigarettes,  
76 electronic cigars, electronic pipes, or other similar products that rely on vaporization or  
77 aerosolization.