

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

~~City~~

of ERIE

~~Town~~

~~Village~~

Local Law No. 4 of the year 19 97

A local law in relation to self-service sale of tobacco products.
(Insert Title)

Be it enacted by the LEGISLATURE of the
(Name of Legislative Body)

County

~~City~~

of ERIE as follows:

~~Town~~

~~Village~~

Section 1. Legislative finding. Cigarette smoking has been proven to be harmful to the public health. It is further found that the great majority of all smokers begin smoking by their teenage years, and that the most frequent ages for beginning smoking are under the age of eighteen.

§2. Purpose. It is the purpose of this local law to aid enforcement of laws prohibiting the sale of tobacco to minors, and to reduce minors' access to tobacco by requiring tobacco sales to be made by personal transactions.

§3. Definitions. For the purposes of this local law, the following terms shall have the following meanings:

- a. "Person" shall mean any individual, partnership, corporation, association, or any combination of individuals and corporations, by whatever means organized;
- b. "Retailer" shall mean any person who operates a store, shop, booth, stand, concession, or any other place where tobacco is sold to purchasers for consumption or use;
- c. "Tobacco" means any cigarette, cigar, pipe tobacco, loose tobacco, chewing tobacco, smokeless tobacco, snuff, or any other form of tobacco which may be smoked, inhaled, chewed, or in any other manner ingested.

§4. Self service sales prohibited. No retailer shall display or store tobacco in any manner which permits direct customer access or customer self service, whether by shelf display, counter display, kiosk, vending machine, or other means of open display of tobacco. This provision shall not apply to the sale of tobacco products in vending machines located in a bar as defined in subdivision

(If additional space is needed, attach pages the same size as this sheet, and number each.)

two of section 1399-n of the public health law; in the bar area of a food service establishment with a valid on-premises full liquor license; or in a tobacco business as defined in subdivision thirteen of section 1399-n of the public health law.

§5. Penalties and enforcement. A violation of section four of this local law shall be a violation punishable by a fine not to exceed five hundred dollars. Every police officer, deputy sheriff, and person designated by the Erie county commissioner of health, within the county of Erie, is authorized to issue to any person found in violation of this local law, an appearance ticket to appear before a hearing officer designated by the Erie county commissioner of health. The Erie county commissioner of health is authorized to enforce this local law by administrative proceedings held in accordance with the provisions of section five of article one of the Erie county sanitary code.

§6. Repeals. Erie county local law number two of nineteen hundred ninety, entitled "A LOCAL LAW in regard to the location of cigarette vending machines in Erie county", is hereby REPEALED. Erie county local law number one of nineteen hundred ninety-three, entitled "A LOCAL LAW in regard to the prohibition of cigarette sales through vending machines", is hereby REPEALED.

§7. This local law shall be effective on the first day of the third month following its adoption.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 1997 of the (County)(City)(Town)(Village) of ERIE was duly passed by the ERIE COUNTY LEGISLATURE on MAY 1, 1997, and was (approved)(not disapproved)(repassed after ~~disapproval~~) by the COUNTY EXECUTIVE and was deemed duly adopted on JUNE 2, 1997.
(Name of Legislative Body) (Elective Chief Executive Officer*)
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2, above.



Clerk of the County Legislative Body, City, Town or Village Clerk
or officer designated by local legislative body

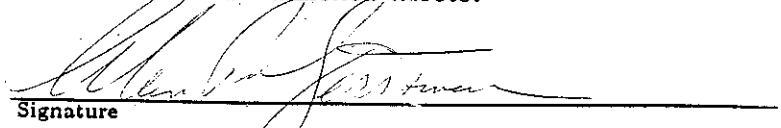
(Seal)

Date: June 9, 1997

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

1st Assistant County Attorney
Title

County
~~City~~
~~Town~~
~~Village~~ of ERIE

Date: June 9, 1997