

ORDINANCE NO. 98-5

AN ORDINANCE BANNING THE SELLING OR FURNISHING OF CIGARETTES OR TOBACCO PRODUCTS TO MINORS AND THE POSSESSION OF SAID PRODUCTS BY MINORS IN THE CITY OF GALENA, AND ESTABLISHING PENALTIES THEREOF.

Be it resolved by the governing body of the city of Galena that the following regulations shall be in effect in the corporate limits of Galena:

Section 1: Purchase or Possession of Tobacco Products by A Minor. It shall be unlawful for any person:

- (a) Who is under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products; or
- (b) Who is under 18 years of age to possess or attempt to possess cigarettes or tobacco products,
- (c) Violation of this section shall be an ordinance cigarette or tobacco infraction for which the fine shall be \$25.

Section 2: Selling, Giving, or Furnishing Cigarettes or Tobacco Products to a Minor.

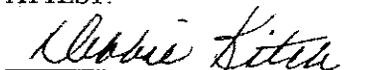
- (a) It shall be unlawful for any person, directly or indirectly to:
 - (1) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age;
 - (2) Buy any cigarettes or tobacco products for any person under 18 years of age. In determining the penalty to be imposed for a violation of this subsection by a licensed retail dealer whose employee sold, furnished or distributed the cigarettes, or tobacco products, the court shall consider it to be a mitigating circumstance if the employee had completed a training program approved by the secretary of revenue or the secretary's designee, in avoiding sale, furnishing or distributing of cigarettes and tobacco products to persons under 18 years of age.
- (b) It shall be a defense to a prosecution under this subsection if:
 - (1) The defendant is a licensed retail dealer or a person authorized by law to distribute samples;
 - (2) The defendant sold, furnished or distributed the cigarettes or tobacco products to the person under 18 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes or tobacco products; and
 - (3) To purchase or receive the cigarettes or tobacco products, the person under 18 years of age exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes or tobacco product.
- (c) It shall be a defense to a prosecution under this subsection if:
 - (1) The defendant engages in the lawful sale, furnishing or distribution of cigarettes or tobacco products by mail; and
 - (2) The defendant sold, furnished or distributed the cigarettes or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was 18 or more years of age.
- (d) Violation of this section shall constitute a Class B violation punishable by a minimum fine of \$200.

Section 3: This ordinance shall take effect and be in full force from and after its publication in the official city newspaper, the Galena Sentinel-Times.

Passed by the Governing Body of the city of Galena, this 4th day of February, 1998.


Mark LaTurner, Mayor

ATTEST:


Debbie Kitch, City Clerk

(SEAL)