

TITLE 4: ECONOMIC RESOURCES
DIVISION 5: BUSINESS REGULATION

§ 50138. Condition of Premises.

(a) *Cigarettes Maintained in a Secured Area.* Retail establishments shall ensure that cigarettes are displayed in accordance with this subsection. Cigarettes may not be sold nor displayed individually, but in quantities of not less than 20 cigarettes per package. Individual cigarette packages shall not be displayed in any manner in any part of a retail establishment generally open to the public, unless such packages are contained in a locked cabinet or other secured casing located behind, underneath, or adjacent to the cashier counter, which can be opened only by the owner or an authorized agent of the retail establishment. Cigarette cartons containing not less than 10 individual cigarette packages and tobacco products other than cigarettes may be displayed openly.

(b) *Cigarette Vending Machines.* The sale of cigarettes from vending machines is prohibited unless the vending machine is located in a bar, cabaret, or any establishment for which the minimum age for admission is 18 years.

Source: PL 11-75, § 10, modified; subsection (a) amended by PL 11-88, § 3.

Commission Comment: PL 11-88 which amended subsection (a) of this section took effect on August 3, 1999. PL 11-88 contained purpose, findings, severability, and savings clauses as follows:

Section 1. Purpose. The purpose of this Act is to amend Public Law No. 11-75 by clarifying the provisions of Section 10(a) with respect to cigarettes displayed in retail establishments.

Section 2. Findings. The Legislature finds that the manner in which tobacco products, especially cigarettes, are displayed in retail establishments influences to some extent the total amount of sales for such products. That is, more tobacco products are likely to be sold if the display is attractive and accessible to consumers. While the Legislature is aware and accepts the fact that display of tobacco products, especially cigarettes, bears some direct relationship to sales, every precautionary requirement and penalty mandated by Public Law No. 11-75 must be strictly enforced to prevent a minor's access to such products.

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way

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modifying, any liability civil or criminal, which shall already be in existence on the date this Act becomes effective.