

Public Health Law Update: A Summary of Cumberland Farms v. Board of Health of Braintree, SJC-13613 (January 15, 2025)

The Supreme Judicial Court, Massachusetts' highest court, ruled last week that local public health officials have the authority to hold administrative hearings and impose fines for violations of the state tobacco sales law, G.L. ch. 270 §28 and the regulations issued pursuant to the Act 105 CMR 665.000. This case threatened to make enforcement of the state law much more difficult by requiring the filing of a criminal complaint for each violation.

In this case, Cumberland Farms appealed a decision by the Braintree Board of Health finding Cumberland Farms had violated the prohibition on the sale of flavored tobacco products and issuing a \$1000 fine for the violation. In response, Cumberland Farms filed a lawsuit against the Braintree Board and argued that the Board lacked the legal authority under 105 CMR 665.000 to impose fines administratively. Cumberland Farms also claimed that the Braintree Board was instead required to file a criminal complaint. The Massachusetts Association of Health Boards, the Public Health Advocacy Institute, and the Massachusetts Department of Public Health all submitted amicus briefs (i.e. position papers submitted to the Court by interested third parties) emphasizing the important and long-standing role played by local boards of health in tobacco control.

The Court disagreed with Cumberland Farms and decided that “the legislative and regulatory scheme governing the sale of tobacco products in Massachusetts expressly contemplates enforcement by local boards of health and permits them to administratively impose the mandatory penalties.” The Court further stated that boards of health are not required to adopt by regulation procedures governing such hearings, provided they followed the enforcement procedure in 105 CMR 665.000 when enforcing provisions of the state law G.L. ch. 270. Those enforcement procedures are included in the new model regulations published on the websites for the Massachusetts Association of Health Boards and the Massachusetts Health Officers Association.

What does this mean for local tobacco control?

1. Local boards of health have the authority to enforce the mandatory fines for violations of state tobacco sales laws through an administrative hearing.
2. A city or town is not required to update their local regulations in order to enforce provisions of the state law, including the minimum sales and flavored tobacco restriction, provided the local board of health follows the procedure promulgated by DPH in 105 CMR 665.010.

Link to Decision: <https://www.mass.gov/files/documents/2025/01/15/z13613.pdf>