

NATO News

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Special Report

Update on Corrective Statement Signs in Retail Stores

Beginning July 1, 2023, Altria Group Inc., Philip Morris USA Inc., R.J. Reynolds Tobacco Company, and ITG Brands LLC, through Footprint Solutions, a third-party vendor, will begin installing one, two, or three Corrective Statement signs in each retail store across the United States that have manufacturer cigarette promotion programs in place. The installation of these Corrective Statement signs will continue through September 30, 2023.

Background: In 1999, the United States Government sued the major cigarette companies asserting claims under various federal laws. In 2006, a federal judge entered judgment in favor of the Government on certain claims and, among other things, ordered Altria Group Inc., Philip Morris USA Inc., and R.J. Reynolds Tobacco Company to make “corrective statements” on certain cigarette health-related topics. ITG Brands LLC became a party to the litigation for purposes of the court-ordered remedies when it purchased four cigarette brands from R.J. Reynolds Tobacco Company in 2015.

In July of 2022, these manufacturers reached a settlement agreement with the Federal Government, as represented by the U.S. Department of Justice, and several public health organizations that intervened in the lawsuit regarding how the court-ordered “corrective statement” signage will be displayed in retail stores. Both the National Association of Tobacco Outlets (NATO), and the National Association of Convenience Stores (NACS), participated in the settlement negotiations. As part of the settlement agreement, these manufacturers were required to amend their cigarette program agreements with retailers to require the placement of one, two, or three corrective-statement signs in retail stores. A store that does not have a retail promotional contract with any of these three manufacturers is not required to display corrective statement signage.

Corrective-Statement Signs: The following corrective-statement sign requirements are a part of the settlement agreement and apply to all retail stores which have cigarette retail program agreements with any of the three manufacturers:

For regular stores that are not a kiosk-style store, one 348 square inch corrective statement sign will be displayed. The sign will be either square (18.655” x 18.655”) or rectangular

(32" x 10.875"). The sign will need to be displayed in one of four locations based on the following order: (1) attached to or within 6" above the main cigarette display, (2) attached to or within 6" adjacent to the main cigarette display, (3) within 48" of either the main store entrance that can be seen by customers as they enter the store and the bottom of the sign is at least 48" above the ground or floor of the store or within 48" of the cash register that can be seen by customers as they approach or are standing at the cash register and the bottom of the sign is at least 48" above the floor of the store, or (4) either perpendicular to a main cigarette display and at least 48" above the floor or on a wall in front of a recessed main cigarette display but in a plane parallel to the front of the display and at least 48" above the floor. If none of these four display operations are possible, then a retailer may request the Working Group for permission to use an alternative sign placement location.

For retail stores that are not a kiosk-style store and have more than 9' of horizontal linear visible display space devoted to the manufacturers' cigarette brands, a second 348 square inch corrective-statement sign will be displayed and placed in one of the four locations as the first sign.

For retail stores that are not a kiosk-style store and that have cigarette promotional signage displayed elsewhere in the store other than on the main cigarette display (and excluding signage that only identifies the brand, price, or has a picture of a pack of cigarettes), an additional 144 square inch corrective statement sign will be displayed within 48" of the main store entrance. The sign will be either square (12" x 12") or rectangular (20" x 7.2").

For kiosk-style stores, which are those stores that either (1) do not allow customers to enter and that have a selling window between the customer and store personnel, or (2) that are no more than 325 square feet in area, not including restrooms, regardless of whether customers are allowed to enter the store, one 144 square inch sign will need to be displayed near the transaction window or near the cash register. The sign can be either square (12" x 12") or rectangular (20" x 7.2").

The manufacturers have printed the corrective-statement signs which include 17 different court-ordered corrective-statement messages. The signs will be randomly distributed by the manufacturers through Footprint Solutions to stores across the country.

Display Period: Each retailer that is required to have one, two, or three Corrective Statement signs must keep the sign(s) continuously displayed through June 30, 2025. Photos of the signs as placed in all stores will be uploaded to a database to confirm a store's compliance with the settlement agreement. Mid-way between October 1, 2023 and June 30, 2025, the manufacturers, through Footprint Solutions, will rotate the signs in stores by replacing existing signs with signs that have a different court-ordered corrective statement message. As of July 1, 2025, the terms of the settlement agreement will have been fulfilled and the corrective statement signage will be removed from retail stores.

Retail Compliance and Non-Compliance: If a retailer complies with the terms of the settlement agreement by displaying the required sign or signs, the retailer will not incur any non-compliance

penalties. If a retailer does not fully comply with the sign-display requirements, then a retailer may incur various consequences depending on the kind of non-compliance.

“Minor Non-compliance” includes obstructing a portion of a sign (other than the smoking/health-related statement) or displaying a sign incorrectly (as long as it remains visible to consumers). Minor Non-compliance would result in counseling by the manufacturers on the proper sign-display requirements and, if not corrected, could lead to a warning letter and the retailer being required to display an additional 144 square inch corrective-statement sign in the non-compliant store for 120 days.

“Major Non-compliance” includes not posting a sign, obstructing or displaying a sign so that the message is not visible, damaging or removing a sign, or failing to rotate a sign. The penalties for Major Non-compliance become more severe with each separate violation of the signage display requirements. These penalties begin with counseling by the manufacturers on the proper sign-display requirements, then being required to display an additional 144 square inch sign corrective-statement sign through June 30, 2025, followed by paying to each manufacturer with which the retailer has a retail marketing promotion contract a financial penalty equivalent to the retailer’s price-promotion discounts for a period of 4-weeks or 13-weeks, depending on the number of Major Non-compliance violations. Repeated Major Non-compliance would result in the retailer’s suspension from the retail marketing programs for various periods of up to 17 weeks.

Auditor and Working Group: An auditor will be retained by the manufacturers to review the photos of signs uploaded to a database and visit up to 10,000 retail stores in-person during each of four audit periods to make determinations of retail compliance or non-compliance. A Working Group composed of 10 members, including attorneys appointed to represent each of the three manufacturers, a NATO representative, a NACS representative, three Department of Justice attorneys, and two public health group attorneys, has been formed to address implementation and compliance questions from retailers. Retailers who receive a notice of non-compliance can appeal the notice of minor or major non-compliance to the Working Group via email within 14 days of receiving the non-compliance notice. If a retailer’s appeal on a notice of major non-compliance is not granted by the Working Group, then the retailer can further appeal a notice of major non-compliance to an adjudicator appointed by the court, and then the court as well.

Sample Corrective Statement Signs: Below are examples of two of the 17 corrective statement signs with one in a rectangle configuration and one in a square configuration:

**A FEDERAL COURT HAS ORDERED
R.J. REYNOLDS TOBACCO & PHILIP MORRIS USA TO STATE:**



**Smoking is highly addictive.
Nicotine is the addictive drug
in tobacco.**

**A FEDERAL COURT HAS ORDERED
R.J. REYNOLDS TOBACCO &
PHILIP MORRIS USA TO STATE:**



**It's not
easy
to quit.**

Note: The full details of the final court order and settlement agreement are not discussed in this article. A final copy of the final settlement agreement, known as a Consent Order, as signed by the federal judge implementing the Corrective Statement Settlement Agreement accompanies this NATO *News Bulletin* and should be referenced for additional information and details.