

The minimum age for tobacco sales is now 21

The minimum age for vaping sales remains dependent on the county in which the business is located, but increased to 21, on Dec 1, 2019

- Governor Cuomo directed the Dept Of Health to make the following changes in the law as of April 1, 2020
- Pharmacies and stores with pharmacies are no longer permitted to sell tobacco, vapor and herbal products.
- Stores that sell tobacco, vapor, or herbal products may not accept coupons.
- Free samples are forbidden

Tobacco Sales

What you need to know
before you make the sale!



Training provided by:

New York State Association of Service Stations & Repair Shops, Inc.

Training Checklist

Managers should discuss the following areas with each new employee by explaining the legal position on each subject as well as the store policy.

1. List all restricted tobacco products
2. Acceptable forms of identification
3. Clues that an ID may be fake or altered
4. Fines and disciplinary action for making an illegal tobacco sale

5. How to request an ID?
6. Items to review on an ID.
7. How to properly refuse a sale.
8. Why you should not use the words, “I can’t” when refusing a sale.
9. Other phrases and comments to avoid that may start arguments.

10. What to do and say when a minor presents their underage ID.

11. What to do and say when presented with a fake ID.

12. How to handle a 2nd party sale.

13. How to handle an adult who requests more than one pack of cigarettes after you observed the same adult talking to a minor.

14. How to handle an adult who requests tobacco after you observed them taking money from potential minors.
15. How to handle a minor purchasing for a parent.
16. How to handle a parent purchasing for their child.
17. How to handle an adult offering to buy for a customer who forgot their ID.

18. How to handle a regular customer who does not have their ID.

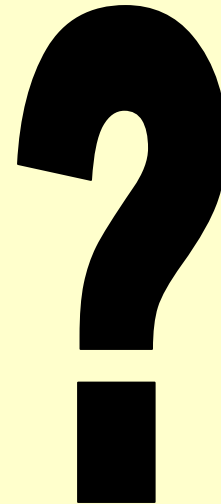
19. How to handle peer pressure. (Refer to the store's video cameras.)

20. How to handle a threatening situation.

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Introduction

- History of tobacco laws
- Tobacco health hazards -- general
- Clerk Responsibility
- Owner Responsibility
- Purchaser Responsibility
- Pretest review

History of the Tobacco Laws

1965 NY Chapter 1031 Section 89 page 2620

renumbered in 1993 as

Public Health Law Article 13F Section 1399-cc

In 1965, in response to a federal mandate indicating the need for states to protect children from those that would sell them tobacco, New York passed its first law regulating the sales of tobacco products to youths. The law, made it unlawful for retailers to sell cigarettes to minors under the age of eighteen. It also required signs to be posted to that effect. It did not however create any penalties or method of enforcement.

History of the Tobacco Laws

Adolescent Tobacco Use Prevention Act (ATUPA)

1992 N.Y. chapter 799 modifying sections

Public Health Law Article 13F Section 1399-t, cc & ee

The bill created enforcement authorities. County boards of health were entrusted with ensuring that the ATUPA laws were being followed. To assist them they were made capable of levying fines of 100 to 300 dollars on business not found to be in compliance with the act.

History of the Tobacco Laws

Since then, enforcement has been further strengthened. As of 2021, in addition to local newspapers publishing violations, the following penalty structure was in effect:

- **First violation** -- Fines of \$300 to \$1000
- **Second violation** -- Second and subsequent violations - a minimum fine of \$1,000, but not to exceed \$2,500
- publication of the business name in local newspaper.
registration and lottery license suspended for 1 year

Third and subsequent violations -- Fines from **\$500** to **\$1500**, tobacco registration revoked for 1 year after which reapplication is required, lottery license revoked permanently

Violation while tobacco registration suspended or revoked -- Fine of **\$2,500** and permanent revocation

History of the Tobacco Laws

Additional laws eliminated self-service displays, and restricted the location of vending machines. By the year 2000 vendor compliance had reached an all time high of 88 percent. A report by the Attorney General's office indicated that rather than further stiffening penalties for store owners, better compliance might be achieved by creating a system to educate clerks. Chapter 162 of the 2002 Laws of New York created such training and reduced the penalties on store owners for violations where clerks had received a certificate of training.

History of the Tobacco Laws

You are now receiving this training. It is up to you to put it to good use. When you leave here today you will become the front line in the battle to stop literally thousands of children who each day make the decision to start smoking. You can help by putting to use what you will learn here. By not making the sale to underage smokers, you will make it harder for them to make the decision to smoke.

KNOWLEDGE IS POWER!

Deaths Caused by Tobacco

- lung and other cancers*
- cardiovascular (heart) diseases*
- infant deaths attributed to maternal smoking
- burn deaths resulting from smoking caused fires
(more than 1,000 deaths/year nationwide!)

* These premature deaths also include deaths from lung cancer and heart disease attributable to exposure to secondhand smoke.

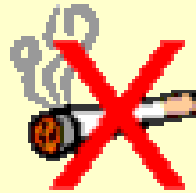
History of the Tobacco Laws

Adolescent Tobacco Use Prevention Act (ATUPA)
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One in Every Five Deaths is Attributable to Smoking.

1 2 3 4



- Smoking kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined
- Thousands more die from other tobacco-related causes
- Such as fires caused by smoking and illness from smokeless tobacco use

Illness Caused by Tobacco

Smoking Remains a Major Risk for:

- lung cancer
- heart disease
- chronic respiratory disease
(emphysema and bronchitis)
- cancers of the lip, mouth, throat, larynx,
bladder, pancreas, stomach,
kidney and cervix

Children Whose Parents Smoke Are More Likely To Get

- pneumonia
- bronchitis
- ear infections
- severe asthma

Pregnant Women

Who are Around Cigarette Smoke Have a Greater Chance of

- getting colds, headaches and even cancer
- having a more difficult delivery
- having a smaller than average baby who has to stay in the hospital longer
- having a sick baby who is fussy and cries a lot

Smokers are More Likely to

- get colds and flu
- have gum disease
- experience fertility problems
- become impotent
- get cataracts
- have shortness of breath and wheezing

In the United States

- Tobacco use is the most preventable cause of death and disease nationally, causing more than 480,000 deaths each year.
- Tobacco use results in an annual direct medical cost of more than \$240 billion.
- Smoking results in millions of years of potential life lost each year.

In the United States

- Approximately 90% of adult smokers started smoking before the age of 21.
- Every day, nearly 2,000 young people under the age of 18 try their first cigarette.
- The average adult who smokes cigarettes dies 10 years earlier than a non-smoker.

In The United States

- One in five adults die each year from their own smoking.
- 480,000 children now under 18 and alive in will ultimately die prematurely from smoking.
- 41,000 adults, children, & babies will die from others' smoking (secondhand smoke & pregnancy smoking).

In New York State

- Annual health care costs in New York directly caused by smoking = \$9.7 billion.
- Smoking-caused productivity losses in New York is measure in the billions of dollars.
- Billions in additional losses in New York each year are due to premature death.

Do you want to stop smoking or assist someone else to stop smoking, or just ask a question about smoking? Contact

New York State QUITLINE @ 1-866-697-8487

or visit

www.nysmokefree.com

Clerk's Responsibility

- Ensure that tobacco product sales are not made directly to a minor. In doing so, the clerk by law is required to ID all people who appear to be under the age of 25.
- Refuse to sell tobacco products to an adult that you have reason to believe will supply the product to a minor.
- Ensure that all tobacco products sold are offered legally for sale (i.e. not to sell loose cigarettes).

Owner's Responsibility

- Ensure tobacco product sales are not made directly to a minor by any employee working in the store.
- Ensure that tobacco products are not sold to an adult that any clerk has reason to believe will supply the product to a minor.
- Ensure that all tobacco products sold are offered legally for sale (i.e. not to sell loose cigarettes).
- In essence the store owner is responsible for his own actions and those of his employees.

Customer's Responsibility


- Adult customers are not to purchase cigarettes with the intent to supply the product to a minor.
- Potential underage customers are not held responsible. Minors who are purchasing or in possession of tobacco products are not breaking the law.

Review of Pre-Test




Question 1

How many deaths are attributable to smoking:

- a) one in three deaths
-  b) one in five deaths
- c) one in ten deaths
- d) impossible to say, because a lot of people who smoke are also overweight

Question 2

The following are major health risks for smokers:

- a) lung and other cancers
- b) heart disease
-  c) both a and b
- d) neither a nor b

Question 3


Pregnant women who are around cigarette smoke have a greater chance of all of the following EXCEPT:

- a) having a more difficult delivery
- ✓ b) having a baby with hemophilia
- c) having a smaller than average baby who has to stay in the hospital longer
- d) having a sick baby who is fussy and cries a lot

Question 4

Every day, how many people under the age of eighteen try their first cigarette?

a) 1,000

 b) 5,000

c) 25,000


d) 100,000

Question 5

Every year approximately how many adults die in New York State each year from their own smoking?

a) 1,000


b) 5,000

 c) 25,000

d) 100,000


Question 6

If a customer continues to insist that you sell them cigarettes without a valid identification you should:

- a) Call the police
- b) Physically remove the person from the store
- c) Sell them the cigarettes
-  d) Just be firm and explain that it's against the law


Question 7

Who can be penalized if a sale of tobacco products is made to a minor?

- a) The business
- b) The store owner
- c) The clerk
-  d) All of the above


Question 8

If a customer is unable to produce a valid ID you should:

- a) Sell s/he the product and tell him/her to bring the ID next time
- b) Call the police and have him/her arrested
-  c) Do not sell the product
- d) Tell them to get someone with ID to purchase the product for them


Question 9

The tobacco product that are not to be sold to underage purchasers are:

- a) Cigarettes
- b) Herbal cigarettes
- c) Cigars
-  d) All of the above

Question 10


Additional products that may not be sold to underage purchasers are:

- a) Pipes
- b) Rolling papers
- c) Snuff
-  d) All of the above

Question 11


A drivers license is the only legal form of identification to be used to purchase tobacco product.

a) True

 b) False

Question 12

A passport is a valid form of identification to purchase tobacco products.


 a) True

b) False

Question 13


A School identification card is valid to purchase tobacco products.

a) True

 b) False


Question 14

According to Federal Law, how old must a person appear to be before you may sell tobacco products without seeing identification?

- a) 18 years of age
- b) 21 years of age
-  c) 27 years of age
- d) 30 years of age


Question 15

Which of the following reasons should you NOT give for refusing a sale to an underage person who is trying to purchase a tobacco product?

- a) I'm sorry it is against the law
- b) I could be fined and even lose my job
- c) The video cameras are on
-  d) My boss is here


Question 16

What should you NOT say to a customer who forgot their ID?

-  a) OK I will sell you the cigarettes but bring your ID in next time
- b) I'm sorry I cannot sell you the cigarettes without an ID
- c) The law requires me to check the ID of anyone who appears to be 27 or under
- d) I will hold the cigarettes here until you return with your ID

Question 17

What should you NOT say to a person who you think is purchasing a tobacco product for an underage person?

- a) If you are buying this product for an underage person you are breaking the law
- b) If I believe you are buying this product for an underage person I will be breaking the law
-  c) As long as you do not give this product to an underage person on the premises it is not against the law
- d) If you give this product to an underage person we could both be breaking the law

Question 18

If you believe that a parent is purchasing cigarettes for their child, you should not say:

- ✓ a) It's OK, it is for your kid.
- b) If this is for your child I could loss my job
- c) Are these cigarettes are for someone over the age of 21
- d) If you give these cigarettes to a minor you could be breaking the law


Question 19

What would you NOT tell a minor trying to purchase cigarettes for a parent?

- a) I'm sorry its against the law
- ✓ b) Have your parent call me up
- c) Your mother or father must come in to buy this product
- d) I could get fined or lose my job for selling this to you


Question 20

If you are presented with what you believe to be a fake ID you should

- a) Tell the customer it appears that the ID has been altered
- b) Ask for a second form of ID
- c) Refuse the sale
-  d) All of the above


Question 21

How should you refuse a sale?

- a) Remain calm
- b) Remove the product from the counter
- c) Be Polite
-  d) All of the above


Question 22

When reviewing an ID you should look at

- a) Date of birth
- b) Be sure the person is over 21
- c) Ask the customer their date of birth
-  d) All of the above


Question 23

When reviewing an ID of someone you believe to be suspicious you should NOT

- a) Check the photo and description
- b) Check eye and hair color
- c) Ask for their address
-  d) Ask them to recite their license number if it is not their social security number


Question 24

The best way to determine that a person is of legal age to purchase a tobacco product is by asking:

- a) Do You have proof you are over 21.
- b) What kind of ID do you have that you are over 21
-  c) May I please see your ID and how old are you?
- d) How old are you?

Question 25

What is the penalty for the first offense for making an illegal tobacco sale

- a) Immediate suspension of the business retail license
-  b) A minimum fine of \$300 to a maximum fine of \$1,000
- c) A minimum fine of \$500 to a maximum fine of \$1,500
- d) Suspension and a fine

Health Effects of Smoking Among

Young People



Among young people, the short-term health consequences of smoking include respiratory and non-respiratory effects and addictions to nicotine. The long-term effects are the result that most young people who smoke on a regular basis will continue to smoke into and through adulthood.

- ◆ Cigarette smokers have a lower level of lung function than those persons who have never smoked.
- ◆ Smoking reduces the rate of lung growth.
- ◆ In adults, cigarette smoking causes heart disease and stroke. Studies have shown that early signs of these diseases can be found in adolescents who smoke.

- ◆ Smoking hurts young people's physical fitness in terms of both performance and endurance---even among young people trained in competitive running.
- ◆ On average, someone who smokes a pack or more of cigarettes each day lives 7 years less than someone who never smoked.
- ◆ The resting heart rate of young adult smokers are two to three beats per minute faster than nonsmokers.

- ◆ Smoking at an early age increases the risk of lung cancer. For most smoking-related cancers, the risk rises as the individual continues to smoke.
- ◆ Teenage smokers suffer from shortness of breath almost three times as often as teens who don't smoke, and produce phlegm more than twice as often as teens who don't smoke.
- ◆ Teenage smokers are more likely to have seen a doctor or other health professionals for an emotional or psychological complaint.

- ◆ Teens who smoke are three times more likely than nonsmokers to use alcohol, eight times more likely to use marijuana, and 22 times more likely to use cocaine.

Need More:



Bryan - started smoking at 13. Never thought that 20 years later at age 34 his life would be over.

Left behind his wife and son.





Born March 13, 1966

Admired most - her mother

Activity - Loved to travel

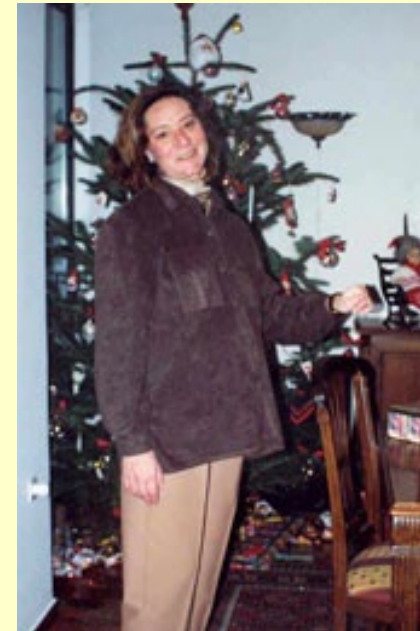
Crazy about Christmas

Biggest Concern- Being a good mother.

Favorite Movie - Out of Africa

Favorite Drink - Ice Coffee Frappe

Favorite Song - Don't Pay the Ferryman





December 18, 1998 - her son was born.

February 10, 1999 diagnosed with lung cancer.....

February 13, 1999 told she has less than nine months to live.



February 14 cancer has spread to her brain and kidneys. June 20, 1999 Noni dies at age 33 years, 3 months, 11 days.



Left behind a husband and son and unrealized dreams.

She started smoking at age 14.



Sean - High school student won 28 track medals in the 400 meter.

Used smokeless tobacco since age 12.

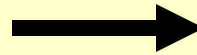
February 25th Sean died at the age of 19 after a ten month battle with rapidly spreading cancer that started on his tongue.





Gum Cancer ↑

Lung
Cancer



Circulatory
Disease



Lung
Operation



Your
Photo
Here

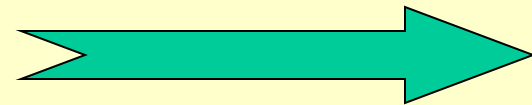
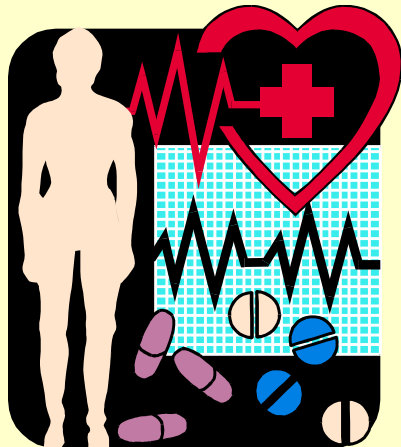


Smoking



**When
you
*QUIT..***

Changes Your Body Goes Through When You Quit Smoking



Within 20 minutes of last cigarette:



- Blood pressure drops to normal
- Pulse rate drops to normal rate
- Body temperature of hands, feet increases to normal

8 Hours

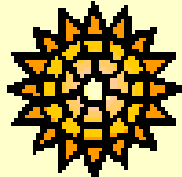
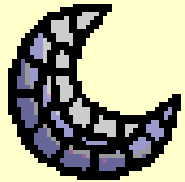


- Carbon monoxide level in blood drops to normal
- Oxygen level in blood increases to normal

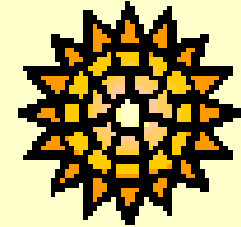
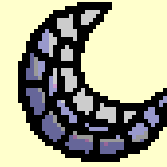
24 Hours



- Chance of heart attack decreases

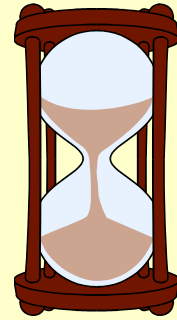


48 Hours



- Nerve endings start re-growing
- Ability to smell and to taste things is enhanced

72 Hours



- Bronchial tubes relax, making breathing easier
- lung capacity increases

2 Weeks to 3 Months



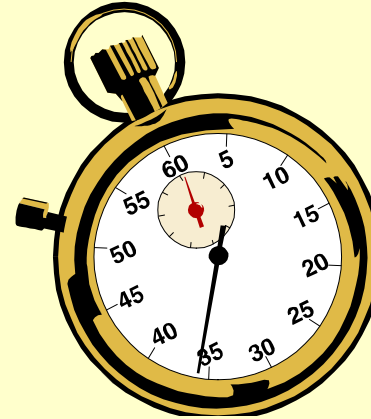
- Circulation improves
- Walking becomes easier
- Lung function increases up to 30%

1 to 9 months



- Coughing, sinus congestion, fatigue, shortness of breath decreases
- Cilia re-grow in lungs, increasing ability to handle mucus, clean the lungs, reduce infection
- Body's overall energy level increases

5 Years



- Lung cancer death rate for average smoker (one pack a day) decreases from 137 per 100,000 people to 72 per 100,000

10 Years

- Lung cancer death rate for average smoker drops to 12 deaths per 100,000 - almost the rate of non-smokers
- Pre-cancerous cells are replaced
- Other cancers-such as those of the mouth, larynx, esophagus, bladder, kidney and pancreas-decrease. (There are 30 chemicals in tobacco smoke that cause cancer.)

Recipe for a Cigarette

- Acetone (Nail Polish Remover, Paint Stripper)
- Ammonia (Floor and Toilet Cleaner)
- Butane (Cigarette Lighter Fluid)
- Cadmium (Rechargeable Batteries)
- Carbon Monoxide (Car Exhaust Fumes)
- Nicotine and DDT/Dieldrin (Insecticides)
- Ethanol (Alcohol)
- Formaldehyde (Body, Tissue and Fabric Preserver)
- Hexamine (Barbecue Lighter)

Recipe cont.

- Hydrogen Cyanide (Gas Chamber Poison)
- Methane (Swamp Gas)
- Methanol (Rocket Fuel)
- Naphthalene (Mothballs)
- Nickel (Metal)
- Nicotine (Addictive Drug & Insecticide)
- Nitrobenzene (Gasoline Additive)
- Nitrous Oxide Phenols (Disinfectant)
- Stearic Acid (Candle Wax)
- Tar (Distilled Wood & Coal)
- Toluene (Industrial Solvent)
- Vinyl Chloride (Makes PVC)

Legal Purchasing Age and Additional Requirements



DEFINITIONS

Retail Dealer – A person licensed by the commissioner of taxation and finance to sell cigarettes, tobacco products, or vapor products in this state.

Vapor Products – Any noncombustible liquid or gel, regardless of the presence of nicotine therein that is manufactured into a finished product for use in an electronic cigarette, including any device, or any component thereof, that contains such noncombustible liquid or gel.

DEFINITIONS

Vapor Products Dealer – A person licensed by the commissioner of taxation and finance to sell vapor products in this state.

Price Reduction Instrument – Any coupon, voucher, rebate, card, paper, note, ticket, image, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service or accomodation without charge or at a discounted price.

Question:

What are the restricted tobacco products?

Answer:

Cigarettes

Cigars

Chewing Tobacco

Powdered Tobacco

Other Tobacco Products

Herbal Cigarettes

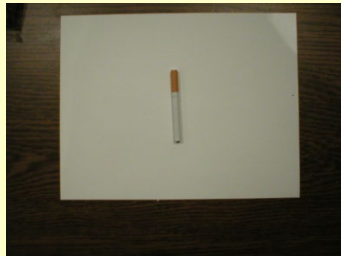
Rolling Papers

Pipes

Vapor Products



DO NOT



SELL TO



ANYONE



**21
YEARS**

UNDER



**ASK FOR
PROOF!**



TIP:

These items will never be placed for customer self-service in accordance with the NYS public health laws which state:

“No person operating a place of business ... shall sell, permit to be sold, offer for sale or display for sale any tobacco product or herbal cigarettes in any manner, unless such products and cigarettes are stored for sale (a) behind a counter in an area accessible only to the personnel of such business, or (b) in a locked container.”

- **Effective January 1, 2012, an amendment prohibits the sale of shisha and smoking paraphernalia to individuals under 21 years of age.**

The amendment defines shisha as any product made primarily of tobacco or other leaf, or any combination thereof, smoked or intended to be smoked in a hookah or water pipe and smoking paraphernalia as any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco.

- **Effective January 1, 2013, an amendment prohibits the sale of electronic cigarettes to individuals under 21 years of age.**

The amendment defines e-cigarettes as a battery operated device that contains cartridges filled with a combination of nicotine flavor, and chemicals that are turned into vapor which is inhaled by the user.

Retailers are required to keep them in an area behind the counter or in a locked container.

- **Effective December 29, 2014, an amendment prohibits the sale of liquid nicotine to individuals under 21 years of age in NYC and under the age of 21 throughout the rest of the state.**

The amendment defines liquid nicotine (or electronic liquid or e-liquid as a liquid composed of nicotine and other chemicals that may be used in an electronic cigarette.

Retailers are required to keep them in an area behind the counter or in a locked container.

TIP:

There should never be any source of confusion on this. Conspicuously posted in red letters at least one-half inch in height on a white card should be a sign imprinted with the following statement:

“SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, LIQUID NICOTINE, ELECTRONIC CIGARETTES, ROLLING PAPERS OR SMOKING PARAPHERNALIA, TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW”

Vendors are prohibited from selling these restricted tobacco products to anyone under the age of 21.

Vendors are required to request ID from those who appear to be under 25.

The law also requires the vendor not to sell tobacco products if he has reason to believe the purchaser is buying them for an underage person.

Note: It is not illegal for a person under the age of 21 to either purchase or possess these tobacco products. We will look at this further

NO
GUTKA

FINE TO UNAPPROVED BUSINESSES
\$500

GUTKA IS A SMOKELESS TOBACCO
PRODUCT CONTAINING
LIME PASTE, SPICES, ARECA
AND TOBACCO

**SALE OF GUTKA
TO A MINOR
AT TOBACCO BUSINESSES
CARRIES THE SAME FINES
AND PENALTIES AS
SALES OF ANY OTHER
TOBACCO PRODUCT
TO A MINOR**

**A TOBACCO BUSINESS THAT SELLS
GUTKA MUST POST A SIGN IN RED
LETTERS AT LEAST ONE-HALF
INCH IN HEIGHT ON A WHITE CARD
STATING:**

**“SALE OF GUTKA TO PERSONS
UNDER TWENTY-ONE YEARS OF
AGE IS PROHIBITED BY LAW”**

**NO
BIDIS**

**FINE TO UNAPPROVED BUSINESSES
\$500**

**A BIDI IS A THIN, OFTEN
FLAVORED INDIAN CIGARETTE
MADE OF TOBACCO WRAPPED IN
A TENDU LEAF**

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UNDER TWENTY-ONE YEARS OF
AGE IS PROHIBITED BY LAW”**

Amendments to the Adolescent Tobacco Use Prevention Act
Effective July 1, 2020

Distribution of vapor products intended or reasonably expected to be used with nicotine without charge **prohibited.**

“Price Reduction Instruments” on tobacco and vvapor products reasonably expected to be used with or for the consumption of nicotine (i.e. the acceptance of coupons and other means of charging less than a product’s listed price) **prohibited.**

Amendment to Adolescent Tobacco Use Prevention Act

Effective December 27, 2004

MINIMUM PACKAGE SIZE REQUIREMENTS FOR TOBACCO PRODUCTS

- Cigarettes - no fewer than twenty may be sold
- Roll your own tobacco - no less than 0.6 ounces
- Cigarette wrapping paper - no fewer than twenty sheets
- Wrapping leaves or tubes - no fewer than twenty sheets
- **Does not pertain to cigars or cigar wrappings**
- Penalty for first violation - fine of \$500 to \$1000
- For each subsequent violations - fine of \$500 to \$1500

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Effective December 27, 2004

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- For each subsequent violations - fine of \$500 to \$1500

Out of Package Sales & Customer Self Service

- **NO LOOSIES** - All tobacco cigarettes sold or offered for sale by a retail dealer shall be sold or offered for sale in the package, box, carton or other container provided by the manufacturer, importer, or packager which bears all health warnings
- Vending machines which dispense tobacco products or herbal cigarettes are prohibited unless such machine is located: **(a)** in a bar or the bar area of a food service establishment with a valid, on-premises full liquor license; **(b)** in a private club; **(c)** in a tobacco or **(d)** in a place of employment which has an insignificant portion of its regular workforce comprised of people under the age of eighteen years and only in such locations that are not accessible to the general public.
- Tobacco products are not permitted on the checkout counter or other places easily accessed by the general public

PHARMACIES, AND STORES
THAT CONTAIN PHARMACIES
ARE STRICTLY PROHIBITED
FROM SELLING ANY TOBACCO
PRODUCTS, HERBAL
CIGARETTES, OR VAPOR
PRODUCTS

**DISTRIBUTION OF TOBACCO
AND VAPOR PRODUCTS
WITHOUT CHARGE IS ALSO
PROHIBITED BY LAW**

PRICE REDUCTION INSTRUMENTS

- i.e. coupons and other means of charging less than a products listed price.
- On tobacco and vapor products is restricted

Legal Forms of Identification



Vendors are prohibited from selling tobacco products to anyone under the age of 21. Vendors are required to request ID from those who appear to be under 25.

Question:

What are acceptable forms of identifications?

Answer:

Valid Drivers License or Non-Drivers ID Card
Issued by Commissioner of Motor Vehicles
or the Federal Government or any
U.S. Territory, Commonwealth or Possession
or the District of Columbia or any
State Government Within the United States or
or any provincial government of Canada

Valid Passport Issued by Any Country

Valid United States Armed Forces I.D. card

Reliance on Legal ID Identification and the Right to Refuse Sales

Vendors are **prohibited** from selling tobacco products **to** anyone **under** the age of **21**. Vendors are required to request ID from those who appear to be under 25.

Vendors are prohibited from selling these restricted tobacco products to anyone under the age of 21.

Vendors are required to request ID from those who appear to be under 25.

The law also requires the vendor not to sell tobacco products if he has reason to believe the purchaser is buying them for an underage person.

Note: It is not illegal for a person under the age of 21 to either purchase or possess these tobacco products. We will look at this further

TIP

If a person looks to be under 25 years of age you should:

- Ask for identification.
- Refuse the sale if the customer does not present his/her valid photo ID.
- Refuse the sale if the prospective purchaser or recipient is under 21.

TIP

Remember a few slides back when we talked about tobacco products not being available for self service by the customer?

This is a part of the law that you can use to your benefit. Before retrieving the tobacco product, always check the customers ID first. Unless of course you have determined that you do not need to ID the customer.

Question:

Suppose a customer comes into your shop. You ID him a couple of times, and determine that he is 22. Must you continue to ID him?

Answer:

Yes. By law the purchaser must provide proper identification so long as he appears to be under the age of 25, and is not to be sold or provided tobacco products so long as he is under the age of 21.

Question:

How should you request an ID?

Answer:

“May I please see your ID?”

and

“How old are you?”



Question:

What are the items you should review on an ID?

Answer:

- **Look at the date of birth – make sure they are 21. If they look under 21, ask them their birth date, age and address, as most don't think to memorize these figures. Do not question their license number as most people do not know theirs.**
- **Photo and description – make sure the photo and description match the looks of the customer, hair and eye color, height and weight.**
- **Expiration Date – it cannot be expired. This prevents cards being passed on to a friend, brother or sister who is close in age and similar in looks.**

- Who issued the card (it must be government-issued). Is the state seal, logo or hologram altered?

- Check closely for alterations or tampering, peeling, scratches or bubbles. Look to see if the back is blank as many fake IDs are left blank.

- If you feel that it may be a fake ID, write the number in a log kept on the counter so that it can be verified at a later date. This could also discourage minors from returning for another purchase.

- You could also ask for a second form of ID if the person appears to be under age and refuse the sale if another ID cannot be produced, but do it right.

How to Identify Phony ID



Vendors are prohibited from selling tobacco products to anyone under the age of 21. Vendors are required to request ID from those who appear to be under 25.

Question:

What are clues that an ID may be a fake?

Answer:

Photo doesn't match the customer

The back of the ID is blank

Lamination is peeling

Customer is nervous and rushed

TIP - Don't be fooled by lots of makeup on girls and facial hair on guys...look at style of dress and hair, and wrinkles)

ALSO



How old am I ?



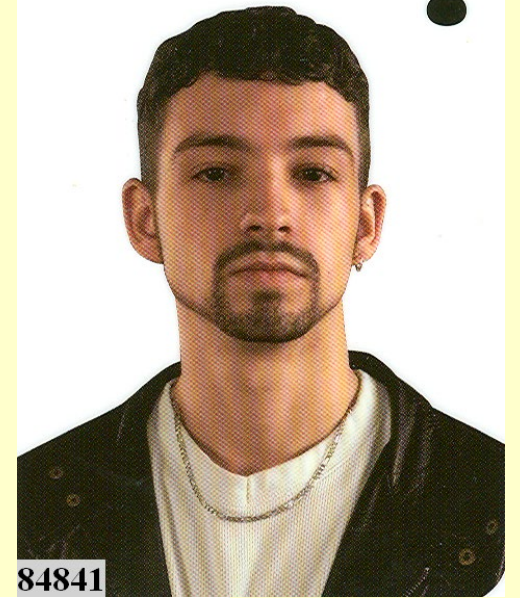
52842

How old am I ?



53612

How old am I ?



84841

How old am I ?



84461

How old am I ?



64711

How old am I ?



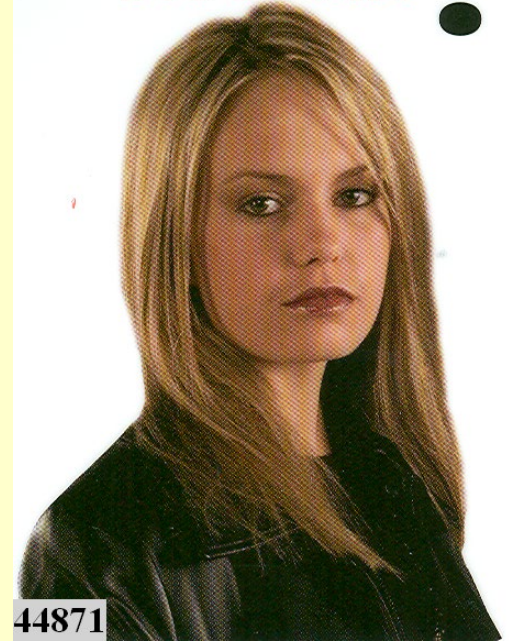
57371

How old am I ?



66411

How old am I ?



44871

How old am I ?



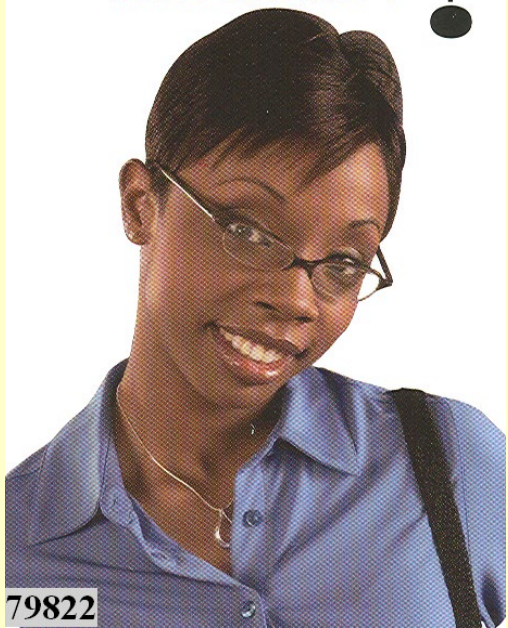
79981

How old am I ?



23232

How old am I ?



79822

How old am I ?



51451

How old am I ?



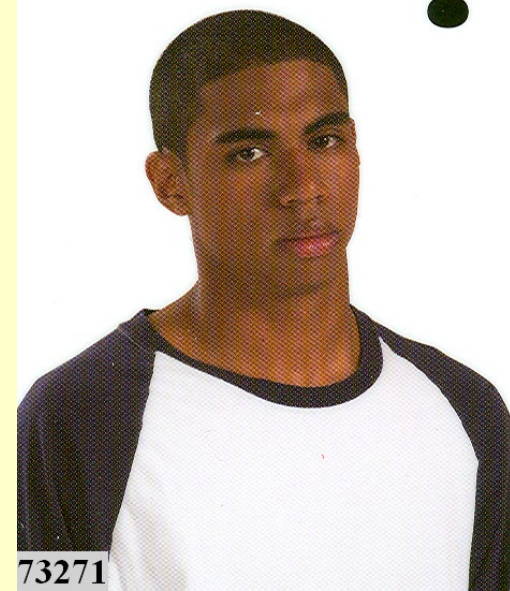
39822

How old am I ?



68781

How old am I ?



73271

How to Spot a Fake ID

- ✓ Make sure the photo and description match the appearance of the customer.
- ✓ Look at the ID under a bright light to detect printing flaws and alterations.

- ✓ Question minors about their birth date, age, and address. Many have not memorized the correct information or forget when pressured by a clerk.
- ✓ Check the lamination for peeling, scratches or bubbles.
- ✓ Check the back of the ID. Many fake IDs are blank on the back.

- ✓ Make sure that the state seal, logo or hologram have not been altered.
- ✓ Write questionable ID numbers in a log to verify at a later date. This will also serve to dissuade minors from returning to your store.
- ✓ Talk to your local police about what to do with a fake ID.

How to Refuse a Sale

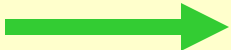
Vendors are prohibited from selling tobacco products to anyone under the age of 21. Vendors are required to request ID from those who appear to be under 25.

When refusing a sale, your tone of voice, body language and word choice can either diffuse or ignite a confrontation with a customer.



Follow these general rules 

- Remain calm.
- Remove the product from the counter.
- Be polite. Apologize. Maintain a customer service attitude.
- Remember that refusing a sale is not your choice; it is the law.

Use the following statements 

***“I’M sorry. It’s against the law.”**

⇒“I can be fined and even lose my job.”

***“Is there anything else I can get you.”**

***“I’d be happy to hold this for you while you go get your ID.”**

Question:

What is the best etiquette when refusing a sale?

Answer:

- Remain calm.
- Remove the product from the counter.
- Be polite. “I’m sorry, it’s against the law. I could lose my job or get fined. I just need to see your ID.”
- What other reasonable ways can you think of?

Questions:

Why should you not say, “I can’t.” What other phrases and mannerisms should you avoid?

Answer:

Saying “I can’t” opens the door for the customer to argue the reason . . . it makes it sound like you can but choose not to.

Don’t argue or accuse a customer of being underage. Simply point out that they have not presented a valid ID required for proof of age. Ask if there is anything else you can help with.

Question:

What would you do and say when a minor or anyone presents you with a fake ID.

Answer:

If you suspect the ID has been altered, ask for a second ID. If the customer fails to produce one, refuse the sale. People who use fake identification almost never carry a second ID. You have the right to refuse any sale, but it is important to do it right. Be polite. Don't argue. Offer to hold the product until they come back with a second ID. Remove the product from the counter and begin to wait on the next customer.

Question:

How would you handle a 2nd party sale or an adult who requests more than one pack of cigarettes after you observed the same adult talking to a minor or taking money from a minor?

Answer:

I'm sorry. I saw those kids give you money (or ask for these). I have reason to believe these will be given to a minor. I could lose my job if I make this sale.

Question:

How would you handle a minor purchasing for a parent?

Answer:

I'm sorry. It's against the law. Your mother or father must come in to buy this. I could get fined or even lose my job for selling this to you.

Question:

How do you handle a parent purchasing for their child?

Answer:

You could ask if the purchase is for them. If they indicate that it is not, you should refuse the sale and indicate that you could be fined or lose your job for knowingly selling tobacco products that will go to a minor.

Question:

How would you handle an adult offering to buy for a customer who forgot their ID or a regular customer who does not have their ID?

Answer:

I'm really sorry. I believe you are over 21, but our store policy requires me to check to see the ID of anyone under 25. If I don't, I could lose my job. I'd be happy to hold this for you while you go get your ID.

Question:

How do you handle peer pressure?

Answer:

I'm sorry. It's against the law. I could be fined and even lose my job. The video cameras are on, and we would both get in a lot of trouble.

Question:

How would you handle a threatening situation?

Answer:

I'm sorry. It's against the the law. I can get fined and lose my job. Is there anything else I can get you?

Then.....

- Stay calm; do not argue. That could prolong the confrontation.
- Remove the product from the counter. This will reduce the risk of the customer stealing it or continuing to argue over it.

- Break eye contact with the customer and begin to help the next customer.

TIP - If you refuse a sale and the customer takes the product, even if they leave the money, treat it as a theft. Don't ring up the sale. Get a description of the person and notify your supervisor.

Also, don't let one abusive customer discourage you from carding in the future. Remember, as an employee responsible for upholding sales laws, you are empowered to refuse all sales that do not meet minimum-age requirements.

Penalties for Selling To Underage Persons Employer



Vendors are prohibited from selling tobacco products to anyone under the age of 21. Vendors are required to request ID from those who appear to be under 25.

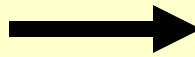
Question:

What are the fines and disciplinary action for making an illegal tobacco sale?

Answer:

First violation - a minimum fine of \$300, but not to exceed \$1,500, and publication of the business name in local newspaper.

Second and subsequent violations - a minimum fine of \$1,000, but not to exceed \$2,500, and publication of the business name in local newspaper.

And 

Imposition of Points!

If a dealer is convicted of violating the provision of the law that prohibits tobacco sales to minors, the dealer's business will receive the appropriate fine and **two points where the clerk did not hold a certificate of completion from a state certified tobacco sales training program.**

One point will be assigned to a dealer whose clerk sells a tobacco product to a minor but holds a certificate of completion from a state certified tobacco sales training program, along with the appropriate fine.


Revocation

These violations include sale of out of package cigarettes, sale of bidis from non tobacco business, failure to post require signage, placement of cigarettes for customer self service, as well as engaging in unlawful shipment or transport of cigarettes.

Suspension - If the State Department of Health determines that a retail dealer has accumulated three points or more, it directs the Department of Taxation and Finance to **suspend the retail dealer's Certificate of Registration for one year**. Should the dealer have a lottery license, that will be suspended for **one year** as well.

If it is determined that the retail dealer has violated any section of Public Health Law 13F four times within a three-year time frame, the dealer's certificate of registration and lottery license will be **revoked for one year** along with the imposition of the appropriate fine.

Duration of Points - The **three points** serving as the basis for a suspension shall be erased upon the **completion of the one-year penalty**. All other points assigned to a retail dealer's record shall be assessed for a period of **three years** beginning on the first day of the month following the assignment of the points.



**Selling a tobacco product when
the Dealer's Certificate of
Registration is either **suspended
or revoked** will result in the
imposition of a **\$2,500 fine!****

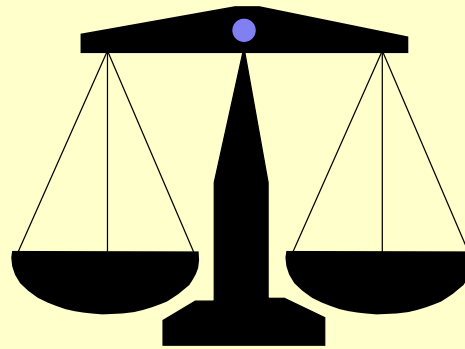
**The Dealer's Certificate of
Registration is then considered
permanently revoked**

Surcharge:

A two hundred fifty dollar surcharge to be assessed for every violation, will be made available to the enforcement officers and shall be used solely for compliance checks to be conducted to determine compliance with the law.

These compliance checks will occur at a frequency of twice per year until all points are erased.

Penalties for Selling To Underage Persons



Employee

Vendors are prohibited from selling tobacco products to anyone under the age of 21. Vendors are required to request ID from those who appear to be under 25.

Unlawfully Dealing With a Child in the Second Degree

NYS Penal Law Section 260.21 Part 3:

- Selling or causing to be sold, tobacco in any form to a child less than 21 years old.
- It is no defense to claim that the child acted as the agent or representative of another person or that the defendant dealt with the child as such.
- Unlawfully dealing with a child in the second degree is a class B misdemeanor

Unlawfully Dealing With a Child in the Second Degree

NYS Penal Law Section 260.21 Part 3:

- Imprisonment not to exceed one year or
- A period of probation for three years.

Additionally

- A mandatory surcharge of one hundred ten dollars and a crime victim assistance fee of ten dollars
- A fine, not exceeding one thousand dollars

BOTTOM LINE
for the
business.....
YOU LOSE
MONEY!



In addition to any penalties a clerk may face due to enforcement, if you are caught violating the ATUPA laws your employer has every right to discipline you. This may include a variety of actions including suspension without pay, decrease in wages, loss of benefits, and termination. When you break the law, you place your employer at risk of being fined and losing his license.

Your employer may also use aboveage people that clearly appear under the age of 27 to ensure that you are properly requesting identification. He may also use other methods. Even though no enforcement may occur, if your employer catches you breaking the laws, you remain subject to disciplinary action or termination.

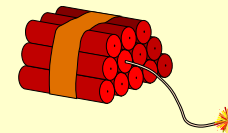


**Or...you
may face
the following...**

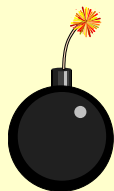
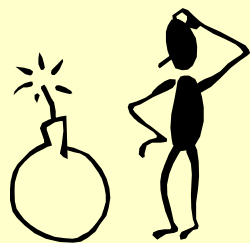
You sold chew to a minor!



Only 15 and you sold them blunts!



Snuff is enough...don't sell to kids!



Law & Policy Review

1. If a customer wanting to buy tobacco products appears to be under 25 years of age, should you:

A. Ask for identification

C. Refuse the sale if ID is invalid

B. Refuse the sale if under legal age

D. All of the above

2. Valid forms of identification include (choose more than one):

A. U.S. Federal, State
or Canadian Province
Driver's License

B. State Issued ID Card

C. Military ID Card

D. School identification card

E. U.S. Passport

F. Immigration Card

G. European Drivers License

3. The minimum age law for tobacco products applies to:

A. Cigarettes

B. Herbal cigarettes

C. Snuff

D. Pipes

E. Chewing tobacco

F. Rolling Paper

G. Powdered tobacco

H. All of the above

4. It is illegal to sell tobacco products to anyone under age _____.

5. The penalty for selling tobacco products to an underage customer is _____.

6. If a customer is unable to produce a valid ID, you should _____.

7. If you have refused a sale to someone who cannot produce a valid ID, and that customer persists, you should

8. Who is responsible for selling tobacco products to minors? _____

NEW YORK STATE TOBACCO ENFORCEMENT SUMMARY

6 YEAR TOTALS (THROUGH 2003)

Compliance Checks	148,518
Enforcement Actions	17,646
Fines Assessed	\$9,811,299
Fines Collected	\$8,010,412
Suspended Registrations	153
Lotto Suspensions	32

OCT 1, 2002 THROUGH SEPT 30, 2003

Registered Vendors	29,283
Compliance Checks	30,074
Sales To Minors	3,391
Fined/Penalized	2,192

NEW YORK STATE TOBACCO ENFORCEMENT SUMMARY

8 YEAR TOTALS (THROUGH SEPT 30, 2005)

Compliance Checks	205,085
Enforcement Actions	24,403
Fines Assessed	\$17,435,047
Fines Collected	\$13,261,970
Suspended Registrations	379
Lotto Suspensions	90

OCT 1, 2004 THROUGH SEPT 30, 2005

Registered Vendors	26,915
Compliance Checks	26,616
Sales To Minors	3,457
Enforcement Actions	3,585
Fines Assessed	\$3,645,235
Suspended Registrations	152
Lotto Suspensions	105

NEW YORK STATE TOBACCO ENFORCEMENT SUMMARY

10 YEAR TOTALS (THROUGH SEPT 30, 2007)

Compliance Checks	263,050
Enforcement Actions	29,920
Fines Assessed	\$21,676,097
Fines Collected	\$16,977,732
Suspended Registrations	1,462
Lotto Suspensions	386

OCT 1, 2006 THROUGH SEPT 30, 2007

Registered Vendors	24,440
Compliance Checks	28,075
Sales To Minors	2,120
Enforcement Actions	2,302
Fines Assessed	\$1,646,600
Suspended Registrations	608
Lotto Suspensions	149

NEW YORK STATE TOBACCO ENFORCEMENT SUMMARY

11 YEAR TOTALS (THROUGH SEPT 30, 2008)

Compliance Checks	292,414
Enforcement Actions	32,559
Fines Assessed	\$23,585,376
Fines Collected	\$18,343,091
Suspended Registrations	1,718
Lotto Suspensions	472

OCT 1, 2007 THROUGH SEPT 30, 2008

Registered Vendors	24,198
Compliance Checks	29,364
Sales To Minors	2,424
Enforcement Actions	2,639
Fines Assessed	\$1,912,270
Suspended Registrations	256
Lotto Suspensions	86

NEW YORK STATE TOBACCO ENFORCEMENT SUMMARY

11 YEAR TOTALS (THROUGH SEPT 30, 2008)

Compliance Checks	292,414
Enforcement Actions	32,559
Fines Assessed	\$23,585,376
Fines Collected	\$18,343,091
Suspended Registrations	1,718
Lotto Suspensions	472

OCT 1, 2007 THROUGH SEPT 30, 2008

Registered Vendors	24,198
Compliance Checks	29,364
Sales To Minors	2,424
Enforcement Actions	2,639
Fines Assessed	\$1,912,270
Suspended Registrations	256
Lotto Suspensions	86

NEW YORK STATE TOBACCO ENFORCEMENT SUMMARY

14 YEAR TOTALS (THROUGH SEPT 30, 2012)

Compliance Checks	380,037
Enforcement Actions	38,018
Fines Assessed	\$27,676,027
Fines Collected	\$22,123,515
Suspended Registrations	2715
Lotto Suspensions	722

Fiscal Year 2012

Compliance Checks	36,219
Sales To Minors	1,808
Enforcement Actions	1,919
Fines Assessed	\$1,520,450
Suspended Registrations	274
Lotto Suspensions	91

Avoid being one of the statistics.....

Do not sell cigarettes to anyone under **25** that cannot produce a valid ID to prove to you, the seller, that they are over **21** years of age.

Employee's Agreement of Understanding

I agree to the following laws, rules and company policies regarding the sale of tobacco and tobacco-related products:

- I will not sell tobacco products to any person who is under the legal age of 21.
- If the person appears to be under age 25, I will require and check a valid photo identification card that establishes the bearer's date of birth.
- If there is any doubt about the customer's age, I will not make the sale.
- I will not knowingly sell tobacco products to any adult for use by individuals who are under the legal age. If I have reason to believe an adult is buying tobacco for a minor, I will not make the sale.

Employee's Signature

Date

Store Manager's Signature

Date

This agreement will be maintained in your personnel file as part of your permanent employee record.

Federal Law
(FDA
Enforcement)

FDA Enforcement Inspections

- FDA Inspections will use an underage person to monitor:
 - 1) Mandatory ID under 27 all tobacco purchases.
 - 2) Not selling to underage person .
 - 3) Flavored and individual cigarettes not being sold.
 - 4) No self-service displays.

FDA Fine Schedule

w/ Training Program Violation w/o Training Program

Letter	1 st	\$250
\$250	2 nd in 12 mos.	\$500
\$500	3 rd in 24 mos.	\$1000
\$2000	4 th in 24 mos.	\$2000
\$5000	5 th in 36 mos.	\$5000
\$10000	6 th or Subsequent Violation within a 48-month period	\$10000

FDA Website of Stores Inspected

- FDA will not immediately notify a retailer if a store has passed an inspection.
- For failed inspections, FDA will send overnight a Warning Letter to the store citing the violations. Copies of Warning Letters will be published on the FDA website each week.
- FDA Warning Letters will note the date, approximate time and product sold in the transaction. FDA Warning Letters require a response within 15 business days.
- FDA will list the names and addresses of stores that were inspected and passed on their website. The list will be updated monthly.
- Copies of Civil Money Penalty Letters (CMPs) are now on the website.
- Retailers will be able to view the website to determine if their stores have been inspected and passed.

States w/ FDA Enforcement Agreements

- As of April 24, 2012: (39 Contracts)

Alabama Arizona Arkansas California Colorado Connecticut Delaware
Georgia Hawaii Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maine
Maryland Massachusetts Michigan Minnesota Mississippi Missouri New Hampshire
New Jersey New Mexico North Carolina Ohio Oklahoma Pennsylvania Rhode Island
Tennessee Texas Utah Virginia Washington Washington DC West Virginia
Wisconsin

*underlined states reporting on FDA site

- FDA expects to award enforcement contracts to all states by EOY 2012.

Retailer Training Programs

- FDA has reaffirmed its position on Tobacco Retailer Training Programs.
- At some point, FDA will announce “specific regulatory requirements of elements to be in a Tobacco Retailer Training Program”. No time table has been set for creating the regulations.
- The Draft Guidance(s) in circulation offer FDA’s most current thinking on the elements that should be part of a Tobacco Retailer Training Program.

FDA Sting Failures

- If an employee sells cigarettes to a 17-year old without asking for ID:

2 Violations have occurred

1) Did not ID under 27

Violation #1

2) selling to a person under 18

Violation #2

- Failing 1st inspection (sting), FDA will issue Warning Letter with no fines. Retailer response required in 15 business days.
- The store will automatically be re-inspected by FDA. No time frame or notice given for re-inspection (sting).
- If the store fails the next inspection (sting), then fines (CMPs) will be assessed.
- Dollar fine (CMP) amounts determined by number of Violations per store.

Civil Money Penalty (CMP)-- Fines

- Fines (CMPs) are now being issued to retailers that fail a follow-up FDA inspection (sting).
- Fine amounts based on number of Violations, using lower fee schedule for now.
- Retailers will receive a CMP Cover Letter and Complaint outlining the Violations and fines.
- Upon receiving the letter, the retailer has 30 days to reply, called an “Answer”. The retailer has 5 options:

- pay the fine
- request a hearing
- request a settlement conference
- request extension to pay
- do not reply, cannot contest anything

- Each reply option is outlined further in the CMP Complaint. Do not ignore the CMP Cover Letter and Complaint, these are important documents!

