

Maryland Tobacco Retailer Guide

Understanding
your role in
preventing
TOBACCO
sales to minors.



**IT'S NOT AN INCONVENIENCE,
IT'S THE LAW.**



www.NoTobaccoSalesToMinors.com

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OVERVIEW

As a licensed tobacco retailer, you are uniquely positioned to act responsibly to help reduce and eliminate underage access to tobacco products in Maryland. Retailers are an important part of our communities, and as such, must engage in responsible practices. Asking for photo ID **reduces cigarette sales** to underage youth. Tobacco retailers must be vigilant about **checking IDs** and **refusing to sell tobacco to minors**.

Responsible tobacco retailing isn't an inconvenience, it's the law.

To put it simply—selling, distributing or promoting tobacco products to anyone under 18 years of age is illegal.

Compliance checks are being conducted and enforced on a continuous basis to ensure retailers are following federal, state and local laws that prohibit the sale of tobacco to minors. If you are found guilty of selling tobacco to minors, you may be **fined up to \$10,000** and could even lose your license to sell tobacco.

This guidebook contains resources to assist retail owners and clerks with understanding and complying with tobacco retail sales laws designed to keep tobacco out of the hands of Maryland youth. Additional materials to display in your store, as well as an interactive training module can be found at www.NoTobaccoSalesToMinors.com.

MARYLAND IS
SERIOUS ABOUT KEEPING
OUR KIDS **TOBACCO FREE.**
IT'S NOT A MINOR THING.

TOBACCO PRODUCTS

It is against the law to sell any tobacco product to minors. This includes:

- Cigarettes
- Cigars, Cigarillos, Little Cigars, including flavored products
- Electronic Nicotine Devices including E-cigarettes, E-hookah, E-cigars, Vape pens, etc.
- Smokeless Tobacco (Chew, Spit Tobacco, Dip, Snuff, etc.)
- Loose Tobacco (for pipes)
- “Loosies” – cigarettes sold as individuals or less than a pack of 20 cigarettes
- Tobacco Accessories such as rolling papers and hookahs

If you are unsure if a product is illegal to sell to youth – **DON'T SELL!** There are no laws that require you to sell a product; however, there are restrictions placed on what you can sell and to whom.

REMEMBER: No tobacco sales to minors. Period.

IF YOU ARE UNSURE IF A PRODUCT
IS ILLEGAL TO SELL TO YOUTH
DON'T SELL!



TOBACCO SALES LAWS AND PENALTIES

It is against the law to sell ANY tobacco product or tobacco paraphernalia to anyone under the age of 18. Compliance checks are being conducted and enforced in Maryland.

As a tobacco retailer you are required by law to:

- 1 Ask for photo ID from everyone under 27.
- 2 Check to make sure all customers are at least 18.
- 3 Refuse to sell tobacco to everyone under 18.

The laws are in place to ensure retailers are acting responsibly by not selling or distributing tobacco products to minors. If found guilty of selling tobacco to minors, retailers and clerks (or both) face stiff penalties. Always follow all tobacco retailer laws and you will remain compliant, no matter who checks your store.

TYPE OF COMPLIANCE CHECK	IF FOUND GUILTY OF SELLING TOBACCO PRODUCTS TO MINORS, THE VIOLATOR IS SUBJECT TO:*
FEDERAL	Escalating fines up to \$10,000 and a no-tobacco sales order for repeated violations
STATE	Escalating fines up to \$3,000 and suspensions and/or revocation of your retailer license
LOCAL/JURISDICTION	Fines associated with violation are unique to each jurisdiction

In order to sell tobacco in Maryland to those over 18, you must obtain a license at both the State and local levels. Selling tobacco without the proper license is illegal with penalties of up to \$1,000 and imprisonment.

Anyone under 18 years of age is also prohibited by law from using or possessing tobacco products, unless it's part of their job (such as working as a cashier in a store selling tobacco products).

*See the federal, state, and local laws overviews included with this packet.

VALID FORMS OF IDENTIFICATION

As a tobacco retailer, you are required by law to **check the identification of everyone under 27 years old** before selling them tobacco products. You must refuse to sell tobacco to everyone who is under 18.

Accept only a government issued **photo ID** as proof of age for tobacco product sales. The ID should include a photo of the person, a physical description, and a date of birth showing that the person is at least 18 years old. To be valid, the ID must be current and not expired.

Any of the following forms of identification are considered acceptable:

- **State-Issued Driver's License**
- **State-Issued ID Card** (issued to non-drivers)
- **Passport**
- **Immigration Card**
- **Military ID Card**

OVER 21 DRIVER'S LICENSE (HORIZONTAL)



- A Birthdate
- B Expiration Date
- C Height
- D Weight
- E Ghost Portrait
- F Under 18 Until
- G Under 21 Until
- H Red Box for Under 21

UNDER 21 DRIVER'S LICENSE (VERTICAL)



Please visit www.NoTobaccoSalesToMinors.com for images of other valid IDs.

HOW TO CHECK AN ID



It only takes a few moments to make sure an ID is valid if you follow these simple steps:

- **Check first.** Always ask for and check ID **before** getting the tobacco product off of the shelf. Do not give or sell the product to the customer until you verify they are at least 18 years old.
- **Habit.** Follow the same steps each time you check an ID. This will prevent you from getting sidetracked by conversation.
- **Remove the ID.** Always have the customer remove the ID card from their wallet.
- **Check license expiration.** If the expiration date has passed, the card is not valid.
- **Over 18.** The ID must show that the person is over 18 years old. Compare the birthdate on the license or ID to a calendar to determine when the customer can legally purchase tobacco.
- **Red box + red date.** In Maryland, you can tell at a glance if the customer is under 21 because the Maryland license will be **vertical** and there will be a red box around the photo. Above the photo are the person's 18th birthday denoted as "Under 18 Until" [date] and 21st birthday as "Under 21 Until" [date]. These are written in red. Driver's licenses from other states may not have these features - make sure you look closely at the birthdate.
- **Photo + physical stats.** Make sure the person looks like the photo on the ID. Check the height and weight to make sure there's a reasonable match.
- **Doubts? Ask for another.** If you have any doubts about the ID, ask for a second one. If the customer can't provide a second ID, refuse the sale.

REMEMBER: Always check the dates on the ID to verify a customer is at least 18.

Maryland license: vertical + red box + red date

Other ID: Add 20 to the year they were born and subtract 2.

CHECK FIRST.
ALWAYS ASK FOR AND CHECK ID BEFORE
GETTING THE TOBACCO PRODUCT OFF THE SHELF.

SPOTTING A FAKE ID

Here are some things to look for:

- **Date tampering.** The most altered areas on an ID include the birthdate, expiration date and "Under 18 Until" or "Under 21 Until" [date]. Make sure these dates have not been changed or altered in any way.
- **Look for imperfections.** Feel for raised or bumpy surfaces. Look for erasure marks, incorrect thickness, peeling lamination, smudged print, fuzzy numbers, and letters or numbers that have different fonts—especially the birthdate and expiration date.
- **Glue lines or pin holes.** Examine the ID under bright light to reveal glue lines or pin holes where bleach may have been injected.
- **Numbers match.** Check the front and back to make sure all ID numbers match.
- **Check watermarks.** Examine the ID to make sure any required watermarks or state seals are present.
- **Numbers out of line.** Turn the card 90 degrees to make sure important numbers are not out of line.
- **Other cards.** If the young person has borrowed a driver's license where they look similar to the owner of the ID, they probably won't have multiple cards with the same name as the ID. **Ask to see a credit card or other form of ID.**
- **Photo + physical stats.** Make sure the person looks like the photo on the ID. Check the height and weight to make sure there's a reasonable match.

REMEMBER: When in doubt, don't make the sale. You are NOT obligated to sell any tobacco product.

MINORS AREN'T ALWAYS AS EASY TO SPOT AS THIS!



CALCULATING THEIR AGE

It is illegal to sell tobacco products to anyone under the age of 18. But once you have an ID in your hand, how do you verify age?

If you are presented with a Maryland driver's license, as shown on previous pages, the math is already done for you. Once you have verified that the ID is valid and belongs to the customer, look at the direction of the license; if it is vertical, the customer is under 21. There will be an "Under 18 Until" [date] located above the photo. Compare the "Under 18 Until" [date] with the current date to determine if a sale is allowed.

Example 1--Maryland ID

Birthdate on ID: 08-11-1998

Under 18 Until: 08-11-2016

Today's date is: 05-20-2015

Comparing today's date (05-20-2015) to the "Under 18 Until" date (08-11-2016), you see that selling tobacco to this customer is illegal as the customer will not be 18 until August 11, 2016. You must refuse the sale.

Example 2--Other ID

A customer hands you another form of ID or a driver's license that is not from Maryland. Do not assume a horizontal license from another state indicates the customer is over 21. Use the following method to calculate their age.

Add 20 to the year they were born, then subtract 2.

Birthdate on ID: 08-11-1998

Today's date is: 05-20-2015

Birth year on ID=1998

Add 20= 2018

Subtract 2= 2016

1998
+20
-2
2016

The customer will not be 18 until August 11, 2016. Comparing today's date (05-20-2015) to the date the customer turns 18 (08-11-2016), you see that selling tobacco to this customer is illegal. You must refuse the sale.

REMEMBER: Add 20...subtract 2.



HOW TO REFUSE A TOBACCO SALE

When you refuse to sell a tobacco product to a minor, the law is on your side. Be polite but firm.

- **Check ID first.** Before you pull the tobacco product from the shelf, ask to see their ID first. This way the tobacco is out of the customer's reach and they can't throw money down, grab the product and leave the store.
- **Don't get sidetracked.** Be consistent and use the same technique to check each ID. Don't lose your focus by talking to customers while checking ID.
- **Be alert.** Customers might wait until a busy part of the day when clerks are more distracted. Continue to be consistent when checking IDs.
- **Be firm.** Once you've determined a minor is trying to purchase tobacco products, address the customer with a firm yet polite response.
- **Explain why.** Tell the person why you can't sell the tobacco product.

VALID REASONS.

The tobacco sale should be declined if:

The customer has no photo ID.
The ID photo does not match the customer.
The ID contains no date of birth.
The ID doesn't appear to be authentic.
The ID shows the customer is underage.
The ID has expired.



- **No buddies.** You should not sell tobacco products to any customer if it appears to be for a minor who is with him/her or is waiting outside.
- **No purchases for parents.** It's illegal for a person under 18 to buy tobacco products for a parent, even if they have a note from that parent.
- **Resist customer pressure.** The customer might try to make you feel bad about not selling to them or provide excuses and reasons as to why you should sell them the product. Stand your ground and don't waiver - you are not required to sell any tobacco products, especially if you have any doubts.
- **Keep going.** Continue checking out their other items.
- **Next customer.** If they have nothing else to purchase, shift your attention to the next customer in line.
- **Get help.** Don't be afraid to call your supervisor or manager if it becomes necessary.

WHAT TO SAY:

"I'm sorry, I must check a photo ID of anyone under 27 before selling tobacco. It's nothing personal--it's the law."

"I'm sorry, I can't sell tobacco products to anyone under 18. It's nothing personal--it's the law. I could lose my job or be fined a lot of money."

IT'S THE LAW

LICENSING REQUIREMENTS

- If you sell or distribute cigarettes, you are required to maintain a license from the State Comptroller as well as the county clerk. If you sell other tobacco products (cigars, spit tobacco, etc.) AND cigarettes, this license will be valid for all products. Licenses expire on April 30th and must be renewed annually.
- If you sell or distribute other tobacco products and do NOT sell cigarettes, you are required to maintain a license for other tobacco products from the State Comptroller as well as your county clerk. Licenses expire on April 30th and must be renewed annually.

Violations and Penalties

- Selling or distributing cigarettes without the appropriate state license is a misdemeanor subject to a fine of \$1,000, imprisonment for not more than 30 days, or both. Each day that a violation occurs is a separate violation. *Md. Ann. Code Bus. Reg. §16-214(b)(1) to 16-214(b)(2)*
- Selling cigarettes without a county license, selling cigarettes with an expired county license or failing to display the county license in a "conspicuous place" is a misdemeanor subject to a fine up to \$100. *Md. Ann. Code Bus. Reg. §16-309(a)*
- Selling or dealing in tobacco products without the appropriate state license is a misdemeanor subject to a fine of \$1,000, imprisonment for not more than 30 days, or both. Each day that a violation occurs is a separate offense. *Md. Ann. Code Bus. Reg. §16.5-101 to 16.5-214 (2013)*

SELLING TOBACCO
TO KIDS-
IT'S NOT A MINOR THING!

MARYLAND REGULATIONS

Sale and Distribution

- Tobacco products may ONLY be sold to individuals age 18 or older. *Md. Ann. Code Crim. Law §10-107*
- The sale of tobacco products in vending machines is prohibited unless the vending machine is located in an adult-only (age 18 or older) establishment. *Md. Ann. Code Bus. Reg. §16-3A-02*
- Cigarettes may ONLY be sold in packages of at least 20. *Md. Ann. Code Comm. Law §11-5A-02*
- The sale of clove cigarettes is prohibited. *Md. Ann. Code Crim. Law §10-106*
- Electronic nicotine devices may ONLY be sold to individuals age 18 or older. *Md. Ann. Code Health-Gen. §24-305(b)(1)*
- A **minor** may NOT use or possess a tobacco product or cigarette rolling paper or obtain or attempt to obtain a tobacco product or cigarette rolling paper by using a form of ID that is falsified or IDs the minor as another individual.

Violations and Penalties

- Sale or distribution of a tobacco product to a minor: The clerk or licensee (or both) is guilty of a criminal misdemeanor and a fine up to:
\$300 for a first violation;
\$1,000 for a second violation within 2 years of the first violation;
\$3,000 for each subsequent violation occurring within 2 years of preceding violation. *Md. Ann. Code Crim. Law §10-107*
- Sale or distribution of an electronic nicotine delivery system to a minor: A person violating this law is guilty of a criminal misdemeanor and a fine of up to \$1,000.
- Sale of unpackaged cigarettes: a retailer that distributes an unpackaged cigarette is guilty of a criminal misdemeanor and is subject to a fine up to \$500 or imprisonment for up to 3 months or both. *Md. Ann. Code Comm. Law §11-5A-03*

A more detailed explanation of Maryland Tobacco Sales laws may be found at:
www.law.umaryland.edu/programs/publichealth/tobacco/regulations_resources.html#a03

IT'S THE LAW

FEDERAL REGULATIONS

On June 22, 2009, the President signed the Tobacco Control Act into law. The Tobacco Control Act grants FDA authority to regulate the manufacturing, marketing and distribution of tobacco products to protect public health and to reduce tobacco use by minors.

ID Check

- Cigarettes and smokeless tobacco may **ONLY** be sold to individuals age 18 or older. 21 C.F.R. § 1140.14
- Retailers **MUST** check photo ID of everyone under age 27 who attempts to purchase cigarettes or smokeless tobacco. 21 C.F.R. § 1140.14 (b)(2)

Sale and Distribution

- Cigarettes and smokeless tobacco products may **ONLY** be sold in face-to-face transactions. Check your local law - several Maryland counties and Baltimore City require face-to-face transactions for the sale of ALL tobacco products. 21 C.F.R. 1140.14(c)
- The sale of cigarettes and smokeless tobacco in vending machines is prohibited unless the vending machine is located in an adult-only (age 18 or older) establishment. 21 C.F.R. § 1140.16(c)
- Cigarettes may **ONLY** be sold in packages of at least 20. 21 C.F.R. § 1140.16(b)
- Breaking or opening packages of smokeless tobacco to sell in any quantity smaller than the smallest package distributed by the manufacturer for individual use is prohibited. 21 C.F.R. § 1140.14 (d)
- Retailers may **NOT** distribute free samples (except for samples of smokeless tobacco products in a qualified adult-only facility) or offer gifts with the purchase of cigarettes or smokeless tobacco. 21 C.F.R. § 1140.16(d)(1)
- The sale of flavored cigarettes (excluding menthol) is prohibited. 21 U.S.C. 387g
- Retailers are required to alter self-service displays so that all transactions involving cigarettes or smokeless tobacco are face-to-face and do not allow for the opening of any cigarette or smokeless tobacco package. 21 C.F.R. § 1140.14 (e)



Advertising and Promotion

- It is prohibited to offer any gift or item to a person purchasing cigarettes or smokeless tobacco in consideration of (a) the purchase of tobacco products; or (b) providing evidence of such purchase, such as credits, proof-of-purchase, or coupons. 21 C.F.R. § 1140.34(b).
- It is prohibited to sponsor any athletic, musical, artistic, or other social or cultural event—or any entry or team in any event—that is identified with a brand of cigarettes or smokeless tobacco. 21 C.F.R. § 1140.34(c)

Violations and Penalties

- There are two schedules for civil money penalties for retailers who violate the Tobacco Control Act. Escalating fines can be up to \$10,000 for tobacco violations.

RESOURCES

- FDA**
 - www.fda.gov/TobaccoProducts/default.htm
 - <http://www.fda.gov/tobaccoproducts/resourcesforyou/retail/ucm237741.htm>
- Campaign Materials**
 - www.NoTobaccoSalesToMinors.com
- Maryland Department of Health and Mental Hygiene, Center for Tobacco Prevention and Control**
 - http://phpa.dhmh.maryland.gov/ohpetup/SitePages/tob_home.aspx
- Maryland Synar reports (State tobacco retailer compliance checks)**
 - <http://bha.dhmh.maryland.gov/SitePages/Maryland%20Synar%20Reports.aspx>
- Maryland Department of Health and Mental Hygiene, Behavioral Health Administration**
 - bha.dhmh.maryland.gov/
- University of Maryland, Legal Resource Center for Public Health Policy**
 - www.law.umaryland.edu/tobacco
 - www.law.umaryland.edu/programs/publichealth/tobacco/index.html
- Comptroller of Maryland**
 - www.comp.state.md.us
- Office of the Maryland Attorney General**
 - www.oag.state.md.us/Tobacco/youthaccess.htm

Responsible Retailers

CHECK
ID.

We Don't Sell
Tobacco to Kids

May 2015

