KICK'EM UNDER 18?

NO SALES OF TOBACCO OR E-CIGARETTES

TEXAS GUIDELINES FOR RETAIL CIGARETTE, E-CIGARETTE OR TOBACCO PRODUCT SALES

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WHY WE COMPLY WITH THE LAW

As you know, it is illegal to sell cigarettes, e-cigarettes or tobacco products to a person under 18 years of age. The program "Under 18, I Can't Sell — You Can't Buy" has been established by the Texas Comptroller of Public Accounts to enhance our state's efforts to enforce the law and reduce minors' access to cigarettes, e-cigarettes and tobacco products.

Illegal sales of cigarettes, e-cigarettes or tobacco products to people under 18 years old can result in:

- fines of up to $500 for store clerks;
- termination of store clerks, depending on store policy;
- fines up to $1,000 for stores;
- license suspension or even revocation for stores with multiple offenses; and
- the loss of millions of federal dollars earmarked for Texas.

Tobacco is addictive and lethal. Most individuals who become addicted start smoking before the age of 18. According to **www.tobaccofreekids.org**, each day, more than 2,800 American children under 18 try their first cigarette and another 700 become new daily smokers. That's more than 250,000 new underage daily smokers in this country each year. If current rates persist, 5.6 million children alive today will die prematurely from smoking. When you refuse to sell tobacco to minors, fewer young people become addicted, and ultimately fewer people will die from tobacco-related illnesses.

You have a critical role to play in helping reduce underage tobacco use. The decisions you make can have major consequences for you, your store, your underage customer and the state as a whole. For you, it can mean risking your job and your money. For your store, it can mean losing money and the ability to continue to sell tobacco. For your underage customers, it can mean a lifetime of addiction, a $250 fine and the possible loss of their driver's license. For Texas, it can mean the loss of millions of federal dollars for drug and alcohol treatment. Please comply with the law, check identification and refuse to sell tobacco to minors.

HOW TO COMPLY WITH THE LAW

1. ASKING FOR IDENTIFICATION (ID)

You should always ask for a valid picture ID for anyone who appears to be under the age of 27 who tries to buy cigarettes, e-cigarettes, cigars or smokeless tobacco.

ACCEPTABLE PROOF OF IDENTIFICATION INCLUDES:

driver's license with picture from Texas or another state;

Texas Identification Card;

passport; and

other ID card issued by a state or the federal government that displays the person's photo, name, address, date of birth, physical description and signature.

Note: Student ID cards are not valid for purchasing cigarettes, e-cigarettes or tobacco products.

- Remember that looks can be deceiving. Claiming someone looked older than his/her age is not a defense if you sell to a person under 18 years of age.
- Always check ID before getting cigarettes, e-cigarettes or tobacco products for a customer. It's much easier to get rushed and make a mistake if the product is already in someone's hands.
- Many stores have ID-checking software at the register. No matter how long your line, impatient the customer or creative the story, DON'T EVER BYPASS IT! Checking ID protects you and your store. It is one of the best tools you have to ensure that you do not make an illegal sale.
- If you do not think an ID is legal or official, do not sell. Texas law allows you to refuse to sell cigarettes, e-cigarettes or tobacco products to any person who fails to display an appropriate form of ID.
- If the customer does not have an official photo ID and you are not absolutely sure he/she is age 18 or older, do not sell, no matter what. If you do, you could be making a decision that will cost you and your store.

2. EXAMINING THE IDENTIFICATION (ID)

STEP 1: When an ID is presented, check the photo first. Make sure it matches the person presenting it and that it has not been altered. If the photo does not match or has been altered, do not sell.

STEP 2: If a person is under 18 years old, a Texas license is vertical and says "Provisional Driver License."

A vertical Texas ID is your first clue that you should examine it closely. If it says "Provisional Driver License" under Department of Public Safety, **the customer is under 18 and cannot buy cigarettes, e-cigarettes or tobacco products.**

If the ID is not a Texas license, check the date of birth (DOB) closely to ensure they are over 18.

If the person is under 18 years old, do not sell.

If a person is over 21 years old, a Texas license is horizontal (sideways). If a person is under 21, the license is vertical (up and down).

VERTICAL TEXAS ID/LICENSE - UNDER AGE 18

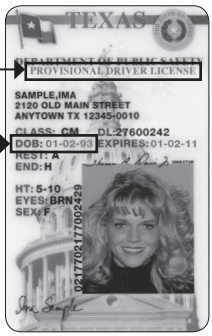
(NEW FORMAT 2009)

PROVISIONAL LICENSE

DATE OF BIRTH

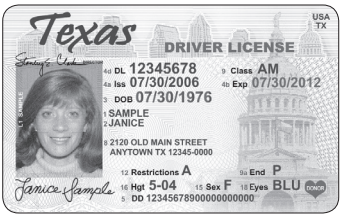
THIS INDIVIDUAL IS UNDER 18

(VALID UNTIL EXPIRATION DATE)



ADULT - HORIZONTAL TEXAS ID/LICENSE - 21 OR OLDER

(NEW FORMAT 2009)



(VALID UNTIL EXPIRATION DATE)

STEP 3: Check the date that the ID expires, and make sure it is current. If the ID is expired, do not sell.

3. REFUSING A CIGARETTE, E-CIGARETTE OR TOBACCO SALE

Sometimes it is necessary to refuse a sale. Most customers are fine with this and move on (maybe with a bit of grumbling). But sometimes they will do almost anything to get you to sell cigarettes, e-cigarettes or tobacco products. Do not let them intimidate you into making a mistake — do not sell.

Here are a couple of tips to help you avoid problems:

- Always be firm but polite.
- Remind the customer that it is illegal for you to sell cigarettes, e-cigarettes or tobacco products to anyone under the age of 18, and it is illegal for anyone under the age of 18 to purchase cigarettes, e-cigarettes or tobacco products. Explain that you and your store could be fined and that you might even lose your job.
- Never give in to intimidation. If a customer will not let up, get your manager or a co-worker to assist you.
- Be sure you are familiar with your store policies for handling troublesome customers.
- If you need to, call the police.

It is illegal for you to sell cigarettes, e-cigarettes or tobacco products to an adult who is going to give or sell it to a person under the age of 18. You have the right to refuse a sale when you suspect this is the case.

TIPS:

- Watch for youth hanging out in the parking lot talking to adults...they could be asking the adults to purchase cigarettes, e-cigarettes or tobacco products for them.
- Watch for adults purchasing multiple brands of cigarettes, e-cigarettes or tobacco products. Usually an adult will buy only one brand. Multiple brands may indicate that they are buying for someone else. Be chatty...ask questions.

CONSEQUENCES OF SELLING CIGARETTES, E-CIGARETTES OR TOBACCO PRODUCTS TO A MINOR

If you sell cigarettes, e-cigarettes, or tobacco products to a minor, you run the risk of incurring a fine for both yourself and your store.

Clerks can be fined:

- Up to $500

Your store's tobacco permit can be jeopardized:

- The permit to sell cigarettes, e-cigarettes, and tobacco may be suspended if the Texas Comptroller of Public Accounts finds that a violation relating to the sale or delivery of cigarettes, e-cigarettes, or tobacco products to a minor occurred three times in a 12-month period (no matter which employee did the selling).

Store fines for additional violations include:

- 1st offense: $500
- 2nd offense: $750*
- 3rd offense: $1,000 or suspension of permit for no more than three days*
- 4th offense: Permit revocation for six months*

Local law enforcement agencies (police departments, sheriffs, constables and district attorneys) may all conduct random, unannounced controlled buys to ensure compliance with the law.

A controlled buy, also referred to as a "sting," is when an underage minor decoy works with one of the agencies, comes into a store and attempts to buy cigarettes, e-cigarettes or tobacco products.

If a sale is made, the enforcement officer will normally issue a citation to the clerk making the sale. There are some controlled buys in which you are being tested and a citation is not issued at that time; so you can never be sure if a minor attempting to buy cigarettes, e-cigarettes or tobacco products is working with an enforcement agency or not.

To comply with the law, always check the ID and verify the customer's age.

Approved seller training on how to successfully comply with the law is available through the Comptroller's office. Talk to your manager about how to get this training for yourself and your co-workers.

*within a 12-month period

MINI QUIZ

1. True or False: If an illegal sale is made, only the store gets a fine.
2. True or False: The fine for a clerk making an illegal sale is $50 for the first offense and $100 for the second offense.
3. True or False: It is illegal to sell mini-cigars (cigarillos) to minors.
4. True or False: If customers insist they are over 18 but have no ID, you can sell a cigarette, e-cigarette or tobacco product to them once, as long as you give them a warning to bring their ID the next time.
5. True or False: You will not be fined for an illegal sale if it was an honest mistake.
6. True or False: An ID does not need to have a photo on it to be official.
7. What type of ID is official to purchase cigarettes, e-cigarettes or tobacco products in Texas?
8. If a customer gives you a hard time because you won't sell, what should you do?
9. What is a controlled buy?
10. What is the appearance of a Texas driver's license for people under 18?

Answers

1. False. Both the clerk AND the store are liable for a fine.
2. False. The fine for the clerk is up to $500.
3. True. It is illegal to sell any cigarette, e-cigarette or tobacco product to minors, including smokeless tobacco.
4. False. A customer must present an official, un-expired ID at the time of purchase.
5. False. An illegal sale is an illegal sale. Do not sell!
6. False. To purchase cigarettes, e-cigarettes or tobacco products, a customer must present a valid photo ID as defined by law (see page 2).
7. Acceptable proof of identification includes a driver's license with photo, a passport or an ID card issued by a state or the federal government that displays the person's photo, name, address, date of birth, physical description and signature.
8. Be firm but polite, explain the law to them and call for help, if needed.
9. A controlled buy occurs when an underage youth working with an authorized law enforcement agency attempts to purchase cigarettes, e-cigarettes or tobacco products in a store. This is done routinely to make sure clerks/stores are complying with the law and not selling cigarettes, e-cigarettes or tobacco products to minors.
10. The "Under 18" license is vertical (up and down) and states "Provisional License."

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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You can request this guide by contacting us at 1-800-252-1389.

If you have any questions regarding Texas cigarette, e-cigarette, and/or tobacco products laws,
please contact the Comptroller's office via email at tax.help@cpa.texas.gov
or call us toll free at 1-800-862-2260, or
direct in Austin at 512-463-3731.

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