

TIPS FOR RETAILERS: PREVENTING SALES TO MINORS

Presented by: Office of Compliance and Enforcement

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CENTER FOR TOBACCO PRODUCTS

OVERVIEW

- Retailer Training Programs
- Available FDA Training Materials
- Age Verification Techniques
- Conducting Internal Compliance Checks
- Hiring and Management Practices
- Other Training Materials



RETAILER RESPONSIBILITY



Each day in the United States:

- 2,300 youth under 18 years of age smoke their first cigarette¹
- 400 youth under 18 years of age become daily cigarette smokers¹

Nationwide:

- 1.13 million high school students currently use cigars, cigarillos, or little cigars²
- 1.68 million high school students currently use electronic cigarettes²

Retailers are any person, government, or entity who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted. ³

1. Substance Abuse and Mental Health Services Administration (SAMHSA). 2016 National Survey on Drug Use and Health: Detailed Tables. Rockville, MD: U.S. Department of Health and Human Services, SAMHSA, Center for Behavioral Health Statistics and Quality; 2017. <https://www.samhsa.gov/data/sites/default/files/NSDUH-DetTabs-2016/NSDUH-DetTabs-2016.htm>. Accessed October 12, 2017.
2. Jamal A, Gentzke A, Hu SS, et al. Tobacco Use Among Middle and High School Students — United States, 2011–2016. *MMWR Morb Mortal Wkly Rep* 2017;66:597–603.
3. Section 900(14) of the Federal Food, Drug, & Cosmetic Act (FD&C Act)

DISCLAIMER



The FDA does not endorse any specific third-party POS (Point of Sale) systems, age-verification systems, or training programs.

For a more comprehensive overview of developing a training program for employees who make tobacco sales, you may also review:

Guidance for Industry: Tobacco Retailer Training Programs found on CTP's Guidance webpage.

CTP's September 5, 2013 "Tobacco Retailer Training Programs" webinar by searching "Tobacco Compliance Webinars" on the FDA's website search bar.

- For quick access to this information, after accessing the "Tobacco Retailer Training Programs" webinar, start viewing it at approximately 8 minutes and 30 seconds.

“THIS IS OUR WATCH”



Launched nationally November 2017

Full toolkit of **free** resources to help retailers better comply with federal tobacco regulations:

- Posters
- Regulation flyers
- Register signage
- Register stickers
- Age verification calendars
- Instruction booklet

The new **This Is Our Watch** materials are available for order or download **free** via the CTP Exchange Lab (<https://digitalmedia.hhs.gov/tobacco/>).

“THIS IS OUR WATCH”



WE I.D. TOBACCO PURCHASES



THANK YOU
FOR HAVING YOUR I.D. READY

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WE I.D. TOBACCO PURCHASES



IT'S UP TO US TO PROTECT OUR COMMUNITY FROM UNDERAGE TOBACCO USE.

- Check photo ID of everyone under age 27 who attempts to purchase any tobacco product.
- Only sell tobacco products to customers age 18 or older.*
- Never sell tobacco products in a vending machine unless in an adult-only facility.**
- Never give away free samples of tobacco products, including any of their components or parts.

*Retailers must also follow state or local tobacco laws, even if they are more restrictive. For example, in some states the minimum age is 19.
**No adult-only facility is one in which minors are neither present nor permitted to enter at any time.

For a complete list of retailer requirements, visit www.fda.gov/tobacco

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RE-08 | Last Updated March 2017



IT'S UP TO US TO KEEP MINORS SAFE.

CHECK I.D.

Customers must show valid photo I.D. and be old enough to purchase any tobacco product.*

PHOTO Ensure it's really the customer.

BIRTH DATE Must be old enough to purchase any tobacco product.*

LICENSE EXPIRATION License should not be expired.

SECURITY FEATURES Run the magnetic strip or barcode with a scanner if available.

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*Federal law requires customers to be 18 or older to purchase tobacco products. Retailers must follow state or local tobacco laws, even if they are more restrictive. For example, in some states the minimum age is 19.

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Photo IDs:

- Acceptable or unacceptable forms of photographic identification
- How to verify the authenticity of photographic identification
- Ways to determine whether photographic identification has been altered
- Importance of closely examining photographic identification

EXAMPLES OF ACCEPTABLE FORMS OF PHOTO ID



- Driver's license or other state photo identity card issued by Department of Motor Vehicles (or equivalent)
- Federally recognized tribal-issued photo ID
- Foreign government-issued passport
- Canadian provincial driver's license or Indian and Northern Affairs Canada card
- U.S. Citizenship and Immigration Services Employment Authorization Card (I-766)

Ways to identify invalid IDs:

- Spelling errors
- Word usage errors
 - Ex: Weight: Brown; Height: 162; Eye color: 5'05"; etc.
- Card is expired
- Various Point of Sale (POS) systems have software that can confirm document authenticity

Even if the ID is valid, the customer may still be underage, so be sure to check the date of birth

SPECIFIC AGE VERIFYING TECHNOLOGY



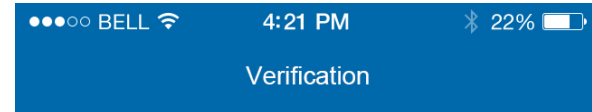
Stand-Alone Age Calculator Systems

Point-of-Sale Systems that Prompt Clerk to Check ID

Point-of-Sale Systems that Prompt Clerk to Enter Date of Birth (DOB)

Point-of-Sale Systems that Require Scan of ID

FDA AGE CALCULATOR



Age: 30 years



STAND-ALONE AGE CALCULATOR SYSTEMS

FDA-developed Age Calculator App or
Third-Party Age Calculator Systems

Advantages

Great tool for calculating age to confidently be able to complete or deny a sale

Can continue to use current POS system in conjunction with age calculator

Things to Consider

Does not automatically stop the sale to the minor at the POS

Only helpful if clerks utilize the calculator and deny the sale if the customer is under 18, (or, in some cities, counties, and states, 19, 20, or 21)

POS SYSTEMS THAT PROMPT CLERK TO CHECK ID

Advantages

Reminds clerk to check ID

Things to Consider

Does not automatically stop the sale to the minor at the POS

Clerk has to calculate age manually based on customer's ID and deny the sale if the customer is under 18, (or, in some cities, counties, and states, 19, 20, or 21)

POS SYSTEMS THAT PROMPT CLERK TO ENTER DATE OF BIRTH (DOB)

Advantages

Requires clerk to enter a date of birth

Performs age calculation and prevents transaction from proceeding if under age

Things to Consider

Clerk can enter any DOB

Clerk may enter incorrect DOB to complete sale

Override codes may exist

POS SYSTEMS THAT REQUIRE SCAN OF ID



Advantages

Requires clerk to check ID

Performs age calculation and prevents sale if under age

Requires a valid ID to complete sale

Things to Consider

Customers may not be in possession of scan-ready ID cards

May not work with out-of-state or other types of IDs

Override codes may exist



AGE-VERIFICATION TECHNOLOGIES SUMMARY



Age Verification	Advantages	Things to Consider
Stand-Alone Age Calculator Systems (e.g., FDA age calculator app)	Great if you need help calculating age to complete or deny a sale	App does not prevent sale Only helpful if clerk uses it and denies sale based on the info
Point-of-Sale Systems that Prompt Clerk to Check ID	Prompts clerk to verify customer's age	Does not prevent sale Clerk may miscalculate age Clerk can continue sale without verifying age
Point-of-Sale Systems that Prompt Clerk to Enter Date of Birth (DOB)	Reminds clerk to check ID Performs the age calculation and prevents sale if under age	Clerk can enter any DOB they want May enter false DOB to complete sale. May have override codes
Point-of-Sale Systems that Require Scan of ID	Reminds clerk to check ID Performs the age calculation and prevents sale if under age Requires a valid ID to complete sale	May not work with passports or other forms of ID Override codes may exist

Takeaways

Each system has advantages and things to consider; however, the retailer needs to determine which is best for their business

May need to implement other controls, such as internal compliance checks

Routine checks of employee compliance helps ensure the law and your policies are being followed.

Examples:

- Hire a “secret shopper” or “mystery shopper”, through a third-party contractor, where permitted
- Unannounced written tests
- Review security footage
- Review point of sale reports to determine compliance rate
- Combination of several techniques

COMPLIANCE CHECK FREQUENCY



Compliance checks should be conducted routinely

Consider conducting reviews, checks, or sending in mystery shoppers:

- at varying hours of operation
 - during busy times
 - during slow times
- for all employees
 - at times when experienced employees are working
 - at times when new employees are working

Checks should be unannounced, but employees should be aware that their compliance will be reviewed

Hiring Practices¹:

- Consider requiring employees who sell tobacco products to be at least 18 years of age

Potential Management Practices:

- Take employee performance on compliance checks into account
- Include store's compliance rate in retailer manager's performance reviews, if permitted by law
- Require manager's override for any discrepancies involving sales of tobacco products

1) DiFranza, J.R., and Coleman, M., "Sources of tobacco for youths in communities with vigorous enforcement of tobacco sales laws," *Tobacco Control*, 10; 323-328, 2001. (finding that employees under the age of 18 are more likely to sell tobacco to minors than are older clerks)

Many states have online trainings and resources to help retailers comply with state and federal laws.

- Alabama
- Maryland
- Massachusetts
- Missouri
- New York

FDA Resources

Age Verification

Internal Compliance Checks

Hiring and Management Practices

Other Training Materials

FOOD, DRUG, AND COSMETIC ACT



	Cigarettes (including cigarette tobacco and roll your own)	Smokeless Tobacco	Covered Tobacco Products
Only sell to anyone age 18 or older	X	X	X
Check the photo ID with date of birth of anyone under age 27	X	X	X
Do NOT sell using self-service displays (except in facilities where the retailer ensures no person younger than 18 is permitted to enter)	X	X	
Do NOT sell using devices such as vending machines (except in facilities where the retailer ensures no person younger than 18 is permitted to enter)	X	X	X
Do NOT give away free samples	X	X (except from qualified adult-only facility)	X (as well as components or parts that do not contain nicotine)
Do NOT break open cigarette or smokeless tobacco packages to sell products in smaller amounts such as single cigarettes (also called “loosies”)	X	X	
Do NOT sell cigarette packages containing fewer than 20 cigarettes	X		
Do NOT sell flavored cigarettes	X		

- Additional information on Retailer Training and Enforcement can be found at the FDA Center for Tobacco Products website at:
<https://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/Retail/ucm249332.htm>
- Please direct any additional questions to: AskCTP@fda.hhs.gov

THE END

