



Tobacco Control Laws

That Affect Retail Businesses

2005

An Important Message

*from the California Department of Health Services
and the Attorney General's Office*

Dear Business Owner:

This brochure contains basic information on several state tobacco control laws that affect retail businesses. Words in **bold type** are defined in the glossary.

Information is also available on the Internet at

- www.leginfo.ca.gov/calaw.html
- caag.state.ca.us/tobacco
- www.boe.ca.gov

Your local health department can advise you of local tobacco control laws that affect your business.

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At a Glance— **How to Comply with the Laws**

When you get a tobacco retail license, you must

- **DISPLAY** your license so your customers can see it.
- **KEEP** complete, readable purchase invoices for cigarettes and tobacco products for four years.
- **KEEP** purchase invoices for cigarette and tobacco products in the same store where the purchased items are being sold for at least one year after the date of purchase.
- **HAVE** your cigarette and tobacco products purchase invoices available for review by California State Board of Equalization (BOE) staff or law enforcement officers.

How to prevent tobacco sales to minors

- **MAKE SURE** your employees always ask customers who look younger than 27 years old for IDs and check the birthdates carefully.
- **ACCEPT** only valid government-issued photo IDs (driver's license, state ID, passport, military ID).

When you train employees to prevent tobacco sales to minors

- **TRAIN** all your employees who sell tobacco products so that they understand all the laws and company rules about selling tobacco products. Also include training on the health-related reasons to not sell tobacco products to minors.
- **TEACH** employees how to check for age. Have them practice how to figure out someone's age from an ID. Also teach them how to act and what to say when they have to refuse to sell to someone.
- **PROVIDE** more training if any employee breaks the law or store rules.
- **GIVE** employees written copies of the tobacco laws and store rules. Have them sign the copies to show that they have read and understood them.

How can you help employees comply with the law?

- **POST** the required *Stop Tobacco Access to Kids Enforcement (STAKE) Act* age-of-sale warning signs. Also post signs to remind employees and inform customers that anyone who looks under age 27 will be asked for ID.



- KEEP aids at the checkout or register to help employees figure out age (calendars, register prompts, electronic ID scanning system, etc.).

Be sure you are complying with the laws!

- NO tobacco products or **tobacco paraphernalia** sold to anyone under age 18
- NO **self-service display** of tobacco products or paraphernalia (with limited exceptions for cigars in tobacco-only stores)
- NO sales of cigarette packs with less than 20 cigarettes or single cigarettes
- NO **tobacco samples** in your store (with limited exceptions)
- NO sales of **bidis** in businesses that allow minors
- NO tobacco vending machines where minors are allowed

License Requirements

✓ *California Cigarette and Tobacco Products Licensing Act of 2003*

Under the *Cigarette and Tobacco Products Licensing Act of 2003*, businesses in California that sell cigarettes and other tobacco products to the public must have a California Cigarette and Tobacco Products License. This is true even if you have a seller's permit, or other permits or licenses issued by the BOE or a local government.

WHO is required to have a license?

Starting June 30, 2004, sellers of cigarettes and other tobacco products in California must have a license to sell cigarettes or tobacco products to the public from a building or vending machine. You must have a separate license for each building or vending machine. Whenever you add a new location where you sell tobacco products, you must get a separate license for that location.

Note: If you operate your business from a catering truck, lunch wagon, or other movable vehicle or location, you do **not** qualify for a license and cannot sell cigarettes or tobacco products in California.

You must obtain a distributor's license if you buy cigarettes or tobacco products from an out-of-state seller who is not licensed under this Act. You must get a wholesaler's license if you buy tax-paid cigarettes or tobacco products for resale. Either license costs \$1000 per year for each location where you sell or distribute tobacco products.



HOW much does a state tobacco license cost?

There is a **one-time** fee of \$100 for *each* license for each building or vending machine where you sell cigarettes or tobacco products to the public. A license is good for one year and must be renewed every year. You do not have to pay a fee to renew the state license.

HOW do I get a state tobacco license?

Complete and submit an *Application for Retailer's Cigarette and Tobacco Products License* (form BOE-400-LR). To get the application, call the Board of Equalization (BOE) Information Center at (800) 400-7115. You can also download the application from the BOE website at

www.boe.ca.gov/sptaxprog/sptaxforms.htm

Note: In addition to the state licensing requirement for retail tobacco sales, many city and county governments have additional licensing requirements. Check with your local business license department for more information.

✓ *As a license holder, you must*

- **DISPLAY** your license where the public can easily read it. Failure to do so is an automatic fine of \$500. Your license may also be taken away temporarily or permanently.
- **KEEP** complete and readable purchase invoices for cigarettes and tobacco products for four years. Failure to do so may result in a fine of up to \$5,000 and/or imprisonment for up to one year in a county jail. Keep these invoices at each licensed location where you are selling the tobacco products for at least one year after the purchase date.
- **LET** BOE staff or law enforcement officers see your cigarette and tobacco products purchase invoices when they ask you for them. The law also allows BOE staff and law enforcement officers to take any untaxed cigarettes and tobacco products, including cigarettes without stamps or with counterfeit tax stamps. If you refuse to allow an inspection, you are breaking the law and may be fined.

Purchase Invoice Requirements

The invoices you get from wholesalers and distributors licensed under the *Cigarette and Tobacco Products Licensing Act of 2003* must have the following information:

- The name of the wholesaler or distributor who sold you the cigarettes or tobacco products



- The address, telephone number, and license number of the wholesaler or distributor
- The amount of excise tax paid to the BOE. An invoice must say that all California cigarette and tobacco product taxes are included in the total amount of this invoice.
- Retailer's name, address, and license number
- An itemized list of the products sold

Illegal Purchases

It is against the law for you to buy cigarettes or tobacco products from a seller who is not licensed under the *California Cigarette and Tobacco Products Licensing Act of 2003*. If you make an illegal purchase, your license may be taken away temporarily or permanently. You may also be fined and/or sent to prison.

Note: A list of California-licensed distributors and wholesalers is on the Board of Equalization website at www.boe.ca.gov/pdf/cigdistrib-wholsr.pdf

Laws about Selling to Minors

✓ Selling tobacco to anyone under the age of 18 is against the law. Anyone younger than 18 years old is a minor.

Two California laws prohibit selling tobacco to minors: *Penal Code Section 308* and the *Stop Tobacco Access to Kids Enforcement (STAKE) Act, Business and Professions Code Section 22950–22963*.

Penal Code Section 308

- It is a crime to sell, give, or in any way supply tobacco products and paraphernalia to minors.
- Signs with the “1-800-5 ASK-4-ID” phone number must be posted at each cash register.

WHAT are the penalties?

- Storeowners and/or clerks who break the law may be charged with a misdemeanor or may be fined: \$200 for the first violation, \$500 for the second violation, and \$1,000 for the third violation.



WHO enforces this law?

Local law enforcement agencies

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html

Penal Code Section 308

STAKE Act

- Outlaws selling or giving tobacco products to minors.
- Sellers must check the ID of anyone who looks younger than age 18.
- Signs with the “1-800-5 ASK-4-ID” phone number must be posted at each cash register.
- The state health department may use **youth decoys** in on-site inspections to determine if retailers are selling illegally to youth.
- Youth decoys involved in law enforcement inspections will show a legal ID with their real age if asked, but they do not have to state their real age.
- There are three ways your business can be inspected: at random, in response to public complaints, or if it has been found in violation at previous inspections.
- Illegal sales of tobacco to minors made over the phone, through the mail, or via the Internet may also be investigated.

WHAT are the penalties?

Penalties under the *STAKE Act* are enforced against store owners—not employees.

- \$200–\$300 for the first violation
- \$600–\$900 for the second violation within a five-year period
- \$1,200–\$1,800 for a third violation within a five-year period
- \$3,000–\$4,000 for a fourth violation within a five-year period
- \$5,000–\$6,000 for a fifth violation and each additional violation within a five-year period

WHO enforces this law?

The Food and Drug Branch of the California Department of Health Services

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html

Business and Professions Code Section 22950–22963



To find out about additional local tobacco control laws where you live, contact your local law enforcement agency or local health department's tobacco control program.

For free signs and educational materials about the *STAKE Act*, call the *STAKE Act* hotline at (800) 527-5443.

An important note about signage

The *We Card* sign was created and is distributed by the Coalition for Responsible Tobacco Retailing, a group of tobacco retailers, wholesalers, and manufacturers funded by the tobacco industry. This sign does **not** meet the requirements for signage under the *STAKE Act*.

Laws about Self-Service Displays

✓ *Customers may not help themselves to cigarettes and other tobacco products and paraphernalia.*

As of January 1, 2005, the **self-service display of tobacco products is against the law**. Tobacco products include cigarettes, chewing tobacco, dipping tobacco, snuff, cigars, bidis, pipe tobacco, roll your own tobacco, and any other product containing tobacco. **The self-service display of tobacco paraphernalia is also against the law.**

WHAT is tobacco paraphernalia?

Tobacco paraphernalia includes cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments or things designed for the smoking or ingestion of tobacco products.

ARE there any exceptions?

The law contains certain exceptions that apply only to "**tobacco stores**"—stores that generate more than 60% of gross annual revenue from the sale of tobacco products and paraphernalia—that prohibit unaccompanied minors, and that do not sell alcohol or food for consumption on the premises. Tobacco stores may have self-service displays of pipe tobacco, or cigars in packages of six or more in the original wrapping.

A "self-service display" is a display of tobacco products and tobacco paraphernalia that allows access to the product by customers without help from a clerk.



DOES the law apply to cigars and smokeless tobacco?

Yes. The law applies to all products containing tobacco leaf.

WHAT do I need to do to comply with the law?

Tobacco products and tobacco paraphernalia stock must be located in a place where the public cannot get to them without a clerk's assistance.

WHAT are the penalties?

If you break the law, you may be fined the following amounts:

- \$200–\$300 for the first violation
- \$600–\$900 for the second violation within a five-year period
- \$1,200–\$1,800 for a third violation within a five-year period
- \$3,000–\$4,000 for a fourth violation within a five-year period
- \$5,000–\$6,000 for a fifth violation and each additional violation within a five-year period

WHO enforces the law?

The Attorney General, a city attorney, a county counsel, or a district attorney

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html *California Business and Professions Code Section 22962*

Requirements about Signs and Storefront Ads

✓ You must post a STAKE Act age-of-sale warning signs at each cash register.

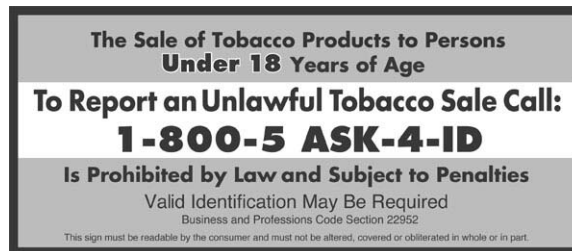
Every business that sells tobacco must post a *STAKE Act* age-of-sale warning sign where tobacco sales take place, such as near a cash register. It is against the law not to post this sign.

- The sign must have all of the following words:

The Sale of Tobacco Products to Persons Under 18 Years of Age is Prohibited by Law and Subject to Penalties. Valid Identification May Be Required. To Report an Unlawful Tobacco Sale, Call 1-800-5 ASK-4-ID. *Business and Professions Code Section 22952.*



- The sign must be square (at least 5.5 inches by 5.5 inches) or rectangular (at least 3.66 inches by 8.5 inches), and the lettering must use specified font sizes.
- The sign must have bold letters and a contrasting color background.
- The sign must be “likely to be read by a customer,” and all of the required information must be readable and not altered, covered, or erased in whole or in part.



WHERE can I get free signs?

You can get free signs by calling the Tobacco Education Clearinghouse of California at (800) 258-9090 x103 or 230. You can also get them at your local health department tobacco control program.

Note: The *We Card* sign provided by the tobacco industry does not meet the state law requirements.

WHAT are the penalties?

Fines and other penalties increased in 2005. If you do not post signs at each cash register, you may be fined the following amounts:

- \$50 for the first violation
- \$100 for the second violation
- \$250 for the third violation
- \$500 for the fourth and each subsequent violation or imprisonment for not more than 30 days

WHO enforces this law?

The California Department of Health Services and local law enforcement agencies

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html

Business and Professions Code Section 22952



STAKE Act regulations can be found in the *California Code of Regulations, Title 17, Section 6902*; and *Penal Code Section 308(c)* at ccr.oal.ca.gov

✓ *Outdoor and storefront signs advertising tobacco may not be more than 14 square feet.*

Under the Tobacco Master Settlement Agreement between California and the major tobacco companies, signs advertising cigarettes and smokeless tobacco that are displayed outside a tobacco retail store, or on a window facing outward, may not be more than 14 square feet. “Mosaics” (ads placed next to each other) are also not allowed if the display is larger than 14 square feet.

WHO enforces the Tobacco Master Settlement Agreement?

The California Attorney General

WHERE can I learn more?

Information about the Tobacco Master Settlement Agreement is available at caag.state.ca.us/tobacco or by calling (916) 565-6486.

✓ *Storefront advertising restrictions for alcohol retailers*

Every business with an off-sale premises license to sell alcoholic beverages has restrictions on storefront advertising. No more than one-third of the square footage of windows and glass doors of an alcohol retailer may have advertising signs of any sort, including tobacco.

WHAT are the penalties?

If you break the law, you may be fined up to \$1,000 or may be sentenced to not more than six months imprisonment.

WHO enforces this law?

The Department of Alcoholic Beverage Control and local law enforcement agencies

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html *Business and Professions Code Sections 25612.5(c)(7) and 25617*

Local advertising restrictions can be more strict. Contact your local law enforcement agency or health department to find out about any local storefront advertising restrictions.



Laws about Tobacco Packaging

✓ *Sales of individual cigarettes are prohibited.*

- It is against the law to sell single cigarettes. Cigarettes must be sold in the sealed and properly labeled packaging of the manufacturer or importer, which meets federal labeling requirements.
- Cigarettes may not be manufactured for sale, distributed, sold, or offered for sale in packages of fewer than 20 cigarettes.
- Roll-your-own tobacco may not be manufactured for sale, distributed, sold, or offered for sale in a package containing less than 0.60 ounces of tobacco.

WHAT are the penalties?

Any person, firm, corporation, or business that breaks this law may be fined the following amounts:

- \$200 for the first violation
- \$500 for the second violation
- \$1,000 for each subsequent violation

WHO enforces the law?

Local law enforcement agencies may enforce this law. The Attorney General, a district attorney, a county counsel, or a city attorney may bring a civil action.

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html

Penal Code Sections 308.2 and 308.3

Restrictions on the Sale of Bidis

✓ *Selling Bidis is against the law at most retail locations.*

The sale, offer for sale, distribution, or importation of “**bidis**” (also known as “beedies”) is against the law except where minors (persons under the age of 18) are not allowed.

WHAT are “bidis”?

Bidis are handrolled cigarettes containing tobacco wrapped in temburi or tendu leaf that are imported mainly from India and some Southeast Asian countries. They come in a variety of candy-like flavors and often are sold in packs of fewer than 20.



WHAT are the penalties?

You may be fined up to \$2,000 every time you break the law.

WHO enforces the law?

Local law enforcement agencies may enforce this law. The Attorney General, a district attorney, a county counsel, or a city attorney may bring a civil action.

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html

Penal Code Section 308.1

Restrictions on Tobacco Samples

✓ *The distribution of free or low-cost tobacco products or coupons is against the law.*

It is illegal to give out free or low-cost cigarettes or smokeless tobacco—or coupon offers or rebate offers for these products—on private property that is open to the general public (such as retail businesses) or on public property (such as state- or county-owned or operated fairgrounds).

This law does not apply to the following:

- Places where minors are not allowed, such as bars or taverns
- Distribution of tobacco products, coupons, coupon offers, or rebate offers in connection with the sale of another item, for example, tobacco products or cigarette lighters
- A separate distribution area on property open to the general public if minors are denied access to the area by a police officer or licensed security guard. The area must be enclosed to prevent anyone outside the area from seeing the distribution unless they take unreasonable efforts to see inside the area.

WHAT are the penalties?

If you break the law, you may be fined the following amounts:

- \$200 for the first item
- \$500 for the second item
- \$1,000 for each item after that



WHO enforces this law?

The Attorney General or a local prosecutor

WHERE can I find a copy of the law?

www.leginfo.ca.gov/calaw.html *California Health and Safety Code Section 118950*

Glossary

- **bidis:** imported, hand rolled cigarettes containing tobacco wrapped in temburi or tendu leaf
- **California Cigarette and Tobacco Products Licensing Act of 2003:** state law that requires California businesses to have a license to sell cigarettes and other tobacco products to the public
- **mosaics or mosaic ads:** ads placed next to each other on windows, doors, or walls
- **Penal Code Section 308:** a state law that makes it a crime to sell or give tobacco products or paraphernalia to minors
- **self-service display:** a display of tobacco products and tobacco paraphernalia that the public can access without help from a clerk
- **STAKE Act:** the Stop Tobacco Access to Kids Enforcement Act is a state law that outlaws selling or giving tobacco products or paraphernalia to minors.
- **tobacco paraphernalia:** cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments designed for the smoking or ingestion of tobacco products
- **tobacco samples:** free or nearly free cigarettes or smokeless tobacco, or coupons, coupon offers, or rebate offers for these products
- **tobacco stores:** stores that make more than 60% of gross annual revenue from the sale of tobacco products and paraphernalia, that prohibit unaccompanied minors, and that do not sell alcohol or food for consumption on the premises
- **We Card:** a program of the Coalition for Responsible Tobacco Retailing that reminds retailers to check customer ID for tobacco purchases. *We Card* signs do **not** meet the requirements for signage under the STAKE Act and should **not** be used instead of STAKE Act signs.
- **youth decoys:** youth who participate in law enforcement inspections of tobacco retail stores



Dear Retailer:

The training presentation, *Stop Tobacco Sales to Youth: California Retailers and Youth Tobacco Laws*, was designed as a self-education tool for use by retailers and their employees. It provides information about California tobacco control laws, tips on preventing tobacco sales to minors, resources for additional educational material, and resources about state tobacco control laws.

Before you train your clerks, it is a good idea to find out what they know about preventing a tobacco sale to a minor. It is also smart to check what they learned after you have trained them. A short quiz is provided for you to print and duplicate. Providing the quiz prior to and after the training will help you assess how well your clerks understood the training material and whether they have the skills necessary to verify the age of a customer. Please review the post training quiz results and provide your clerks with additional practice with age verification if indicated.

Correct answers to the *Stop Tobacco Sales to Youth Clerk Quiz*

1. The legal age to purchase tobacco products in California is 18.
2. The only form of ID on this list that is NOT valid is a school ID.
3. The correct answer is "False." All customers who appear to be younger than 27 should be asked for ID.
4. All answers are correct.
5. The correct answer is "No." Calculating a person's age is not easy. Be sure to give your clerks plenty of practice. Also, it is recommended that you provide some type of age verification device at every register. Possibilities include simple decals, electronic calendars, scanning devices, or age verification devices that can also be used in conjunction with credit cards.



California Retailers and Youth Tobacco Laws

A training presentation by the California Department of
Health Services Tobacco Control Section
and Food and Drug Branch



Training Goals

This training will help you learn about:

- Current tobacco laws that restrict sales to minors
- New licensing laws
- How to comply with the laws
- How to avoid fines
- Available resources and information



Disclaimer

- This training is for informational and educational purposes only.
- It is your responsibility to know and comply with California tobacco laws.
- Viewing this training session and adopting the recommended policies does not constitute compliance with the laws and is not a defense if you or your employees are cited for violating Penal Code 308(a) or the Stop Tobacco Access to Kids Enforcement (STAKE) Act (Business and Professions Code 22950-22963).



Presentation Roadmap

- Facts about youth tobacco use and purchase
- Overview of California tobacco laws and enforcement of these laws
- How to stop sales to minors
 - Tips for owners and managers
 - Guide for clerks



Section 1

Youth tobacco use and purchasing practices



Facts about Youth Tobacco Use

- More than 43,000 Californians die every year from tobacco use*
- About 75% of California smokers started smoking before age 18**
- The younger a person is when they start to smoke, the harder it is for him or her to quit***

* Max W, Rice DP, Zhang X, Sung H-Y, Miller L. *The of Cost of Smoking in California, 1999*. Sacramento, CA: California Department of Health Services, 2002.

** 2002 California Tobacco Survey.

***U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Young People: A Report of the Surgeon General*. Atlanta, Georgia: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 1994.



Tobacco Sales to Teens

- Surveys show that teens were sold tobacco between 12% and 19% of the times they tried to buy it. These rates vary by store type and geographic location*
- 60% of teens who smoke daily say it's easy to buy cigarettes**

* *California Youth Tobacco Purchase Surveys, 2001, 2002, 2003.*

** Gilpin EA, et al. *Tobacco Control Successes in California: A Focus on Young People, Results from the California Tobacco Surveys, 1990-2002.* La Jolla, CA: University of California, San Diego, 2004.



Where Teens Get Tobacco

High school smokers say they usually get their cigarettes from:

- Someone who buys cigarettes for them (e.g., shoulder tapping)
- Someone who gives cigarettes to them (e.g., family and friends)
- A retailer who sells cigarettes to them



Where Teens Buy Tobacco

Teen smokers say they buy cigarettes at:*



- Liquor stores (71%)
- Gas stations (58%)
- Small grocery stores (51%)
- Convenience stores (49%)

* Klonoff, EA. "More Than You Ever Wanted to Know About Conducting a Youth Tobacco Purchase Survey." *Tobacco Youth Purchase Survey Training*, Sacramento, California, September 8, 2003.

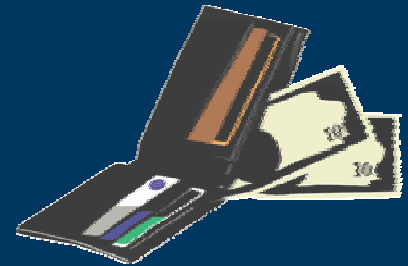


How Teens Manage to Buy Cigarettes

Teens said the easiest way to buy cigarettes was to go to a clerk they knew.*

They also:

- Buy in their neighborhood stores
- Lie about their age
- Buy non-tobacco items at the same time
- Say the cigarettes are for an adult
- Use a fake ID



* Klonoff, EA & Landrine H. "The Role of Youth Versus Store-clerk Behavior and Issues of Ecological Validity." *Health Psychology*, September 2004, 23(5): 517-524.



Section 2

California tobacco sales laws
and their enforcement



Tobacco Laws: What You Need to Know

- You are required to know the laws and make sure that none of your employees sell tobacco to minors
- You and the employee face fines if the law is broken
- Tobacco laws are actively enforced
- You can help minors avoid tobacco addiction and health problems by following the law



California Youth Tobacco Laws

Sales of tobacco products to minors are prohibited by:

- Penal Code 308(a)
- STAKE Act, Business and Professions Code Section 22950-22963



Stop Tobacco Access to Kids
E N F O R C E M E N T A C T



Penal Code 308(a)

Prohibits a person or business from knowingly selling, giving, or furnishing any tobacco, cigarettes, cigarette papers/paraphernalia, or other preparation of tobacco to a minor (person under 18 years).

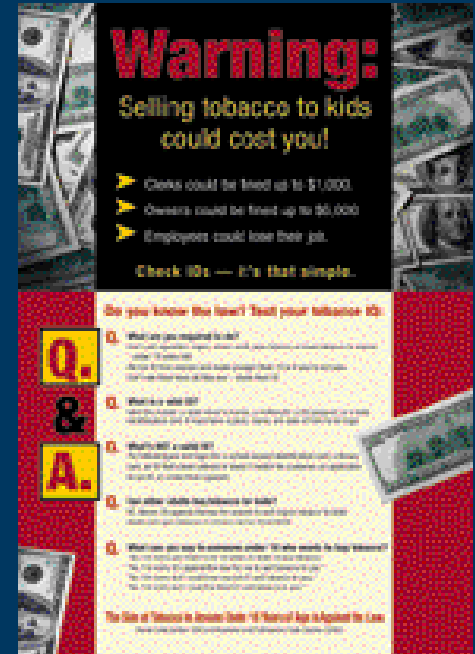




Avoid Penal Code 308(a) and 308(c) Fines!

Violators (store owners, managers, and/or clerks) are subject to criminal action for a misdemeanor or civil action punishable by criminal fines ranging from \$200 to \$1,000.

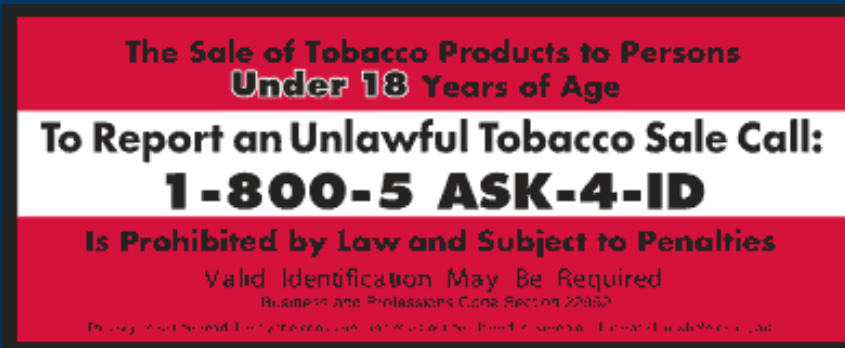
Penalties for not posting the STAKE Act age-of-sale warning sign range from \$50 to \$500.





The STAKE Act

- Prohibits the sale of tobacco products to minors
- Requires sellers to check the ID of anyone appearing to be under age 18
- Requires age-of-sale warning signs with the 1-800-5 ASK-4-ID to be posted conspicuously at each point of purchase





Avoid STAKE Act Fines!

Under the STAKE Act, the store owner pays the fine, even if the employee makes the sale.

Penalties for a tobacco sale to a minor range from \$200 to \$6,000.

Penalties for not posting the STAKE Act age-of-sale warning sign range from \$50 to \$500.





Warning: Tobacco Laws Are Being Enforced



- California Department of Health Services Food and Drug Branch investigators enforce the STAKE Act using youth decoys.
 - **Since 1995, more than 5,000 stores sold tobacco to minors in STAKE decoy operations and paid more than \$1,350,000 in fines.**
- California Alcoholic Beverage Control investigators inspect alcohol licensees for required tobacco age-of-sale warning signs.
- Local police actively enforce Penal Code 308(a) using youth decoys. The person selling tobacco to a minor is cited for a misdemeanor and pays the fine, and the owner may also be cited.



New State Tobacco Licensing Law

As of June 30, 2004:

- All tobacco retailers must be licensed annually by the California Board of Equalization
- Retailers must display their licenses so that they are visible to the public
- Retailers can only purchase tobacco products from a licensed wholesaler, distributor, or importer



What If You Don't Comply?

Penalties for noncompliance with the license requirement may result in a fine of up to \$5,000, imprisonment up to one year, or both.

Failure to post the license may result in a \$500 penalty.

Cigarette and Tobacco Products Licensing Act of 2003, Division 8.6 (starting with section 22970) of the California Business and Professions Code.



Who Performs the Inspection?

California Board of Equalization investigators and local law enforcement officers inspect tobacco retailers for compliance with tobacco licensing and other tobacco laws.



Other California Tobacco Laws

- Sales of bidi cigarettes are prohibited
- Sales of single cigarettes are prohibited
- Free samples of tobacco products are prohibited
- Self-service displays of all tobacco products and paraphernalia are prohibited

For more detailed information about these laws, see www.leginfo.ca.gov/calaw.html



Section 3

Strategies for owners and managers to avoid tobacco sales to minors in your store



How to Comply With the Laws

- Educate yourself about the laws and penalties
- Develop and follow store policies
- Train and monitor your clerks
- Put up reminder posters
- Obtain and display your tobacco license



Stopping tobacco sales to minors depends on commitment and action by you and your employees.



Develop Store Policies

- Require your employees to ask for valid government-issued photo ID and to check the age of anyone who looks younger than age 27
- Develop a written company policy that employees must read and sign
- Train your employees regularly and review the laws





Follow Store Policies

- Emphasize to employees that checking IDs is important — no matter how many people are in line
- Remind your employees that state and local enforcement agencies conduct tobacco compliance checks
- Caution employees that store owners and clerks may be cited, which may result in a fine and criminal record



Train Your Clerks

- To ask for ID from anyone who looks younger than age 27
- To accept only valid government-issued IDs
- To CHECK the age on the ID and confirm the customer is over age 18
- How to refuse a sale

IMPORTANT: Include time for clerks to practice calculating the age and ways to refuse a sale.



Use Reminders and Other Aids

- Display the “Can he buy cigarettes?” and “Warning: Selling tobacco to kids could cost you” posters where employees will read it.
- Place calendars and other age-of-sale reminders by all registers. Many types of calendars are available, including decals, daily paper, and electronic calendars.
- Use register screen pop-ups as reminders to check age.
- Install electronic scanning devices or other age verification devices, and teach employees how to use them and NOT to override them!

Can he buy cigarettes?

Ask for ID and check his age.

How do I figure out his age?
Look at the birth date on his ID and compare it to the cut-off year.

For 2004 the cut-off year is 1986 ... This means anyone born on or before today's date in 1986 is at least 18 years old.
For 2005 the cut-off year is 1987. For 2006 the cut-off year is 1988.

- Before your shift, write down the cut-off year for buying tobacco. Keep it by the register for a quick reminder.
- After what you will say to any customer under 18 who wants to buy tobacco.
- Practice checking birth dates on your friends' driver's licenses, passports, military IDs, and state identification cards.

The Sale of Tobacco to Anyone Under 18 Years of Age is Against the Law.

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Monitor Your Clerks

- Observe your clerks and give prompt feedback on what they are doing right and what they are doing wrong
- Conduct periodic secret shopper programs to check on your store's compliance
- Follow through with rewards and consequences





Points to Remember

- You are responsible for knowing and making sure your employees follow the laws
- Tobacco laws for minors are being enforced
- Make sure your employees are trained and monitored to help avoid illegal sales and fines

Thank you for doing your part!



Where to Get Signs and Tobacco Retail Information

- To obtain the clerk education posters, STAKE Act signs, and the retailer information kit “Avoiding Fines and Penalties When Selling Tobacco,” call the Tobacco Education Clearinghouse of California: **831-438-4822 ext. 230 or ext. 103**
- For information on retail sales, call the STAKE Act “hotline”: **800-527-5443**
- For information about the licensing law, call the Board of Equalization: **800-400-7115** or visit their website at **www.boe.ca.gov**



Stop Tobacco Access to Kids
ENFORCEMENT ACT



Section 4

Guide for clerks on how to
comply with tobacco sales
laws



Guide for Clerks

Always follow these steps before selling tobacco products:

- Ask for ID from anyone who looks younger than age 27
- Accept only valid government-issued IDs
- CHECK the age on the ID to confirm the customer is over age 18



Ask for ID – Look for Fakes

■ Look for these clues:

- Has the ID expired?
- Does the photo match the person?
- Does the ID look altered?
- IDs with holes, glue lines, bumpy surfaces, or other signs of tampering should not be accepted.



■ IMPORTANT: If you're not sure the ID is valid, refuse the sale.



How to Check Age

The easiest way to check a person's age is to ask for and check their California driver's license or California ID.

Customers must be: **18** to buy tobacco, **21** to buy alcohol.

The image shows a California Driver License for E.L. JAH ZACHARY ROSTAR. The license includes a photo, a signature, and various fields. Annotations highlight key age-related information:

- Blue strip:** "PROVISIONAL UNTIL AGE 18 IN 2004" - points to the blue horizontal bar.
- Red strip:** "AGE 21 IN 2007" - points to the red horizontal bar.
- Green arrow:** Points to the "DOB: 12-20-84" field, which is labeled "Date of Birth".

Other visible text on the license includes: CLASS: D, DRIVER LICENSE, 09962962, EXPIRES 12-20-07, SEX: M, HAIR: BRN, EYES: BLU, HT: 5-07, WT: 150, and 11/06/2002 050 48/30 15/03.

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Checking Age with a California Driver's License

- A blue strip means the person is not 18 until the year printed in the strip

Customers must be:
18 to buy tobacco, **21** to buy alcohol.

The image shows a California Driver's License for Elijah Zachary Rostor. The license includes the following information: CLASS: C, DRIVER LICENSE, D9962962, EXPIRES: 02-20-07, ELIJAH ZACHARY ROSTOR, 6863 NEWTON DR, FULTON CA 95016, SEX: M, HAIR: BRN, EYES: BLU, HT: 55-07, WT: 156, DOB: 12-23-84. A blue horizontal strip at the bottom of the license reads "PROVISIONAL UNTIL AGE 18 IN 2004". A red horizontal strip below that reads "AGE 21 IN 2007". A green arrow points from the "Date of Birth" label to the DOB field (12-23-84).

The blue strip tells you when they will be **18**

The red strip tells you when they will be **21**

Date of Birth

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- If the year in the strip is later (higher) than the current year, **do not sell them tobacco**



Checking Age with a California Driver's License

- If the year in the strip is the **SAME** as the current year, **look at their birthday** to see if they have turned 18

Customers must be:
18 to buy tobacco, **21** to buy alcohol.

The image shows a California Driver's License for Elijah Zachary Rostor. The license includes the following information: CLASS: C, DRIVER LICENSE, ID9962962, EXPIRES: 02-20-07, ELIJAH ZACHARY ROSTOR, 6863 NEWTON DR, FULTON CA 95016, SEX: M, HAIR: BRN, EYES: BLU, HT: 55-07, WT: 156, DOB: 12-23-84. A blue horizontal strip at the bottom of the license reads "PROVISIONAL UNTIL AGE 18 IN 2004". A red horizontal strip below that reads "AGE 21 IN 2007". A green arrow points from the "Date of Birth" label to the "DOB: 12-23-84" field. A blue arrow points from the "The blue strip tells you when they will be 18" label to the blue strip. A red arrow points from the "The red strip tells you when they will be 21" label to the red strip.

The blue strip tells you when they will be **18**

The red strip tells you when they will be **21**

Date of Birth

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- Do not sell them tobacco until you confirm how old they are!



How to Check Age with a California ID Card

A customer may hand you a California ID card when you ask for ID.

- California ID cards may look similar to California driver licenses
- **CAUTION:** some California ID cards may not have a blue strip
- California ID cards must be checked for age





How to Calculate the Age

- Here's a fast way to check if a person is at least 18 — Just remember “minus 20, plus 2”:

Here's how it works:

- Write down today's date: **March 25, 2005**
- Subtract 20 from the year: $\begin{array}{r} \text{March 25, 2005} \\ - \quad 20 \\ \hline \text{March 25, 1985} \end{array}$
- Then add 2: $\begin{array}{r} \text{March 25, 1985} \\ + \quad 2 \\ \hline \text{March 25, 1987} \end{array}$

- In this example, if the person's birthday is on or before March 25, 1987, it's okay to sell them tobacco. If the person's birthday is later than March 25, 1987, it's NOT okay to sell them tobacco.



Common Mistakes

- Not asking for an ID
- Asking for ID and then not checking the age

Don't make a sale UNTIL you ask for and check the ID of anyone who appears to be younger than age 27, even if it is a friend or regular customer!



Common Mistakes

- Accepting ID that is not a valid government-issued photo ID
- Overriding the computerized system for someone who appears younger than age 27

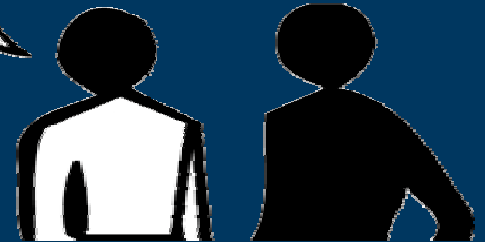
Follow the rules and the store policy. Only accept a valid ID. NEVER override the computerized system for someone who appears younger than age 27.



Refusing a Sale: What to Say

- “I’m sorry. It’s against the law.”
- “I’m sorry. I can’t sell tobacco without a picture ID.”
- “I’m sorry. It’s store policy to check ID’s.”
- “I could be fined if I break the law.”

“I’m sorry. I could lose my job for selling to a minor.”





Refusing a Sale to a Friend Under 18

- It's especially hard to tell a friend who is under 18 that you aren't able to sell tobacco to them, but it's important
- **Here is what to do:**
Using a friendly tone, tell your friend, "I'm sorry. It's against the law. I could be fined and even lose my job if I sell to you."



Refusing a Sale: What to Do

- After politely refusing the sale, remain calm.
- If a customer insists or becomes argumentative, contact your supervisor.
- If the customer takes the product, leaves money, and runs away, **DO NOT RING UP THE SALE**. Treat it as a theft and report the incident.



Role Playing Scenario

It's important to practice refusing a sale.
Practice with another clerk or the manager.
Here are two scenarios:

- An adult under 27 attempts to buy cigarettes. You ask for ID, and the person becomes upset. What do you do and say?
- An underage friend asks you for cigarettes. How do you refuse the sale?





Do Your Part!

Stopping tobacco sales to minors depends on commitment and action by employers and employees.

By working together, you can avoid illegal tobacco sales to minors in your store.



Clerk Quiz

Name: _____ Date: _____

Circle One → Pre-Training Quiz Post-Training Quiz

1. The legal age to purchase tobacco products is

- 16
- 18
- 19
- 21

2. The following types of ID can be used to confirm a shopper's age (check all that apply):

- a passport
- a school ID (as long as it has birth date and a photo)
- a California driver's license
- a California ID
- a driver's license from another state or country

3. If a customer looks like he or she is over 21, I don't need to ask for an ID:

- true
- false

4. If I sell cigarettes to a minor

- I can be fined.
- My employer can be fined.
- My employer may be at risk for suspension or revocation of his retailer license to sell cigarettes and tobacco products.

5. Pretend that today is April 15, 2005. A customer asks for a pack of cigarettes and gives you a California driver's license after you ask for ID. The customer's birth date is November 28, 1987. Can you legally sell cigarettes to this customer?

- yes
- no

Best Practices in Tobacco Retailing Checklist

When...	Action
Developing a Store (or Company) Policy	<ul style="list-style-type: none"> <input type="checkbox"/> Require that IDs are requested and checked for all customers appearing to be younger than age 27 <input type="checkbox"/> Accept only government-issued valid photo ID from a specified list (e.g., driver's license, state ID, passport, military ID) <input type="checkbox"/> Assign adult employees to sell tobacco products
Training	<ul style="list-style-type: none"> <input type="checkbox"/> Train all employees who sell tobacco products on laws and company policies regarding sale of tobacco products, including health-related reasons to prevent youth access to tobacco <input type="checkbox"/> Teach employees how to check age; include practice on how to determine age from an ID and role-playing exercises on how to refuse a sale <input type="checkbox"/> Provide periodic refresher trainings as well as remedial training if employee violates the law or store policies <input type="checkbox"/> Provide employees written copies of tobacco policies; have them sign (e.g., bi-annually) an acknowledgment of review and understanding of the policies
Using Support Tools	<ul style="list-style-type: none"> <input type="checkbox"/> Post required STAKE Act signs as well as signs to remind employees to check ID for customers under age 27, and inform customers of this requirement <input type="checkbox"/> Use age verification aids at checkout (e.g., calendars, register prompts for ID, electronic ID scanning system)
Monitoring Compliance	<ul style="list-style-type: none"> <input type="checkbox"/> Observe clerks for compliance with policies on a regular basis <input type="checkbox"/> Designate an employee to oversee youth access efforts and to receive all notices of violation (NOVs) <input type="checkbox"/> Conduct regular compliance checks for sales to minors through an independent entity <input type="checkbox"/> Consider compliance in performance appraisals and employment decisions; reward positive performance
Other	<ul style="list-style-type: none"> <input type="checkbox"/> No self service of tobacco products or tobacco paraphernalia <input type="checkbox"/> No vending machines <input type="checkbox"/> No smoking paraphernalia sold to anyone under age 18 <input type="checkbox"/> No free samples on premises <input type="checkbox"/> No sales of packs smaller than 20 (e.g., single cigs or "kiddie" packs) <input type="checkbox"/> No sales of candy cigarettes or other tobacco look-alike products <input type="checkbox"/> In-store advertising restricted to product shelving/display area and to brand names, logos, and prices