



California Retailers and Youth Tobacco Laws

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

Updated January 2013



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 as well as any local laws that affect tobacco retailing practices.
- 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 (PC) 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 34,000 Californians die every year from tobacco use*
- About 64% 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***

* CDC : Smoking-Attributable Mortality and Morbidity and Economic Cost (SAMMEC), 2004 .

**2011 Behavioral Risk Factor Surveillance System (BRFSS) .

***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.



Facts about Youth Tobacco Use

- The more young people are exposed to cigarette advertising and promotional activities, the more likely they are to smoke*
- Tobacco marketing encourages underage youth to smoke. More than 80% of underage smokers choose brands from among the top three most heavily advertised*

*U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: 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, 2012.



Tobacco Sales to Teens

- Surveys show that teens were sold tobacco between 6% and 19% of the times they tried to buy it. These rates vary by store type and geographic location*
- 67% of teens who smoke say it's easy to buy cigarettes**

* *California Youth Tobacco Purchase Surveys, 2001-2012*

** *California Student Tobacco Survey, 2010*



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.

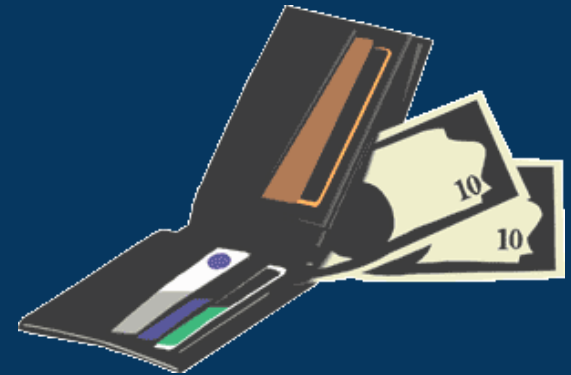


How Teens Manage to Buy Cigarettes

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



Tobacco Laws that Affect Retailers

Sales of tobacco products to minors are prohibited by:

- PC 308(a)
- STAKE Act, Business and Professions Code Section 22950-22963
- The federal Family Smoking Prevention and Tobacco Control Act





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).

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.





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

**The Sale of Tobacco Products to Persons
Under 18 Years of Age**

**To Report an Unlawful Tobacco Sale Call:
1-800-5 ASK-4-ID**

Is Prohibited by Law and Subject to Penalties

Valid Identification May Be Required
Business and Professions Code Section 22952

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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 \$400 to \$6,000.

Penalties for not posting the STAKE Act age-of-sale warning sign range from \$200 to \$500.





Warning: Tobacco Laws Are Being Enforced



- California Department of Public Health Food and Drug Branch investigators enforce the STAKE Act using youth decoys
 - **Since 1995, more than 10,000 stores sold tobacco to minors in STAKE decoy operations and paid more than \$3.8 million in fines**
- California Alcoholic Beverage Control investigators inspect alcohol licensees for required tobacco age-of-sale warning signs
- Local police actively enforce PC 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



License Requirements

- All tobacco retailers must be licensed annually by the California Board of Equalization (BOE)
- Retailers must display their state licenses so that they are visible to the public
- Retailers can only purchase tobacco products from a licensed wholesaler, distributor, or importer
- For more information:
<http://www.boe.ca.gov/pdf/pub78.pdf>



Local License Requirements

- Some jurisdictions in California have passed local tobacco retailer licensing laws
- Check with city or county officials to find out if a local tobacco retailer licensing law is in effect.



What If You Don't Comply?

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

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



Who Performs the Inspection?

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



Important New Information!

Effective January 1, 2013:

If a retailer has been assessed a civil penalty for a third, fourth or fifth STAKE Act violation in a five-year period, the BOE may impose additional penalties upon the retailer. The additional penalties include the assessment of a civil penalty of \$250 and suspension or revocation of the retailer's license.



Other Tobacco Laws Affecting Retailers

- 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
- Sales of flavored cigarettes and tobacco paraphernalia (other than menthol) are prohibited

For more detailed information about these laws, see

www.leginfo.ca.gov/calaw.html and www.fda.gov/breakthechain



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 “Warning: Selling tobacco to kids could cost you” and “Can he buy cigarettes?” posters where employees will **read them**
- 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!





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 **FREE** clerk education posters, STAKE Act signs, the “Tobacco Control Laws That Affect Retail Business” brochure, and the retailer information kit “Avoiding Fines and Penalties When Selling Tobacco,” call the Tobacco Education Clearinghouse of California at **1-800-258-9090 ext. 230 or ext. 103**. You can also go online: <http://www.tobaccofreecatalog.org/>
- For information on retail sales, call the STAKE Act hotline: **1-800-5 ASK-4-ID**
- For information about California’s licensing law, call the BOE at **800-400-7115** or go online: <http://www.boe.ca.gov/pdf/pub78.pdf>



Where Can Owners and Managers Get Free Training?

- The BOE offers the free, interactive class “Selling Cigarettes and Tobacco in CA” to tobacco retailers
- For more information, go to:
<http://www.boe.ca.gov/sutax/cigtobclass.htm>
- You’ll learn:
 - Who must be licensed
 - What brands can be sold in CA
 - When flavored cigarettes became illegal
 - What to expect during an inspection
 - What records to maintain
 - How to avoid fines and penalties
 - And much more!



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 license or California ID.





Checking Age with a California Driver's License

- Standard driver licenses show the DOB in red
- These licenses should be available only to drivers 21 and over





New Provisional Licenses

- New provisional licenses issued in 2010
- These licenses are vertical to help retailers know when a person is younger than 21
- A blue strip also tells you when the person turns 18





Checking Age with a Provisional California Driver's License

- A blue strip means the person is not 18 until the year printed in the strip
- If the year in the **blue** strip is the SAME as the current year, look at their birthday to see if they have turned 18





Checking Age with a Provisional California Driver's License



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

- 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 20, 2013**
- Subtract 20 from the year:
$$\begin{array}{r} \text{March 20, 2013} \\ - \quad 20 \\ \hline \text{March 20, 1993} \end{array}$$
- Then add 2:
$$\begin{array}{r} \text{March 20, 1993} \\ + \quad 2 \\ \hline \text{March 20, 1995} \end{array}$$

- In this example, if the person's birthday is on or before March 20, 1995, it's okay to sell them tobacco. If the person's birthday is later than March 20, 1995, 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

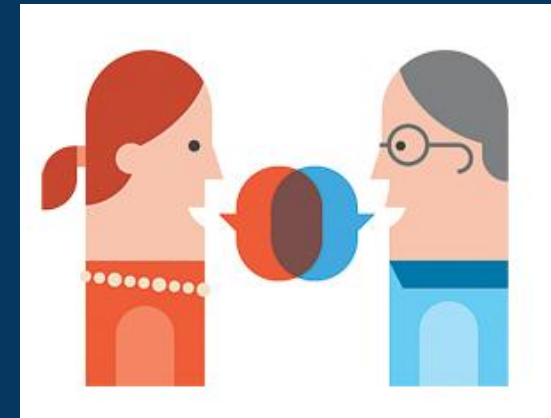
- After politely refusing the sale, remain calm
- If a customer insists or becomes argumentative, contact your supervisor
- If the customer takes the product, leaves money, and runs away, **DO NOT RING UP THE SALE**. Treat it as a theft and report the incident



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.