



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.

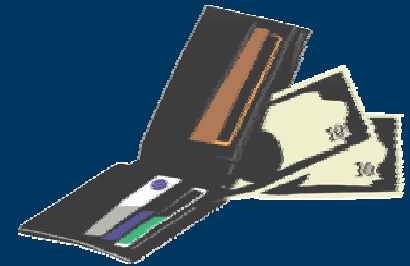


How Teens Manage to Buy Cigarettes

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).

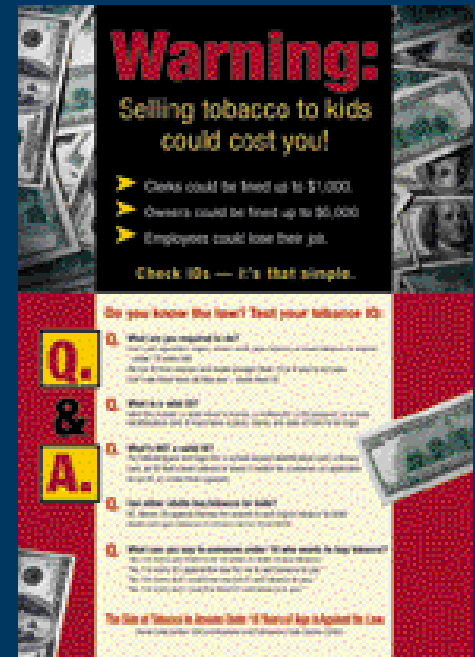




Avoid Penal Code 308(a) and 308(c) Fines!

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.

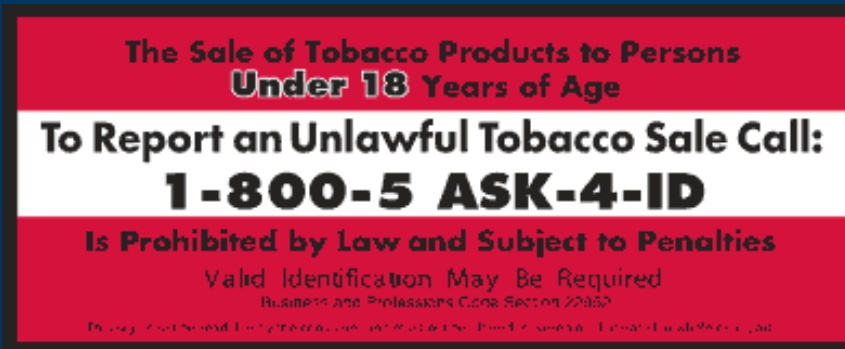
Penalties for not posting the STAKE Act age-of-sale warning sign range from \$50 to \$500.





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.
- Plan 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 fields for CLASS (D), DRIVER LICENSE number (D9962962), EXPIRES (12-20-07), SEX (M), HAIR (BRN), EYES (BLU), HT (5-07), WT (150), DOB (12-20-84), and a signature. A blue horizontal strip across the middle 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 "DOB: 12-20-84" field to a label "Date of Birth".

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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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. 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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- 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 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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The image shows a California Driver's License for Elijah Zachary Rostar. The license includes the following information: CLASS: C, DRIVER LICENSE, ID# 09962962, EXPIRES 02-20-07, ELIJAH ZACHARY ROSTAR, 6862 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. 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.

- 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





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

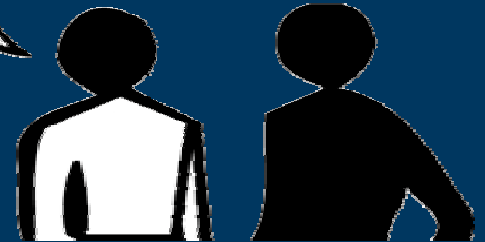
Follow the rules and the store policy. Only accept a valid ID. NEVER override the computerized system for someone who appears younger than age 27.



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.