

They've  
gotta be



to buy  
tobacco.

Texas Guidelines for Retail Tobacco Sales



Together we can stop kids  
from buying tobacco.

Carole Keeton Strayhorn, Texas Comptroller



## Why Comply With The Law

“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 reduce minors’ access to tobacco products.

Tobacco is addictive and lethal. Most individuals who become addicted start smoking before the age of 18. In Texas, 77.4 million packs of cigarettes are bought or smoked annually by youth under age 18. Almost 60,000 minors in Texas become daily smokers each year, and 20,000 of them will ultimately die from smoking. If current tobacco use trends continue, approximately 486,000 Texas children, now under 18, will die prematurely from tobacco-related causes. When you refuse to sell tobacco to minors, fewer young people become addicted, and ultimately fewer people will die from tobacco-related illnesses.

That’s why Texas is working to reduce youth access to tobacco. And, that’s why illegal sales of tobacco to people under 18 years old can result in:

- fines 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.

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, and your underage customer. 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. And, for your underage customers, it can mean a lifetime of addiction, a \$250 fine, and the possible loss of their driver’s license.



# 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, cigars, or smokeless tobacco.

### **Acceptable proof of identification includes:**

**Driver's license with picture from Texas or another state,**

**Texas Identification Card,**

**Passport,**

**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.**

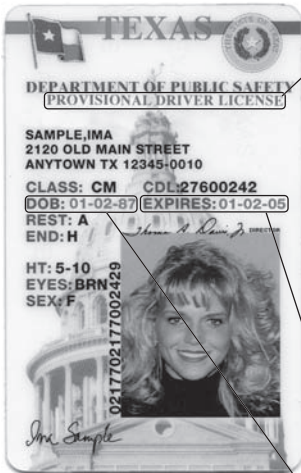
Note: Student ID cards are not valid for purchasing tobacco products.

- 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 tobacco products for a customer. It's much easier to get rushed and make a mistake if the product is already in their 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's one of the best tools you have to ensure that you don't make an illegal sale.
- If you don't think an ID is legal or official, don't sell. Texas law allows you to refuse to sell tobacco products to any person who fails to display an appropriate form of ID.
- If the customer doesn't have an official photo ID and you are not absolutely sure he/she is age 18 or older, don't 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 that it matches the person presenting it and that it hasn't been altered. If the photo doesn't match or has been altered, don't sell.

### Provisional license – under 18



### Horizontal Texas ID/License 21 or Older

### Vertical Texas ID/License Under Age 18

Expiration date

Date of birth

**Step 2:** If a person is over 21 years old, a Texas license is horizontal (sideways).

If a person is **under** 18 years old, a Texas license is vertical (up and down) 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 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, don't sell.

**Step 3:** Check the date that the ID expires, and make sure it is current. If the ID is expired, don't sell.

### 3. Refusing a 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'll do almost anything to get you to sell tobacco products. Don't let them intimidate you into making a mistake — don't 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 tobacco products to anyone under the age of 18, and it is illegal for anyone under the age of 18 to purchase 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 won't 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 tobacco 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 tobacco products for them.
- Watch for adults purchasing multiple brands of tobacco. 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 Tobacco to a Minor

If you sell 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 and tobacco may be suspended if the Texas Comptroller of Public Accounts finds that a violation relating to the sale or delivery of 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 tobacco.

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 tobacco 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 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 won't 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 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 difference in the appearance of a Texas driver's license for people over 21 and people under 21?

## 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 tobacco products 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. Don't sell!
6. False. To purchase tobacco, 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 tobacco products in a store. This is done routinely to make sure clerks/stores are complying with the law and not selling tobacco products to minors.
10. The "Under 21" license is vertical (up and down) and the "Over 21" license is horizontal (sideways).





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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 and tobacco products laws, please contact the Comptroller's office via e-mail at [tax.help@cpa.state.tx.us](mailto:tax.help@cpa.state.tx.us) or call us toll free at 1-800-862-2260, or direct in Austin at 512/463-1693.

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