

TobaccoFreeAllegheny

**Guide to
Pennsylvania Act 112
of 2002
*Selling Tobacco to Minors***

Pennsylvania Act 112 of 2002

On June 28, 2002, Pennsylvania enacted Act 112, prohibiting the sale of tobacco to minors (anyone under the age of 18). The offense is defined as “guilty of a summary offense if the person:

- sells any type of tobacco product to anyone under the age of 18 years or
- furnishes by purchase, gift, or other means, a tobacco (in any form) product to a minor.”

Penalties were enacted ranging from \$100 for the first offense to \$3000 for the fourth offense, as well as the possibility of losing the tobacco retailer license.

Act 112 also gives the Pennsylvania Department of Health the ability to contract with regional providers to conduct compliance checks within their region to ensure that retailers are both aware of the law and complying with its restrictions.

Food and Drug Administration (FDA) Family Smoking Prevention and Tobacco Control Act

On June 22, 2009, President Obama signed the Family Smoking Prevention and Tobacco Control Act, giving the FDA unprecedented control to regulate tobacco products nationwide, including sales and marketing. Some of the restrictions under the Tobacco Control Act include limits on vending machines and their placement, requiring face-to-face sales, as well as following Pennsylvania’s lead in requiring proof of age to purchase tobacco and banning the sale of packs with fewer than 20 cigarettes.

“You may found guilty of a summary offense if you sell any type of tobacco product to anyone under the age of 18 years.”

Suggestions to Retailers

To help your clerks remember to check for IDs during every tobacco sale, the following could be done:

- **Conduct** training that covers at minimum the follow topics:
 - o Act 112 of 2002
 - o fake IDs
 - o how to handle refusing a sale when appropriate ID is not presented
- **Place** reminders at registers to ask for IDs
- **Review** policies at least every other month to keep fresh in employees minds
- **Remind** employees of penalties both they and you face from magistrates
- **Post** signs around the store that serve as both notices to the public and reminders to your employees about selling to minors
- **Remind** employees that compliance checks can happen at any time.

Selling Cigarettes

- Every customer who appears to be less than 25 years old must be asked to provide identification – see the list below for acceptable forms of ID.
- If you think the ID might be a fake – see the list on the right of things to look for – you should ask for a second type of ID.
- You should refuse to sell cigarettes to customers who do not have ID or whose ID does not look valid.
- If a clerk sells cigarettes to a minor, they can be prosecuted and fined up to \$1,000 if found guilty. The store can also be prosecuted and fined and potentially lose their right to sell tobacco.

What to look for on IDs



All IDs should contain the following:

- A photo with photo likeness
- Birth date
- An expiration date
- A signature

The following types of IDs are acceptable:

- Driver's license
- State issued identification cards
- Passports with necessary information
- U.S. Military ID

The following IDs are not acceptable and the customer should be asked for another ID:

- School IDs
- Birth certificates
- Library cards
- Bus passes

When checking for fake IDs, make sure to look for the following things:

- size, thickness, and color of the card
- placement, size, and typeface of the letters and numbers
- photograph for shading, glare, or "red-eye"
- state seal for accuracy
- back for blurred or dark images

In the state of Pennsylvania, there are two holograms on licenses: a list of all the counties in Pennsylvania and a keystone with "PA" in the center. Newer licenses will now also have two black and white holograms with "PA" in the keystone logo that alternate depending on which you hold the license.

“Every customer who appears to be less than 25 years old must be asked to provide identification.”

Helpful tips on spotting a fake ID

- Does it appear grainy? Photocopies of IDs will appear grainy and dull. Most real IDs have a certain sheen to them.
- Are there lumps on the license? ID cards issued by Pennsylvania have a smooth texture – lumps in the license may indicate lamination when someone made a fake.
- Does the picture match the details beside it and the person handling the ID? If you aren't sure, ask for a second ID to make a positive match. Remember that you are allowed to deny a sale if you are unsure about the person's identity.

Penalties

If retailers fail a compliance check, a criminal complaint is filed against both the clerk and the retailer.

Penalties can be levied against both the retailer and the clerk who made the sale. The level of fines is determined by the magistrate judge.

For a clerk, the fine structure is set out below:

- First offense - \$100 to \$200
- Second offense - \$250 to \$500
- Third offense - \$500 to \$1,000

Retailers face steeper fines, set out below:

- First offense - \$100 to \$500
- Second offense - \$500 to \$1,000
- Third offense - \$1,000 to \$3,000
- Fourth offense - \$3,000 to \$5,000

Along with a fine, retailers also risk losing the tobacco retailer license after the fourth offense.

Retailers do have the option of using “affirmative defense” when a training program has already been in place for employees prior to a violation happening.

Selling to minors

You can't always rely on how old you think a person looks. On the right are four pictures of people, of varying ages. Try to identify how old each person is and if you should be selling tobacco to them. Remember – if they look under 25, you should card them. Most people are more offended when not carded, than when carded.

Answer these questions about the people pictured below:

- 1) Should you card them?
- 2) How old are they?

John: 1) ___ 2) ___

Jane: 1) ___ 2) ___

Jill: 1) ___ 2) ___

Jack: 1) ___ 2) ___



John



Jane



Jill



Jack

Answers to pictures: Q1. Should you card them? A. Yes, they are all under 27. Q2. How old are they? A. John - 14; Jane - 14; Jill - 17; Jill - 15; Jack - 14

Training Agreement for Employees:

Please sign and return to employer upon completion of training.

I, _____, have read the Tobacco Free Allegheny Guide to Pennsylvania Act 112 of 2002 and understand that:

- 1) it is illegal to sell tobacco to anyone under the age of 18,
- 2) if caught selling tobacco to minors, I may be charged with breaking this law, and any resulting fines will be my responsibility and,
- 3) compliance checks may be conducted at any time.

I also agree that:

- 1) I will ask for ID of anyone who appears to be under the age of 25,
- 2) I have been trained in how to identify a fake ID and,
- 3) I will refuse any sale where a fake ID or no ID is presented.

Employee Signature

Date

Manager Signature

Date

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