

Sale of Tobacco (Includes Vending Machines)

What the law says

- you must not sell cigarettes or any other tobacco products to anyone under 18. This requirement also applies to your staff, for whom the law holds you responsible as well as them.
- you must only sell cigarettes in quantities of at least 10 and in their original packaging.
- if you have a cigarette vending machine, you must prevent anyone under 18 from using it.
- You must display the following notice(s) if appropriate:

**IT IS ILLEGAL TO SELL
TOBACCO PRODUCTS TO ANYONE
UNDER THE AGE OF 18**

The wording and minimum size for this notice is prescribed by law - a copy of this notice is available from us free of charge.

Vending machines

The National Association of Cigarette Machine Operators (NACMO) has produced guidance on the siting of vending machines. They should be installed in a part of the premises that can be supervised to restrict access by persons under 18.

On vending machines a notice must state:

**THIS MACHINE IS ONLY FOR
THE USE OF PEOPLE
AGED 18 OR OVER**

Your vending machine operator should be able to provide this notice.

Challenge anyone you think is under 18 and refuse their use of the machine.

Steps you can take to avoid committing an offence

Salespersons

Unless it is beyond doubt that a buyer is over 18 you must take steps to check the buyer's age. Ask for proof of age and only accept identification which bears a photograph such as a 'PASS' approved proof of age scheme card, new-style driving licence or passport. If the buyer cannot prove that they are over 18 you must refuse to sell to them. Record the refusal in accordance with the procedures operated by your employer.

Do not fail to ask for proof of age simply because you think you might cause offence – remember that if you sell to someone under 18 you will be breaking the law.

Employers

If you are conducting a sale yourself, follow the advice given to salespersons above.

Staff training is vital. You should ensure that all staff are trained at the start of their employment. You should also ensure that the training is repeated at regular intervals to ensure that staff do not forget or become complacent. In order to demonstrate that you have trained your staff you should keep records of any training or instructions given. Ask employees to date and sign training records to confirm that they have understood.

Reminders of the law at the point of sale are a good idea – this can be by means of a ‘till prompt’ if you have an EPOS system or by notices on the tills. Move reminders around or replace them frequently to make your staff notice them.

In order to show that your staff are following the training they have been given you should set up a ‘Refusals Register’ or similar system whereby staff can record the occasions on which they refuse a sale. You, or a person you have authorised, should check this record frequently and sign it to show that it is being monitored. You should investigate if the refusal record is not in accordance with the normal operating pattern for the premises. If the refusals record shows that some staff refuse more sales than others or make fewer refusals than you would normally expect, you should check why this occurs and take appropriate action. Make comments in the register to explain what you did, and when.

You have a responsibility to ensure that staff are complying with the law, as you can be liable for any sale that takes place – whether you are present or not. Regular supervision of employees to ensure they are following instructions is important. Consider ways in which your staff can keep in touch or be seen if you are away from the sales area, such as intercoms, signals or CCTV systems.

Because of the difficulty in assessing the age of purchasers, particularly those in their late teens, it is wise to err on the side of safety and ask anyone who appears to be under 21 to prove their age when purchasing tobacco products. This is the basis of ‘Challenge 21’ and similar schemes. Consider adopting a similar policy in your store. Display informative notices for your customers to help them understand you are operating these schemes to avoid making sales to under 18s and prevent your staff from breaking the law.

Customer notices on the premises can be used to make customers aware of what they can legally purchase and to alert them to the fact that a sale is likely to be refused.

Enforcement of the law

We are required to enforce the law, which we do in the following ways:

- We provide advice and education to traders and consumers, including parents, teachers and young people.

- We investigate complaints made by consumers or by traders about shops believed to be supplying children with tobacco.
- In appropriate cases we use young volunteers to attempt to buy cigarettes. They behave as ordinary customers, under the supervision of a trading standards officer. We follow national guidelines to ensure that test-purchasing is fair. If a sale takes place, legal proceedings may follow.

Penalties

The maximum penalty for failing to display the correct notice is £1,000.

The maximum penalty for selling tobacco to a person under 18 is £2,500.

A court could also require you to move your vending machine or have it removed.

Remember

These laws exist to safeguard the health of young people. We may prosecute offenders without warning.

If you, or your staff are caught selling tobacco to a child you will face a legal interview. We would then assess whether you had taken all reasonable steps to avoid committing the offence.

Doing nothing is never sufficient.

Future Changes

Future changes under the Health Act 2009

- Prohibit the sale of tobacco from vending machines from 1 October 2011; Prohibit the display of tobacco products in large shops from 1 October 2011 and in small shops from 1 October 2013;

- Regulate the format of tobacco price lists and labels displayed in large shops from 1 October 2011 and in all other places from 1 October 2013;
- Require that from 1 October 2013 specialist tobacconists may only advertise and display tobacco products inside their stores, out of general public view;
- Require that from 1 October 2013 retailers selling tobacco products in large quantities, such as duty free and cash and carry businesses, display tobacco or tobacco prices only in an area of the shop.

Where can I get further help?

This leaflet is not an authoritative document on the law and is only intended for guidance. For further details or clarification contact Derbyshire Trading Standards at:

Chatsworth Hall
Chesterfield Road
Matlock
Derbyshire
DE4 3FW

Telephone:

Businesses:	Call Derbyshire	08 456 058 058
Consumers:	Citizens Advice consumer helpline	08454 040506

Fax: 01629 536197

Website: www.derbyshire.gov.uk/tradingstandards

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille

To ensure that you are looking at the most up-to-date version of this leaflet, please visit our website at

http://www.derbyshire.gov.uk/images/sfy03_tcm9-8334.pdf

or telephone us on 01629 536166.

