



# Delaware's New Law

**Minimum-Age: 21 years old**

**Effective Date  
July 16, 2019**

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## Minimum Age Restrictions

### Delaware Law Summary



**NEW MINIMUM-AGE Law effective July 16, 2019 is 21 years old.**

It is illegal to sell or distribute any tobacco product or tobacco substitutes to anyone under 21 years old. It is also illegal for anyone to purchase on behalf of anyone under 21 years old (adults cannot buy for under 21 year olds.)

### FDA Summary (Federal)

You must follow the Delaware's 21 year minimum-age since it is higher than FDA's 18 year minimum-age requirement.

## Minimum Age to Ask for ID

### Delaware Law Summary

Retailers must ask for ID from any person that is under 30 years old, and verify the person is 21 years of age or older by examining a driver's license or other government-issued photographic identification.



### FDA Summary (Federal)

**Note:** Follow the Delaware requirement of **Under 30** because it is higher than FDA's **Under 27** requirement.

You must **Check photo ID of everyone appearing under age 27** who attempts to purchase FDA regulated products and verify the customer is of legal age to purchase. This is an each-and-every time requirement (even if you know the person to be of legal age.) If you "carded" them yesterday, you must "card" them again today!

**Decline a sale** when the customer is underage, has no photo ID, the photo ID contains no date-of-birth or the photo ID has expired.



## Age Restricted Products - Tobacco and Vapor

### Delaware Law Summary

Products that contain tobacco, including, but not limited to, cigarettes, cigars, hookah, pipe tobacco, chewing tobacco, snuff or snus, or smokeless tobacco and are intended for human consumption or use, as well as "Tobacco Substitutes" (such as e-cigarettes), including for example any device employing a mechanical heating element, battery, or circuit, regardless of shape or size, that can be used to deliver nicotine into the body through inhalation, or any noncombustible product containing nicotine intended for use in such a device. Tobacco product also means any component or accessory used in the consumption of a tobacco product, including filters, rolling papers, and pipes.

### FDA Summary (Federal)



Cigarettes,  
Cigarette Tobacco  
& Roll-Your-  
Own Tobacco



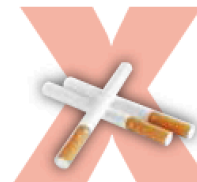
Smokeless  
Tobacco



Cigars



Hookah  
& Pipe  
Tobacco



Loose Cigarettes



Nicotine  
Gels



Dissolvable  
Tobacco  
Products



Electronic  
Nicotine  
Delivery Sales  
(ENDS)

#### **BANNED: SINGLE CIGARETTES OR "LOOSIES"**

Do not sell single cigarettes ("loosies") or break open packs of 20 cigarettes to sell them in quantities of less than 20 cigarettes OR sell any quantity of smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use.\*\*

**ENDS** include e-cigarettes, e-hookah, ecigars, vape pens, advanced refillable personal vaporizers, electronic pipes, components & parts (such as e-liquids, atomizers, tank systems, batteries)

## Acceptable forms of ID

### ***Delaware Law Summary***

A driver's license or other government-issued photographic identification that indicates that the card holder is 21 years or older.

### ***FDA Summary (Federal)***

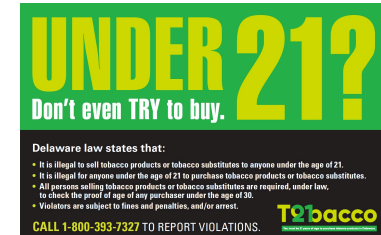
Unless otherwise required by state or local law, FDA recommends that retailers accept only government-issued photographic identification with the bearer's date of birth. (e.g., State-issued driver's license or identification card, military identification card, passport or immigration card) for establishing a legal age to purchase FDA regulated products. The Photo ID is not acceptable if it has expired.

## Post Signs Required by State Law

### ***Delaware Law Summary***

A person engaged in the sale or distribution of tobacco products or tobacco substitutes shall post conspicuously at each point of purchase a notice stating that (1) selling tobacco products or substitute tobacco products to anyone under age 21 is illegal, (2) the purchase of tobacco products or substitute tobacco products by anyone under age 21 is illegal, (3) a violator shall be subject to fines, and (4) all persons selling tobacco products or substitute tobacco products are required, under law, to check proof of age of any purchaser of tobacco products or substitute tobacco products under the age of 30 years. The notice must include the state's Department of Safety and Homeland Security's toll-free number for persons to report unlawful sales of tobacco products or substitutes. The owner of an establishment that violates this law shall be subject to a \$100.00 fine.

**Hard Copy of Sign:** The Division of Alcohol and Tobacco Enforcement may deliver to retailers the new 21 year state-required sign or sticker. Contact the Division for more information: 302-741-2715.



**Download the new sign**  
and post by 7-16-19.

Go to the DE government website –  
[www.date.delaware.gov](http://www.date.delaware.gov) – to  
download the sign and get  
other information.



## Penalties and Fines

### ***Delaware Law Summary***

Any person (retailers and retailer employees) that sells or distributes tobacco products or tobacco substitutes to individuals older than 18 and under 21 years old shall be assessed a civil penalty of \$250 for the 1st offense, \$500 for the 2nd offense and \$1,000 for the 3rd and subsequent offenses.

Any person (retailers and retailer employees) that sells or distributes tobacco products or tobacco substitutes to individuals under 18 years old shall be guilty of a violation and fined \$250 for the 1st offense, \$500 for the 2nd offense and \$1,000 for the 3rd and subsequent offenses.

A retailer's license may be suspended for a period not to exceed six months for a second, third, or subsequent offense. Retailers shall be subject to the fine only if the retailer has received written notice of the relevant provisions of Delaware youth access laws by the Department of Safety and Homeland Security. In addition, the Court may suspend the retailer's license for sale of tobacco products for up to 6 months.

### ***FDA Summary (Federal)***

FDA has a variety of enforcement tools to address retailers who violate Federal statutes or regulations, including civil money penalties, warning letters, seizures, injunctions, no-sale orders and/or criminal prosecution. Retailers who violate the regulations may also be in violation of state law and subject to state penalties or other related orders.

#### **FDA FINES & PENALTIES**

# of Violations	Fine
1st	Warning Letter
2 within 12 months	\$285
3 within 24 months	\$570
4 within 24 months	\$2,282
5 within 36 months	\$5,705
6 within 48 months	\$11,410
5 or more within 36 months	No Sale Order

Fines and penalties shown here are as of June 10, 2019.



## Customers Who Are Now Underage Due to 21 Year Law

New "21" state laws\* require retailers to refuse the sale of tobacco and vapor products to anyone under the age of 21. And it's quite possible that you, the retailer, will be the first one to inform your customers about this new law.

We Card training covers challenges like handling difficult situations including refusing an underage sale using the A-E-R-O method.

\* See state laws summaries for any exceptions to the 21 year minimum-age.

**We recommend A-E-R-O when speaking with customers who are no longer the legal age to buy tobacco and vapor products.**

# A-E-R-O

**APOLOGIZE**   **EXPLAIN**   **REMOVE**   **OFFER**  
the product from the counter   another service



## What do YOU say?



Hey, can I get that vape pen and 2 refill cartridges?

Sure, can I see some ID?

Here you go.

Thanks. I'm sorry, this ID shows you're under 21 so it would be against the law for me to sell the vape pen to you . . .

I'm 20 years old. I buy vape stuff and refills all the time!  
**WHAT'S WRONG WITH YOU?**

I'm sorry, there's a new state law with 21 as the minimum age. We have to follow that law. Can I get you something else in the store?

Oh, I didn't now about the new law. Just this bottled water, thanks.

Store Sales Associate

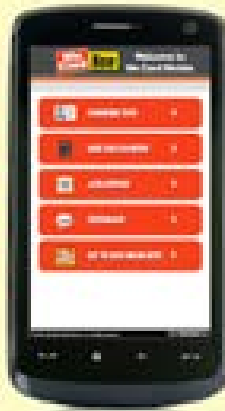
[www.wecard.org](http://www.wecard.org)



# Responsible Retailing Resources

## About We Card

The *We Card* Program is a national non-profit organization focused on ensuring that age-restricted product retailers are fully educated, trained and prepared to reject underage sales.



**When you need We Card  
at your fingertips!**



[wecardnow.com](http://wecardnow.com)

## **We Card** eLearning Center



Includes  
**e-Vapor  
laws**

Award-winning training, now even better!  
• Employee • Refresher • Manager

Learn FDA Requirements of Retailers, Rules  
on Regulated Products, FDA Fines and Penalties  
\*Based upon FDA Guidance for Tobacco Retailer Training Programs

Additional interactive exercises and more  
practice in the steps employees need to  
prevent tobacco sales to minors.

Built to be LMS-ready and SCORM-compliant.  
Ask for a test drive on your LMS!



## **Equip Your Stores**



Call 1-800-934-3968 or visit [wecard.org](http://wecard.org).

## **Mystery Shopping**

*We Card* offers the ID Check-Up  
mystery shopping service at a  
low cost of \$26 per mystery shop  
which allows even the smallest  
retail store to participate in an ID  
checking system that is proven  
to increase carding rates.



[www.wecard.org](http://www.wecard.org)

