

# Texas New Law



**Minimum-Age: 21 years old**

**Effective Date  
September 1, 2019**

## Contents



- 21 Year Old Minimum Age Restriction
- Minimum Age to Ask for ID - *Under 30 years old*
- Age Restricted Products - Tobacco and Vapor
- Acceptable Forms of ID
- Post Sign Required by State Law
- Fines and Penalties
  
- *We Card* Responsible Retailing Resources

Legal Disclaimer: This information provided herein and found on the *We Card* website is provided as a service of the *The We Card* Program, Inc. This information is not intended to be, or to provide, legal advice or analysis, and it is not intended to be complete representation of federal, state or local law, or federal Food & Drug Administration (FDA) regulations. Federal, state and local laws, as well as FDA regulations, may contain additional rules and restrictions relating to tobacco products not mentioned on this web site. Users of this web site should not rely on this web site as complete or accurate descriptions of applicable federal, state or local law, or FDA regulations. Users with questions about the law should seek the advice of counsel. Each state law is unique and possibly represents multiple legislative or regulatory acts. Local laws may differ. Check with local authorities for variations from federal or state law.

## Minimum Age Restrictions

### Texas Law Summary



**NEW MINIMUM-AGE Law effective September 1, 2019 is 21 years old.** Customers must be 21 years or older to purchase tobacco products, e-cigarettes and e-vapor products (See Restricted Products section). It is illegal to sell, give or cause to be sold or give a cigarette, e-cigarette or tobacco products to anyone under the age of 21, or to sell or give tobacco products to a person who intends to deliver it to someone who is under 21.

**EXCEPTION #1:** For Active Duty military, the minimum-age is 18 years old. A valid military identification card of the U.S. military forces or the state military forces shall be accepted as proof of age for this exception.



**EXCEPTION #2:** A person who was born on or before August 31, 2001. In other words, the minimum-age is 18 years old for persons who were born on or before August 31, 2001.

Adult-for-Underage Person Purchase is Illegal. It is illegal for a retail employee to sell, give or causes to be sold or give a cigarette, e-cigarette or tobacco product to another person who intends to deliver it to someone who is younger than 21 years of age.

### FDA Summary (Federal)

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

## Minimum Age to Ask for ID

### Texas Law Summary

Retailers must ask for ID from any person that **appears to be under 30 years old**, and verify the person is 21 years of age or older by examining a valid proof of ID.



### FDA Summary (Federal)

**Note:** Follow the Texas 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

## Texas Law Summary

Cigarettes or tobacco products including cigars, pipe or cigarette tobacco, chewing tobacco, snuff, or any article or product that is made of tobacco or a tobacco substitute, and e-Cigarettes and vaping products.

## FDA Summary (Federal)



**Cigarettes,  
Cigarette Tobacco  
& Roll-Your-  
Own Tobacco**



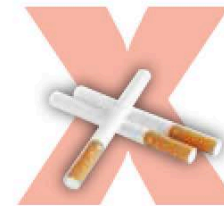
**Smokeless  
Tobacco**



**Cigars**



**Hookah  
& Pipe  
Tobacco**



**Loose Cigarettes**

### **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.\*\*



**Nicotine  
Gels**



**Dissolvable  
Tobacco  
Products**



**Electronic  
Nicotine  
Delivery Sales  
(ENDS)**

**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

### ***Texas Law Summary***

Identification that contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 21 or older, and was issued by a governmental agency, including a Texas or other state's driver's license, a passport, or a state or federally-issued identification card. A U.S. Armed Forces identification card is an acceptable ID. A person may not sell, give, or cause to be sold or given a Restricted Product to someone who appears to be younger than 30 unless that person presents an Acceptable Form of Identification.

### ***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

### ***Texas Law Summary***

NEW state sign requirement for the Sept. 1, 2019 deadline for the 21 year minimum age law.

The Comptroller's office plans to mail out its publications before the deadline.

Retailers must post and maintain signs at the point of sale and on vending machines which include:

PURCHASING OR ATTEMPTING TO PURCHASE CIGARETTES, E-CIGARETTES OR TOBACCO PRODUCTS BY A PERSON UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW. SALE OR PROVISION OF CIGARETTES, E-CIGARETTES OR TOBACCO PRODUCTS TO A PERSON UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW. UPON CONVICTION, A CLASS C MISDEMEANOR, INCLUDING A FINE OF UP TO \$500 MAY BE IMPOSED. VIOLATIONS MAY BE REPORTED TO THE TEXAS COMPTROLLER'S OFFICE BY CALLING 1-800-345-8647. PREGNANT WOMEN SHOULD NOT SMOKE. SMOKERS ARE MORE LIKELY TO HAVE BABIES WHO ARE BORN PREMATURE OR WHO HAVE LOW BIRTH WEIGHT. THE PROHIBITIONS ON THE PURCHASE OR ATTEMPT TO PURCHASE DESCRIBED ABOVE DO NOT APPLY TO A PERSON WHO IS IN THE UNITED STATES MILITARY FORCES OR STATE MILITARY FORCES. THE PROHIBITIONS ON THE PURCHASE OR ATTEMPT TO PURCHASE DESCRIBED ABOVE DO NOT APPLY TO A PERSON WHO WAS BORN ON OR BEFORE AUGUST 31, 2001

**The Comptroller shall supply the signs free.** Failure to post a sign is a Class C misdemeanor, subject to a fine of up to \$500. To request additional warning signs, call the Comptroller's office toll-free at (800) 862-2260. See Tobacco and E-Cigarette Sales Warning Signs and Vending Machine Warning Signs here.



Click to get sign

# Penalties and Fines

## Texas Law Summary

Employees who sell Restricted Products to persons under 21 years of age are guilty of a Class C misdemeanor, subject to a fine of up to \$500. The retailer will be charged if an employee commits an offense and the retailer failed to prevent the offense through adequate supervision and training. Retailers found in violation at least twice within 12 months, may be fined up to \$1,000 and have their permit suspended. Four or more violations may result in permit revocation.

**Failure to Notify Employees AND Post Required Signage can be a Class C misdemeanor:** as a condition of employment, retailers must notify each employee engaged in the sale of restricted Products, within 72 hours of first selling such products, that state law prohibits the sale or distribution of cigarettes e-cigarettes or tobacco products to anyone under 21, that a violation is a Class C misdemeanor, that employees are required to ensure that tobacco outlets post a warning sign that is always properly displayed and that a violation is a Class C misdemeanor.

Employees are required to sign a notice or other store or company document stating that they have been trained to sell e-cigarettes, cigarettes and tobacco products. The employee must signify that he has received the notice by signing a form stating that the law has been fully explained, that the individual understands the law, and that the individual, as a condition of employment, agrees to comply with the law. Each form signed by an individual shall indicate the date of the signature and the current address and social security number of the individual. The retailer shall retain the signed form until 60 days after the employee leaves the job. A retailer required by this section to notify employees commits an offense if the retailer fails, on demand of a peace officer or an agent of the Comptroller, to provide the signed form within 7 days of the demand. An offense under this section is a Class C misdemeanor. It is a defense to prosecution to show proof that the employee did complete, sign, and date the required forms.

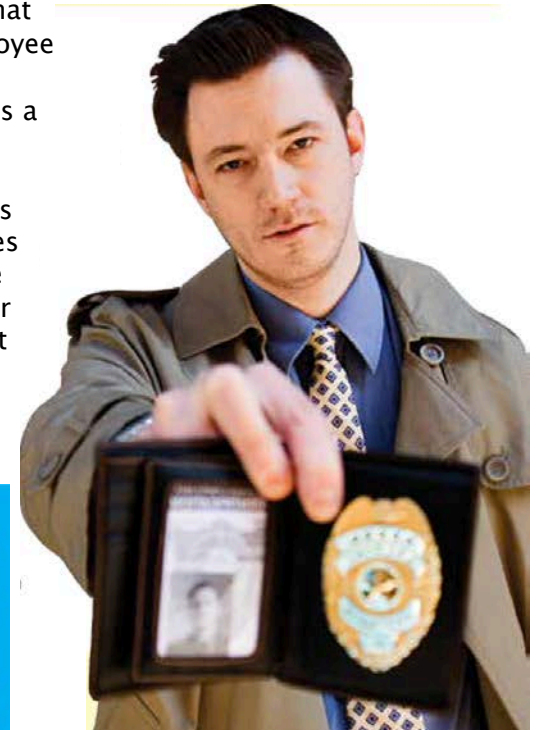
[Texas Retail Employee Notification Form](#) available here.

## 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 July 19, 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.

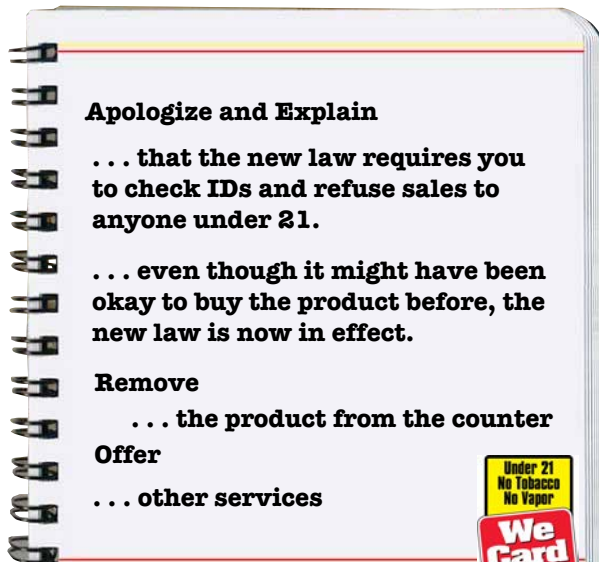
We Card training covers challenges like handling difficult situations including refusing an underage sale using the A-E-R-O method.

\* 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?

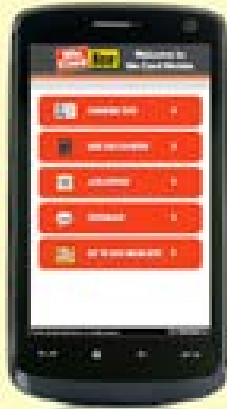
Oh, I didn't now about the new law. Just this bottled water, thanks.

Store Sales Associate

# 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

## We Card eLearning Center



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.

## 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

