



UTAH TOBACCO

RETAILER EDUCATION GUIDE

Produced by the Utah Department of Health and Utah's 12 local health departments



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DISCLAIMER

This guide is for informational and educational purposes only. It is your responsibility to know and comply with Utah tobacco laws. Using this guide and adopting the recommended policies does not constitute compliance with the laws and is not a defense if you or your employees are cited for violating Utah Criminal Code 76-10-104. Information contained in this guide is subject to change without further notice. For questions, please consult the “Where to Go for Help” section.

REVISION DATE

Revised April 2014—Tobacco Prevention and Control Program, a division of the Utah Department of Health



OVERVIEW

OVERVIEW

Why it's important to check I.D.

Tobacco is one of the main causes of disease, death, and suffering in Utah. In addition to its considerable impact on the health of Utahns, tobacco use poses a significant economic burden. Preventing tobacco use among youth is critical since nicotine addiction is linked to starting tobacco use during the teenage years. Ninety percent of regular adult smokers start before the age of 19—and you and your staff can help drive that number down by preventing access to tobacco and nicotine products. Research shows the following statistics in Utah:

- 7,500 Utah high school students smoke cigarettes. (Source: Utah YRBS 2013)
- 1,156 Utahns die each year as a result of cigarette smoking. (Source: CDC SAMMEC Online Application)
- \$369 million in smoking-related health care costs are incurred in Utah each year. (Source: CDC SAMMEC Online Application)
- \$294 million is lost due to lost worker productivity each year. (Source: CDC SAMMEC Online Application)



Benefits of complying with Utah tobacco laws

- You won't get fined, serve a jail term, or lose your job.
- You will gain the respect of the community.
- You may be rewarded by your local health department or your manager.
- You may help reduce the number of kids who may become addicted to tobacco.
- Fewer underage youth will target your store for illegal purchases.

What this guide will do for your store

1. Provide a guide for educating employees on how to avoid illegal tobacco sales to underage youth.
2. Provide a documented training program and an employee agreement form. When signed and dated, this form may make the licensee eligible to receive a reduction in civil penalties if an illegal tobacco sale were to occur [Utah Code 26-42-106].
3. Provide a stand-alone training program or add to an existing retail tobacco training program.
4. Provide resources and local contacts.

How to use this guide

This guide is divided into three parts:

1. **Employee Section:** A guide for employees that can be used at the time of new-hire orientation and for ongoing training and education. It includes a quiz to show understanding of training materials.
2. **Owner/Manager Section:** Tips for creating a tobacco policy and ideas on how to reinforce employee training. It provides answers to commonly asked questions, answers to the employee quiz, and information on where to go if you need more help and support.
3. **Resources Section:** Includes documents that you can use with your employees and shows what resources (posters, window clings, and register stickers) are available to you at no charge.

KNOWING THE LAW

This guide covers Utah state laws that apply to you as a tobacco retailer in Utah. Please note there are federal laws that tobacco retailers in Utah are also required to follow. For more information and retail education materials regarding these federal laws, visit www.fda.gov/breakthechain.

Tobacco products

In Utah, it is against the law to sell tobacco products and electronic cigarettes to anyone under the age of 19. Examples include the following:

- Cigarettes • Electronic cigarettes • Personal vaporizers • Chewing/spitting/smokeless tobacco
- Cigars • Snuff • Loose tobacco (pipe tobacco) • Clove cigarettes

Utah tobacco laws at a glance

Note: The following summaries of tobacco and electronic cigarette laws are current to August 2013. Retailers can access information about any changes since then at www.tobaccofreeutah.org/laws-glance.html.

Minors

- 76-10-104 **Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor—Penalties.** Prohibits providing any cigar, cigarette, electronic cigarette, or tobacco in any form to any person under 19 years of age.
- 76-10-104.1 **Providing tobacco paraphernalia to minors—Penalties.** Prohibits providing tobacco paraphernalia to any person under 19 years of age.
- 76-10-105 **Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor—Penalty—Compliance officer authority—Juvenile court jurisdiction.** Makes it illegal for anyone under 19 years of age to buy, attempt to buy, accept, or have in their possession any cigar, cigarette, electronic cigarette, or tobacco in any form.

Retail

- 26-42-101 to 107 **Civil penalties for tobacco sales to underage persons.** Lists the administrative, monetary, suspension, and revocation penalties imposed on the licensee of an outlet when an illegal sale is made to individuals under the age of 19 at the establishment.
- 76-10-103 **Permitting minors to use tobacco in a place of business.** Proprietors of businesses may not knowingly permit those under the age of 19 to use tobacco on the business premises.

76-10-105.1 **Requirement of direct, face-to-face sale of tobacco products and electronic cigarettes—Supremacy clause—Penalties.** In general, restricts sales of cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, and smokeless tobacco to direct, face-to-face exchange. Allows for self-service in separate and defined areas within a facility when retailer ensures no one under the age of 19 is allowed to enter.

License Requirements

10-8-41.6 **Regulation of retail tobacco specialty business.** Statute that requires municipality licensing of businesses whose sale of tobacco products (including electronic cigarettes) accounts for more than 35 percent of the total annual gross receipts for the establishment and whose food and beverage products, excluding gasoline sales, is less than 45 percent of the total annual gross receipts for the establishment. Tobacco specialty businesses cannot be located within (1) 1,000 feet of a community location; (2) 600 feet from another retail tobacco specialty business; or (3) 600 feet from property used or zoned for agricultural or residential use.

17-50-333 **Regulation of retail tobacco specialty business.** Statute that requires county licensing of businesses whose sale of tobacco products (including electronic cigarettes) accounts for more than 35 percent of the total annual gross receipts for the establishment and whose food and beverage products, excluding gasoline sales, is less than 45 percent of the total annual gross receipts for the establishment. Tobacco specialty businesses cannot be located within (1) 1,000 feet of a community location; (2) 600 feet from another retail tobacco specialty business; or (3) 600 feet from property used or zoned for agricultural or residential use.

59-14-201 **License—Application of part—Fee—Bond—Exceptions.** Requires each outlet in Utah that sells tobacco in Utah to have a license issued by the Utah State Tax Commission.

59-14-202 **Issuance of licenses—Common carrier licenses—Contents—Valid for three years—Revocation—Distribution Requirements.** Describes the circumstances under which licenses are issued. Establishes that a license is valid for three years before being required to be renewed. Also prohibits cigarette sales in packs that contain fewer than 20 cigarettes and places restrictions on roll-your-own packaging.

59-14-203 **Failure to obtain a license—Penalty.** Makes manufacturing, importing, distributing, selling, or offering to sell cigarettes without a valid license a class B misdemeanor.

59-14-203.5 **Commission action to suspend or revoke license.** States Utah Tax Commission requirement to suspend or revoke licenses of establishments whose reported illegal underage sales of tobacco have reached specified levels.

59-14-205 **Stamping procedure—Rules—Exceptions—Penalty—Collection procedures.** Describes requirement for and procedures for placement of approved tax stamps on cigarette packages and containers. Lists penalties for failing to affix stamps as required.

59-14-301.5 **Commission action to suspend or revoke license.** Requires Utah Tax Commission to suspend or revoke licenses to sell tobacco as required under Utah Code 26-42-103 [relates to repeated unlawful sales at an individual outlet].

Advertising and Distribution

53-7-501 to 503	Regulation of novelty lighters. Prohibits the sale or distribution of lighters that, due to their design, can reasonably be expected to appeal to children.
76-10-102	Cigarettes and tobacco—Advertising restrictions—Warnings in smokeless tobacco advertisements. Describes advertising restrictions on cigarettes and other forms of tobacco; requires warnings that must appear in smokeless tobacco advertisements.
76-10-105.3	Prohibition of sale or gift of clove cigarettes. Prohibits the sale or gift of clove cigarettes.
76-10-111	Prohibition of gift or free distribution of smokeless tobacco or electronic cigarettes—Exceptions. In general, makes it unlawful to distribute without charge any smokeless tobacco, chewing tobacco, or electronic cigarette.
76-10-112	Prohibition of distribution of cigarettes or other tobacco products—Exceptions. In general, makes it unlawful to give or distribute cigarettes or other tobacco products without charge.

Utah Indoor Clean Air Act**

26-38-1 to 9	Utah Indoor Clean Air Act [Statute]. Prohibits smoking of cigarettes, electronic cigarettes, and hookah in places of public access (including private businesses).
R392-510-1 to 17	Utah Indoor Clean Air Act [Rule]. Contains the aspects of how businesses, government agencies, and other organizations are required to comply with the statute. Includes prohibiting smoking inside buildings and within 25 feet of entrances, exits, open windows, and air intakes. Also requires posting of “no smoking” signs at all entrances.

Descriptions of laws contained in this guide are for informational purposes only and do not represent legal advice. Except for the Utah Indoor Clean Air Act rule, the excerpts above are taken from the Utah Code.

The majority of laws referred to in this guide can be found on the Utah Tobacco Prevention and Control website at www.tobaccofreeutah.org/laws-glance.html. Those not listed there, as well as the complete text of all the laws, can be found at the Utah Legislature’s website at www.le.utah.gov.

** While the Utah Indoor Clean Air Act does not regulate the sale of tobacco, it does govern tobacco use (including cigarettes, electronic cigarettes, and hookah) in and around retail outlets. A complete listing of the Utah Indoor Clean Air Act requirements can be found at www.tobaccofreeutah.org/uicaa.html. Businesses must comply with both the statute and the rule.

PENALTIES FOR ILLEGAL TOBACCO SALES

Criminal penalties imposed on an individual who makes an illegal underage sale

Utah Criminal Code Misdemeanors and Infractions
76-3-104, 76-3-105, 76-3-204, and 76-3-301

Offense	Classification	Criminal Penalty
1st Offense	Class C misdemeanor	Maximum 90 days in jail or maximum fine of \$750, or both
2nd Offense	Class B misdemeanor	Maximum 6 months in jail or maximum fine of \$1000, or both
3rd Offense (or more)	Class A misdemeanor	Maximum 1 year in jail or maximum fine of \$2500, or both

Civil penalties imposed on a tobacco license holder for illegal sale of tobacco by an employee

Utah Code 26-42-103

Offense	Civil Penalty
1st Offense	Not more than \$300
2nd Offense*	Not more than \$750
3rd Offense*	Not more than \$1,000 and up to 30-day suspension of tobacco license
4th Offense*	Not more than \$1,000 and 1-year revocation of tobacco license

*Offenses, monetary penalties, and revocations are based on repeat offenses within a 12-month “rolling window.”

Other civil penalty considerations

- Civil monetary penalties can be reduced if the licensee has proof of a documented employee training program and evidence that the employee was trained [Utah Code 26-42-106].
- The civil penalty is the tobacco licensee’s responsibility. Withholding employee wages to pay civil penalties may not be legal. For questions, call the numbers below:

State: Utah State Labor Commission—Wage Claim Unit **801-530-6801**

Federal: U.S. Department of Labor/Wages and Hour Division—Information Officer **801-524-5706 ext. 200**

HOW TO AVOID THE ILLEGAL SALE OF TOBACCO TO UNDERAGE YOUTH

It is often hard to tell if a person is of legal age to buy tobacco. To avoid making an illegal sale, be sure to follow the Food and Drug Administration law: check the photo I.D. of all customers who appear to be under the age of 27 (or older, according to store policy) who attempt to purchase cigarettes/e-cigarettes or other tobacco products.

Acceptable forms of identification

The following are acceptable forms of I.D.:

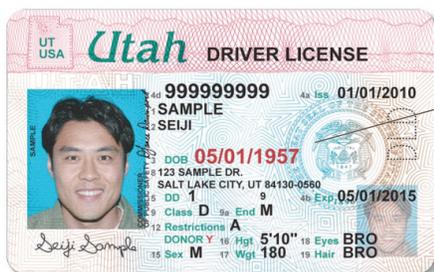
- Current passport
- Current out-of-state driver license
- Current military identification card
- Current Utah driver license (See below for a sample of Under 21 and Adult Driver License.)
- Current state I.D. card (See the next page for a sample of Under 21 and Adult State Identification Card.)

Under 21 Driver License



- Vertical format for individuals who are under 21.
- The words “Under 19/21 Until” appear to the right of portrait in blue/red.
- Date of birth (DOB) is in red writing.

Adult Driver License



- Date of birth (DOB) is in red writing.

Under 21 Identification Card



- The words “Under 19/21 Until” appear to the right of portrait in blue/red.
- Date of birth (DOB) is in red writing.

Adult Identification Card



- Date of birth (DOB) is in red writing.



Images used with the permission of Utah Department of Public Safety, Driver License Division.

What to look for

- Make sure the date of birth on the I.D. shows that the person is 19 years of age or older.
- Make sure the I.D. is not expired.
- Make sure the picture matches the person showing the I.D.
- Make sure the picture and the numbers on the I.D. do not appear to be altered.

You may need to ask customers to take their I.D. out of their wallet or purse so that you can hold the I.D. and get a closer look. You may also need to ask customers to remove glasses or hats so that you can make sure they match the person in the photo. If you have any doubts about the validity or authenticity of the I.D., refuse the sale.

Common mistakes

- Overriding the computerized system for someone who appears younger than 27.
- Asking for I.D. and then not checking the age, or miscalculating the age.

- Accepting I.D. that is not a valid government-issued photo I.D.
- Asking for a customer's date of birth instead of checking the I.D.
- The clerk mistaking the underage minor for an adult customer who is a "regular."
- Inputting random date of birth or clerk's own date of birth into the computer.

Remember: You must check the date of birth on the I.D. to find out if the customer is of legal age to purchase tobacco products. Even if a customer shows a current and valid I.D., such as a military ID or passport, he or she may still not be old enough to buy tobacco.

How to figure out if a customer is old enough

Figuring out if a customer is old enough to buy tobacco is as simple as adding 20 and subtracting 1:
(Birth year + 20) -1 = year in which customer will turn 19

For example, if the birth date on the I.D. is March 28, 1995:

- Today's date = March 5, 2014
- Birth date as it appears on the I.D. = March 28, 1995
- Add 20 to the year = March 28, 2015
- Subtract 1 from the year = March 28, 2014

According to this example, this customer will not be 19 years old until March 28, 2014. Therefore, it is not legal to sell tobacco to this customer.

How to refuse an illegal tobacco sale

- Always ask for I.D. before getting the tobacco product.
- Give a firm yet polite response.
- State the reason you cannot sell the product.
- Shift your attention to the next customer.

Sample illegal sale situations

Underage customer with I.D.

When a customer's I.D. shows that he or she is not old enough, remind him or her that he or she has to be 19 to legally purchase tobacco products.

What to say:

"I'm sorry, it's against the law for me to sell tobacco products to anyone under 19."

Underage customer purchasing for an adult

If parents or other adults send a child to purchase tobacco products for them, explain that someone of legal age must come in to make the purchase.

What to say:

"I'm sorry, it's against the law for me to sell tobacco products to anyone under 19."

Customer without I.D. who appears under age

If a customer does not have I.D., don't accuse him or her of being underage.

What to say:

"I must see a valid I.D. to determine whether I can sell this to you."

Customer without I.D. who appears over 19 but under 27

If a customer clearly looks at least 19 but appears younger than 27, store policy requires that you must check I.D.

What to say:

"I'm sorry, store policy requires that I check the I.D. of all customers who appear to be under age 27 (or older depending on your store policy). If I don't, I could lose my job."

Adult buying for someone under age

If you have reason to believe a customer over 19 is attempting to purchase tobacco products for an underage youth, you must refuse the sale. (Customer could be an underage youth's parent, sibling, friend, or a stranger.)

What to say:

"I'm sorry, it appears that you may be purchasing this for an underage youth, so I cannot sell you this product. It is illegal to furnish tobacco to anyone under the age of 19."

Friend of clerk who is underage attempts to purchase

Don't be tempted to sell to your underage friends.

What to say:

"It's nothing personal; it's just the law. If I sell tobacco products to you, I could be fined and lose my job."

What if a customer becomes disagreeable?

- Stay calm.
- Don't argue with the customer.
- Refer the customer to your supervisor or manager.
- Offer to get a police officer's opinion.

Benefits of complying with Utah tobacco laws

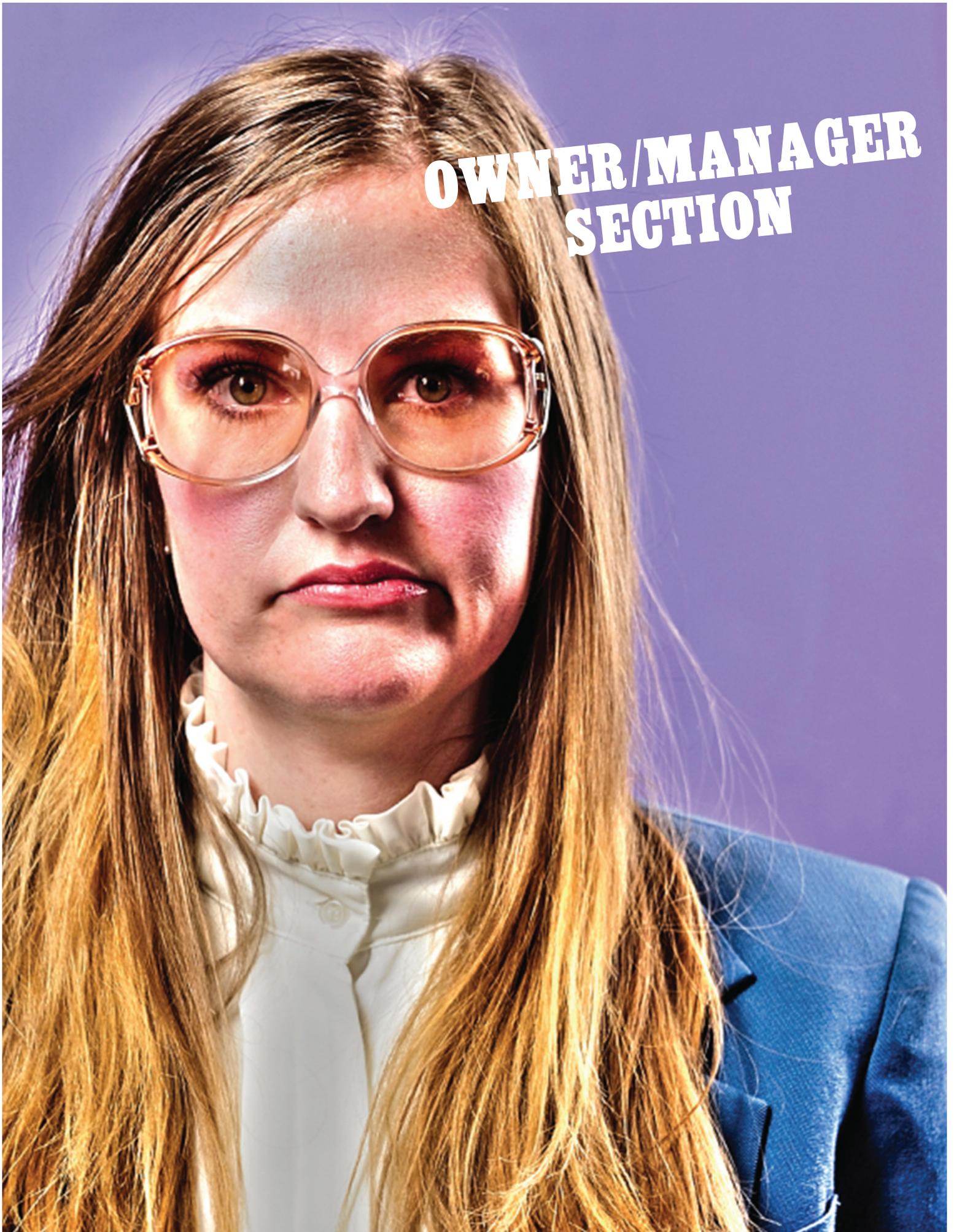
1. You won't get fined, serve a jail term, or lose your job.
2. You will gain the respect of the community.
3. You may be rewarded by your local health department or your manager.
4. You will help reduce the number of kids who may become addicted to tobacco.
5. Fewer underage youth will target your store for illegal purchases.

TOBACCO SALES QUIZ

Now that you have received instruction on preventing illegal tobacco sales, please take some time to complete the following brief quiz to show how much you know.

1. In Utah, the legal age to buy or possess tobacco is:
 - 18
 - 19
 - 21
2. The law applies to cigarettes, but not to chewing tobacco.
 - True
 - False
3. Sale of single cigarettes (loosies) is allowed in Utah, so long as they are properly packaged.
 - True
 - False
4. Electronic cigarettes may be stocked out on normal store shelves in a convenience store so customers can select the product themselves and bring it to the counter to pay for it.
 - True
 - False
5. A business that wants to offer tobacco products and electronic cigarettes in a self-service display must assure that no one under 19 years of age enters the facility where the products are displayed.
 - True
 - False
6. If a customer whom you have verified is 19 years of age or older appears to be purchasing tobacco for someone who obviously is not legal age (19 years or older), the employee at the register can refuse to sell the product to the customer.
 - True
 - False
7. In Utah, all cigarettes must be sold in a minimum package of 20 cigarettes to a pack.
 - True
 - False
8. About 90 percent of people who become regular adult smokers start before the age of 19.
 - True
 - False
9. Selling tobacco once to an underage youth could result (for clerks) in a:
 - Class A misdemeanor = Fines up to \$2,500, or up to one year in jail, or both
 - Class B misdemeanor = Fines up to \$1,000, or up to six months in jail, or both
 - Class C misdemeanor = Fines up to \$750, or up to 90 days in jail, or both

**OWNER/MANAGER
SECTION**



TIPS FOR OWNERS AND MANAGERS: POLICIES AND PROCEDURES

You have a responsibility to prevent illegal tobacco sales. This section of the guide will give you ideas on how to develop and implement policies and procedures, training techniques, and reinforcement strategies to help your employees comply with the law.

Policy development

- Create and follow strict written tobacco policies and procedures. Consider including the following elements:
 - The store’s policy that outlines procedures for selling tobacco.
 - Develop a “We I.D. . . .” policy; i.e., “We I.D. everyone under the age of 27 (or 30 or 40).”
 - Ask for I.D. before getting the tobacco product.
 - Ask the customer to remove I.D. from a wallet or purse.
 - Take hold of the I.D. to examine it closely.
 - Check the birth date on the I.D. to make sure the customer is age 19 or older.
 - Include any other store-specific procedures.
 - A list of the store’s consequences for those who sell to underage youth (in addition to civil and criminal penalties).
 - Procedures for employees to follow when asking youth who are known to be under 19 and who are using tobacco to leave the premises. [Utah Code 76-10-103]
 - Consequences for employees who improperly use or override computerized prompts on registers when ringing up tobacco products.
 - A system for reviewing surveillance footage and receipt records for date-of-birth entries in order to monitor employee compliance with store tobacco sales policies.
- Keep tobacco locked up, and constantly monitor tobacco products.
- Let your employees know that management supports the law.
- Conduct internal policy checks by using a person who is 19 or older to attempt to purchase tobacco.
- Offer rewards for employees who pass external compliance checks and internal policy checks.
- Upgrade register software to require a date of birth to be entered for all tobacco sales or that allows scanning of the I.D.

New employee training

- Provide new employee training before employees are allowed to sell tobacco and electronic cigarettes. Training should include the following:
 - Utah tobacco laws
 - A clear definition of what a tobacco product is
 - Legal age for purchase
 - Instructions on how and when to ask for I.D.
 - Instructions on how to identify a false I.D.
 - Instructions on how and when to refuse a sale
 - The consequences of an illegal sale
- Provide close manager supervision of new employees.
- Have employees sign and date a Proof of Tobacco Training Document (see Resource A).

Training reinforcement strategies

- Role-play different tobacco sale situations with employees.
- Review tobacco laws and policies in staff meetings.
- Provide ongoing follow-up training.
- Follow through with rewards and consequences.
- Create birth date flashcards so clerks can practice calculating age.

Visual reminders

- Post the tobacco policy in your store where employees will see it often.
- Post a copy of tobacco-related laws for employees to review.
- In highly visible locations (e.g., front doors, counters, and windows), post signs stating that you don't sell tobacco to underage youth.
- Post a copy of penalties for those who sell tobacco to underage youth.
- Post a date-of-birth chart (or use a digital birth chart), and make sure employees refer to it when calculating a customer's age.

Important note:

Document all measures taken to reinforce employee education and prevent illegal sales of tobacco to underage youth. Documentation may be used as evidence in your favor in the civil hearing process.

TOBACCO SALES QUIZ ANSWER KEY

1. In Utah, the legal age to buy or possess tobacco is:
 - 18
 - 19**
 - 21
2. The law applies to cigarettes, but not to chewing tobacco.
 - True
 - False**
3. Sale of single cigarettes (loosies) is allowed in Utah, so long as they are properly packaged.
 - True
 - False**
4. Electronic cigarettes may be stocked out on normal store shelves in a convenience store so customers can select the product themselves and bring it to the counter to pay for it.
 - True
 - False**
5. A business that wants to offer tobacco products and electronic cigarettes in a self-service display must assure that no one under 19 years of age enters the facility where the products are displayed.
 - True**
 - False
6. If a customer whom you have verified is 19 years of age or older appears to be purchasing tobacco for someone who obviously is not legal age (19 years or older), the employee at the register can refuse to sell the product to the customer.
 - True**
 - False
7. In Utah, all cigarettes must be sold in a minimum package of 20 cigarettes to a pack.
 - True**
 - False
8. About 90 percent of people who become regular adult smokers start before the age of 19.
 - True**
 - False
9. Selling tobacco once to an underage youth could result (for clerks) in a:
 - Class A misdemeanor = Fines up to \$2,500, or up to one year in jail, or both
 - Class B misdemeanor = Fines up to \$1,000, or up to six months in jail, or both
 - Class C misdemeanor = Fines up to \$750, or up to 90 days in jail, or both**

10. Selling tobacco twice to an underage youth could result (for clerks) in a:
- Class A misdemeanor = Fines up to \$2,500, or up to one year in jail, or both
 - Class B misdemeanor = Fines up to \$1,000, or up to six months in jail, or both**
 - Class C misdemeanor = Fines up to \$750, or up to 90 days in jail, or both
11. Selling tobacco three times to an underage youth could result (for clerks) in a:
- Class A misdemeanor = Fines up to \$2,500, or up to one year in jail, or both**
 - Class B misdemeanor = Fines up to \$1,000, or up to six months in jail, or both
 - Class C misdemeanor = Fines up to \$750, or up to 90 days in jail, or both
12. Which of the following are acceptable forms of I.D. for tobacco sales? (Check all that apply.)
- Current driver license**
 - Credit card with picture
 - School identification card
 - Social Security Card
 - Current state identification card**
 - Current passport**
 - Current military identification card**
13. If adults send their children with a note to buy cigarettes for them, is it OK to make the sale?
- Yes
 - No**
 - It depends on whether the parent has signed the note and if it looks OK
14. The penalty to the tobacco license holder when tobacco is illegally sold in his/her store four times within a 12-month period is:
- A civil penalty of up to \$300
 - A civil penalty of up to \$750
 - A civil penalty of up to \$1000, and license to sell tobacco revoked for up to 12 months**
15. A good rule to follow is to ask to see a valid form of I.D. for any customer appearing to be younger than:
- 27 years old**
 - 19 years old
 - 35 years old
16. Which is NOT an effective way to refuse a sale?
- Politely and firmly say that you cannot sell the product
 - State the reason you cannot sell the product
 - Remove the product from the counter
 - Angrily accuse the customer of attempting to do an illegal act**
17. If a customer's birth date was 7/19/94, and today's date is 8/18/13, could you legally sell tobacco to him or her?
- Yes**
 - No

COMMON QUESTIONS AND ANSWERS

Question #1: Why is it recommended that customers who appear to be under the age of 27 present a photo I.D.?

Answer #1: It is hard to judge the age of teens and young adults simply from the way they look. Current Federal law requires checking and verifying the I.D. of anyone who is under 27 years of age. Your store may have an older age requirement. Some companies have also entered into agreements with their Attorney General's Office that require checking and verifying I.D. of purchasers who appear older than 27 years of age, i.e., 35 years old or 40 years old. Bottom line: The best way to protect yourself from violating the law, and being assessed monetary penalties or loss of your license to sell tobacco products, is to carefully check every I.D. and verify that it is valid and current.

Question #2: Does a clerk have to check the I.D. of regular customers every time they buy tobacco, even if they are known to be at least 19 years old?

Answer #2: Review your store policy; it may require you to check I.D. for every tobacco sale. Remember, having a policy requiring employees to request I.D. from everyone, even a regular customer, is the simplest and most effective way to prevent personal fines for the person who sells to underage persons, as well as to the store owner (licensee), who can be penalized for illegal underage sales by their employees.

Question #3: Do the police actually have to see or witness the illegal sale take place in order for a citation to be given?

Answer #3: No. A citation can be given even if the police officer does not witness the sale, but he or she must have sufficient evidence of the sale.

Question #4: Are the police using underage buyers who are deceptive in order to issue citations?

Answer #4: No. The police are trying to help reduce the accessibility of tobacco to underage youth and test for compliance with tobacco laws, not to trick clerks into a citation. While it is common for an underage youth who is not part of a compliance check process to mislead a retailer about their actual age, youth who are participating in a compliance check process cannot misrepresent their age by false or misleading identification documentation. Again, the simplest way to prevent an underage sale is to require a current and valid form of identification to be presented at every purchase.

Question #5: Do I have to have a license to sell tobacco when I already have a business license from my city?

Answer #5: Yes. You are required to have a license to sell tobacco for each outlet you own. Licenses are obtained through the Utah Tax Commission (go to <http://tax.utah.gov/tobacco> for additional information about obtaining a license). Failure to obtain and renew a license when it is necessary may result in hefty penalties.

Question #6: Is it true that the owner (licensee) of a store can be fined even if he or she is not the person who illegally sold to an underage youth?

Answer #6: Yes. The owner of an establishment is subject to a civil penalty if an employee makes an illegal underage sale. However, it is possible to have these penalties reduced by 50 percent or more if the owner can document that he or she has provided acceptable training (such as that included in this guide) to all employees.

Question #7: Are there any laws about selling electronic cigarettes in Utah?

Answer #7: Yes. The same laws that pertain to regular cigarettes and other tobacco products also apply to electronic cigarettes. For example, no one under the age of 19 may possess an electronic cigarette, and it is illegal to sell an electronic cigarette to anyone under the age of 19. In addition, the Utah Indoor Clean Air Act prohibits the use of an electronic cigarette in the same places cigarettes are prohibited. So their use inside retail establishments by employees or customers is not allowed. (There is a narrow exemption for a business that makes 75 percent of its gross receipts from the sale of electronic cigarettes and substances and prohibits persons under the age of 19 to enter the facility in order for the demonstration and sampling of products. This exemption expires in 2017).

Question #8: I have heard that there may be additional licensing requirements for an establishment that sells tobacco products and/or electronic cigarettes exclusively (e.g., a smoke shop). Is this true and, if so, what do I need to do?

Answer #8: Beyond the normal tobacco license that must be obtained if the establishment is going to sell tobacco products, the business may be subject to being licensed as a “tobacco specialty business” by the local municipality or county. Businesses starting after May 8, 2012 whose gross receipts for the sale of tobacco and/or electronic cigarettes are at least 35 percent, and whose gross receipts for food and beverages (excluding gasoline sales) are less than 45 percent, are subject to this license. The law provides that a tobacco specialty business license cannot be issued within 1,000 feet of a “community location,” 600 feet from another tobacco specialty business, and 600 feet from any area used or zoned for agriculture or residential use. Additional requirements must also be met to maintain a license once it has been issued.

Bottom line:

The best way to protect yourself from violating the law, being assessed major monetary penalties, or losing your license to sell tobacco products, is to carefully check every I.D. and verify that it is valid and current.

WHERE TO GO FOR HELP

Materials to assist you in your efforts are available free of charge, and may include posters, decals, and point-of-sale stickers. To order these materials, please contact your local health department. Also, your local health department may be willing to assist with your training needs.

County	Health District	Telephone
Beaver	Southwest Utah Public Health Department	435-986-2563
Box Elder	Bear River Health Department North (Tremonton Area) South (Brigham City Area)	435-257-3318 435-734-0845
Cache	Bear River Health Department	435-792-6510
Carbon	Southeastern Utah District Health Department	435-637-3671
Daggett	TriCounty Health Department	435-247-1177
Duchesne	TriCounty Health Department	435-247-1177
Davis	Davis County Health Department	801-451-3398
Emery	Southeastern Utah District Health Department	435-637-3671
Garfield	Southwest Utah Public Health Department	435-986-2563
Grand	Southeastern Utah District Health Department	435-259-5602
Iron	Southwest Utah Public Health Department	435-986-2563
Juab	Central Utah Public Health Department	435-835-2231
Kane	Southwest Utah Public Health Department	435-986-2563
Millard	Central Utah Public Health Department	435-864-3612
Morgan	Weber-Morgan Health Department	801-399-7184 or 801-399-7105
Piute	Central Utah Public Health Department	435-835-2231
Rich	Bear River Health Department	435-792-6510
Salt Lake	Salt Lake County Health Department	385-468-4053
San Juan	Southeastern Utah District Health Department Blanding Office Monticello Office	435-678-2723 435-587-2021
Sanpete	Central Utah Public Health Department	435-835-2231

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Sevier	Central Utah Public Health Department	435-896-5451 ext. 40
Summit	Summit County Health Department	435-333-1500
Tooele	Tooele County Health Department	435-843-2310
Uintah	TriCounty Health Department	435-247-1177
Utah	Utah County Health Department	801-851-7098
Wasatch	Wasatch County Health Department	435-654-2700 ext. 3260
Washington	Southwest Utah Public Health Department	435-986-2563
Wayne	Central Utah Public Health Department	435-896-5451 ext. 40
Weber	Weber-Morgan Health Department	801-399-7184 or 801-399-7105

For additional help and information, contact:

- Utah Department of Health Tobacco Prevention and Control Program: www.tobaccofreeutah.org, 801-538-6260 [locally], or 1-877-220-3466 [toll-free in state].
- Utah State Tax Commission (for tobacco licensing questions): www.tax.utah.gov/tobacco, 801-297-2200, or 800-662-4335 ext. 2200 [toll-free in state].
- Utah Indoor Clean Air Act (to find out what is required by the UICAA, sample policies, sample signage, and other information to help businesses and building managers comply with the law): www.tobaccofreeutah.org/uicaa.html, 801-538-6260, or 801-538-6754.

RESOURCES



RESOURCES

Proof of Tobacco Training Document. This document verifies that the employee has received training and understands the store’s policy regarding tobacco. It can be used to confirm training in a civil hearing process. It can also be adapted to meet your store’s specific needs and policies.

RESOURCE A: PROOF OF TOBACCO TRAINING DOCUMENT

I understand that Utah law prohibits the sale of tobacco products to persons under 19 years of age. I have reviewed the guidelines regarding the sale of tobacco products to underage youth and understand that failure to follow store policy may result in LOSS OF MY JOB, a FINE (UP TO \$2500), and JAIL TIME!

I AGREE TO THE FOLLOWING LAWS AND COMPANY POLICIES ABOUT THE SALE OF TOBACCO PRODUCTS: (Please initial in each space provided.)

- _____ I will not sell tobacco products (cigarettes, e-cigarettes, chewing tobacco, smokeless tobacco, or smoking paraphernalia) to anyone under the age of 19.
- _____ If the person appears to be under 27, I will ask for I.D. If there is any doubt about the person’s age, I will not make the sale.
- _____ I will not knowingly sell tobacco to any adult for use by individuals under the legal age. If I think this is happening, I will not make the sale.

In turn, management agrees to support my judgment in not making sales in any of the above cases.

I certify that I was trained on the date listed below, and that the training included the following components:

- A clear definition of what constitutes a tobacco product
- The legal age for purchase
- Instruction on when and how to ask for I.D.
- Instruction on performing age I.D. checks for any customer who appears to be less than 27 years of age
- Instruction on how to detect false I.D.
- Instruction on how and when to refuse a sale
- Instruction on how to refuse a sale when an adult clearly attempts to buy for a minor
- The consequences of an illegal sale

Employee’s Signature	Employee’s Name (print)	Date
Store Manager’s Signature	Store Manager’s Name (print)	Store Name
		Date

This agreement will be maintained in our personnel file as part of your permanent employee record.

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RECORD OF EMPLOYEES WHO HAVE COMPLETED TRAINING

Once your employee has successfully completed the quiz, on the following pages both of you should fill out one of the sections below. Keep these pages in your document as a record of employees who have completed this training.

Employee's Signature Print Name Date

Store Manager's Signature Print Name Date



Employee's Signature Print Name Date

Store Manager's Signature Print Name Date



Employee's Signature Print Name Date

Store Manager's Signature Print Name Date



Employee's Signature Print Name Date

Store Manager's Signature Print Name Date



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Employee's Signature Print Name Date

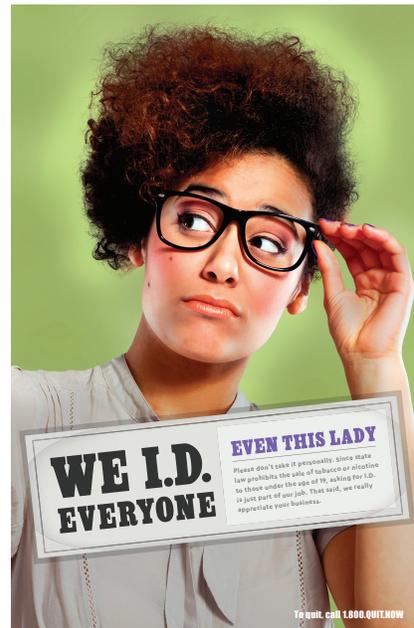
Store Manager's Signature Print Name Date

RESOURCE B: POSTERS, WINDOW CLINGS, AND DATED REGISTER STICKERS

To obtain any of the following materials at no cost to you, please contact the Utah Department of Health Tobacco Prevention and Control Program at 1-877-220-3466. Your efforts to educate your staff and customers can prevent youth from starting smoking, and thus save lives.

Posters

11 x 17 posters are to be hung outside or inside of store.



Window Clings

Clings are to be placed on door windows at store entrance.



Dated Stickers

Stickers are to be placed at point of purchase for both employee and patron to see.

2014

If you weren't born on or before today's date,

TOBACCO 1995	ALCOHOL 1993
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YOU CANNOT BUY THESE PRODUCTS.

**WE I.D.
EVERYONE**

Valid through 2014 To quit, call **1.800.QUIT.NOW**

2014

Válido sólo en el 2014

No puede comprar

TABACO sí nació después de la fecha de hoy del año 1995	ALCOHOL sí nació después de la fecha de hoy del año 1993
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**VERIFICAMOS
IDENTIFICACIÓN
A TODOS**

Línea en español para dejar el tabaco
1.855.DEJELO.YA
(servicio gratuito y confidencial)