

# TOBACCO 21

## FREQUENTLY ASKED QUESTIONS



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### BE INFORMED

#### Why is raising the minimum sale age for tobacco products from 18 to 21 important?

Increasing the age of sale to 21 will help prevent young people from ever starting to smoke or vape. It will also reduce the number of deaths, diseases and health care costs caused by tobacco use.

(Campaign for Tobacco Free Kids)

#### Has this kind of law been implemented elsewhere?

Yes. To date, 16 states have passed similar tobacco 21 laws along with Washington DC and at least 470 localities across the country. Illinois is the first state in the Midwest region to pass legislation.

(Campaign for Tobacco Free Kids)

### MINIMUM SALE AGE FOR TOBACCO PRODUCTS

#### What is the new minimum sales age for tobacco products and its effective date?

Starting July 1, 2019, Illinois state law prohibits the sale of tobacco products, electronic cigarettes, and alternative nicotine products to any person under the age of 21.

#### How is “tobacco product” defined?

**Tobacco product** means any product containing or made from tobacco that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. This includes: *cigarettes, cigars, little cigars (cigarillos), chewing tobacco, pipe tobacco, snuff, snus, and any other smokeless tobacco product.*

**Electronic Cigarette** means any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation; or any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or any solution or substance, whether or not it contains nicotine intended for use in the device. This includes: *any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device.*

## MINIMUM SALE AGE FOR TOBACCO PRODUCTS

### **Are tobacco cessation products included in the definition of “tobacco products”?**

Any product approved by the United States Food and Drug Administration (FDA) for sale as a tobacco cessation product is not included in the definition of tobacco products, electronic cigarettes, or alternative nicotine products. FDA approved cessation products include: a nicotine transdermal patch, nicotine gum, bupropion tablets (Zyban), varenicline tablets (Chantix), nicotine nasal spray, and a nicotine inhaler. While Juul devices are advertised as smoking cessation devices for adults, they have not been submitted or approved by the FDA as a cessation product and therefore, are not exempt from Tobacco 21 legislation.

### **Is there an exemption for military personnel, younger than 21 years of age?**

Illinois law does not have an exemption for active duty military personnel. Anyone under the age of 21 is legally prohibited to purchase any tobacco product, regardless of military status.

### **Does Illinois’ minimum tobacco sale age of 21 apply to local jurisdictions that have an ordinance stating the minimum age of sale for tobacco products is 18 years of age?**

Yes. The State of Illinois’ minimum tobacco sale age of 21 law supersedes any local ordinance that is inconsistent with it.

### **Are people ages 18, 19, and 20 grandfathered in? Meaning, can they still purchase tobacco products after the law goes into effect?**

No. There are no exceptions for sales of tobacco products, e-cigarettes, or alternative nicotine systems for those ages 18-20 years old.

## MINIMUM AGE OF CLERKS

### **How old must clerks be to sell tobacco products?**

The minimum age of clerks to sell tobacco products in Illinois remains at 16. There is not an age restriction for sales clerks in family-owned businesses as long as they can prove that they are in fact a son or daughter of the owner.

## CHECKING IDENTIFICATION

### **What is a valid ID?**

An ID issued by a federal, state, county, or municipal government, or an agency thereof, such as a motor vehicle operator's license, which contains the name, date of birth, description, and photograph of the person and must not be expired. Valid ID for purchase of tobacco products includes: A valid current driver's license or photo ID card issued by the Illinois Secretary of State's Office or any other State; a valid Armed Forces ID; and a valid U.S. passport or foreign passport (with U.S. travel visa) containing the holder's photograph. Please note: If a license holder requests identification, then they have the authority to refuse service if the written evidence of identification is not a U.S.-affiliated ID.

## PARAPHERNALIA, COMPONENTS, PARTS, & ACCESSORIES

### **Can retailers sell a component, part or accessory of an electronic cigarette (such as an atomizer) to someone who is 18 years of age?**

No. Electronic cigarette accessories, such as an atomizer or mod falls under the electronic cigarette product definition and is prohibited to sell to persons under the age of 21.

### **Can retailers sell matches or lighters to someone who is 18 years of age?**

Yes. Illinois law does not include a minimum sale age for lighters or matches.

## SELF-SERVICE DISPLAYS

### **Can retailers have self-service displays for tobacco products?**

The 'Display of Tobacco Products Act' states that *"all single packs of cigarettes, electronic cigarettes, and alternative nicotine products must be sold from behind the counter or in an age restricted area or in a sealed display case."* This display restriction does not apply to a retail tobacco store that (1) derives at least 90% of its revenue from tobacco and tobacco related products; (2) does not allow customers under the age of 21 to enter the premises unless accompanied by a parent or legal guardian; and (3) posts a sign on the main entrance way stating that persons under the age of 21 are prohibited from entering unless accompanied by a parent or legal guardian

## ENFORCEMENT & VIOLATIONS

### Who enforces the minimum age of sale law?

The department of State Police, the county sheriff, a municipal police department, the Department of Revenue, the Department of Public Health, or the jurisdiction's local health department works collaboratively to enforce the state's minimum age of sale legislation.

### Will inspections occur to determine whether retailers are selling tobacco products to individuals younger than 21?

Yes. Inspections or "sting operations" will continue to occur in retail locations to ensure that retail sellers are not selling tobacco products, electronic cigarettes, or alternative nicotine products to people under the age of 21.

### What are the fines and penalties for selling tobacco products to persons younger than 21 years of age?

Any person who violates this act is guilty of a petty offense. The penalties outlined in this State law are in addition to any other penalties prescribed under the Cigarette Tax Act and the Tobacco Products Tax Act of 1995. These penalties are prescribed if their employer has a training program that facilitates compliance with minimum-age tobacco laws.

#### **Offense (24-month period) Penalty**

**First offense** \$200

**Second offense** \$400

**Third offense** \$600

**Fourth offense** \$800

**Important note:** Your local municipality may have a minimum fine rate that differs from the State penalty amounts. Check in with your local government body to determine their minimum fines!

### What does the employer training program look like for compliance with minimum-age tobacco laws?

A training program must include *at least* the following elements:

- It must explain that only individuals displaying valid identification demonstrating that they are 21 years of age or older shall be eligible to purchase tobacco products, electronic cigarettes, or alternative nicotine products
- It must explain where a clerk can check identification for a date of birth
- The training may be conducted electronically. Each retailer that has a training program shall require each employee to sign a form attesting that the employee has received and completed the tobacco training.

## TOBACCO LICENSING AND FEES

### **What are the fees for tobacco retail license?**

Cigarette and Tobacco Products Retailer licenses are administered by the Illinois Department of Revenue. Licenses can be obtained through the Illinois Department of Revenue's MyTax Illinois web portal, available at [mytax.illinois.gov](http://mytax.illinois.gov). License fees are varying depending on the type of business operation.

### **If retailers only sell electronic smoking devices (like electronic cigarettes), do they need a tobacco retail license?**

Retailers selling electronic cigarette products must obtain a Cigarette and Tobacco Products Retailer License for each of their retail locations to continue selling electronic cigarette products on July 1st, 2019, and after. Retailers that currently have a valid Cigarette and Tobacco Products Retailer License are already in compliance.

## OTHER QUESTIONS

### **If a tobacco retailer sells non-tobacco items such as books, toys, and incense, may they allow individuals under 21 to enter their store and can these individuals purchase these items?**

Yes. Individuals under 21 may enter stores to purchase non-tobacco products as long as the retailer is not an "adult-only facility." Adult-only facilities are restricted operations or areas where no person under legal age is allowed to enter or be present.

### **Where can retailers go for answers to other questions about the new Illinois tobacco laws?**

The following agencies can assist you with other questions

- [Illinois Department of Public Health](#), Prevention & Wellness Division regarding questions about employee education and trainings and any policy assistance
- [Illinois Department of Revenue](#) regarding questions about retail licensing and fees.
- [Illinois Department of Human Services](#), Division of Substance Use Prevention and Recovery (SUPR) regarding questions about the tobacco enforcement program and compliance.