

Tobacco retailer guide

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Disclaimer: This booklet is intended only as a general guide and introduction to the relevant provisions of the Tobacco Act 1987. The Department of Health and Human Services does not accept any liability for any expense, loss or damage suffered as a result of reliance upon the information contained in this booklet. Nothing in the guide should replace the seeking of independent legal advice where this is considered appropriate.

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1 How to use this guide

This guide contains information to help you and your staff comply with the laws. We encourage you to read all sections thoroughly to make sure you know your responsibilities when selling tobacco in Victoria.

The guide is constructed in a question-and-answer format, and grouped into sections that cover the main areas of the *Tobacco Act 1987* (Tobacco Act) that apply to you and your staff.

The final section contains some relevant definitions to help you understand the terms and phrases used in this guide.

1.1 Further information

For further information about the laws relating to the sale of tobacco products, call the Tobacco Information Line on 1300 136 775. Factsheets and other information are also available from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

2 Overview

Amendments to the Tobacco Act mean that retailers of tobacco products cannot display tobacco products or packaging after 1 January 2011.

Retailers can still sell tobacco products, but the products and packaging **must not** be visible to the public from anywhere inside or outside their premises. Only certified specialist tobacconists and on airport duty-free shops will be exempt.

Amendments to the Tobacco Act that came into effect in 2010 include laws that:

- ban smoking in motor vehicles when a person under 18 is present
- ban the sale of tobacco products from temporary or mobile outlets
- give the Minister for Health new powers to ban tobacco products that appeal to children and young people
- increase the penalties for offences, including penalties for selling tobacco products to people under 18.

3 General information about selling tobacco products in Victoria

Q 1 Do I need a licence to sell tobacco products in Victoria?

No.

You do not currently need a licence to sell tobacco products in Victoria, but you must comply with all laws concerning the sale of tobacco products at all times. Reading this guide should help you to understand your responsibilities when selling tobacco.

Q 2 Do people who sell tobacco products have to be above a certain age?

No.

There is no age requirement for people who can sell tobacco products in Victoria.

Anyone who sells tobacco products must do so responsibly and comply with the law.

Everyone, no matter how old, must comply with laws banning the sale of tobacco products to people under 18.

Younger people sometimes find it hard to work out how old a person is, and may not wish to ask someone for proof of age. You may decide to have only adults sell tobacco products, or to require younger staff to check with an adult before selling tobacco products.

The manager is responsible for making sure that anyone they allow to sell tobacco products does so responsibly and complies with the law. If someone in your shop sells tobacco to a person under 18, you may be held responsible and fined.

Q 3 What signs must I display if I sell tobacco products?

If you sell tobacco products you must display the A4 sign shown below, and one of the A3 black and white health warning signs shown on page 8.

If you use a price board you must display one of the A4 size graphic-health-warning signs, shown on page 9, on or immediately next to the price board.

**"WE DON'T
SELL
TOBACCO
TO
U/18s."**

PENALTIES APPLY *Tobacco Act 1987*



All signs must be easy for customers to see. They must be displayed next to the point of sale of tobacco products, or near the entrance to your premises.

Premises with tobacco product vending machines must also display these signs.

These signs are produced by the Department of Health and Human Services and are available free of charge. Call the Tobacco Information Line on 1300 136 775 to request a sign, or download a copy of a sign from the Tobacco reforms website at www.health.vic.gov.au/tobaccoreforms

**Low-tar
cigarettes
kill too**

Quitline 13 7848 

**Smoking
destroys more
than your lungs**

Quitline 13 7848 

**Smoking
damages
almost every
organ**

Quitline 13 7848 

**Smoking
Kills**

Quitline 13 7848 

**Smoking causes
cancer of the
stomach, bladder,
lung, mouth, kidney,
cervix and pancreas**

Quitline 13 7848 

**Toxins in tobacco
smoke travel
everywhere
blood goes**

Quitline 13 7848 

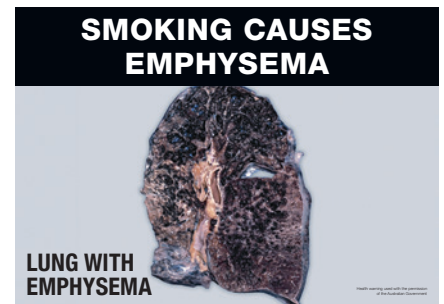
If you use a price board, you **must** display one of these A4 size graphic-health-warning signs on or immediately next to the price board.



Health warning used with the permission of the Australian Government



Health warning used with the permission of the Australian Government



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Health warning used with the permission of the Australian Government



Health warning used with the permission of the Australian Government

These graphic health warnings are used by the Department of Health and Human Services under licence from the Commonwealth of Australia and may only be used as permitted by the Department of Health and Human Services. Graphic health warning signs are available from the Department of Health and Human Services by contacting the Tobacco Information Line on 1300 136 775.

Q 4 Can I sell single cigarettes?

No.

You can only sell cigarettes in packets of 20 or more.

Q 5 Where can't I sell tobacco products?

You **must not** sell tobacco products from a temporary or mobile structure, even if part of that structure is permanent.

Examples of temporary or mobile structures:

- display stands
- booths
- tents or marquees
- vans or trucks.

You **must not** sell tobacco products from a retail outlet that has been set up for a specific sporting, music or arts-related event, such as the Australian Grand Prix or Big Day Out.

Mobile selling of tobacco products is also banned. You **must not** sell tobacco products that are carried about on a person's body.

If you own or operate a tobacco product vending machine, you must adhere to the restrictions concerning its location. Section 6 in this guide has more information about tobacco product vending machines.

Q 6 What tobacco products can't I sell?

The Minister can ban tobacco products that are designed to appeal to children and young people if:

- the tobacco product or its smoke has a distinctive fruity, sweet or confectionery-like character
- the tobacco product has packaging that appeals to children or young people
- the tobacco product is of a nature or is advertised in a way that may encourage children or young people to smoke.

The Minister can also ban a product that resembles a tobacco product.

Q 7 How do I know which tobacco products are banned from sale?

Ban orders are published in the Victoria Government Gazette. The Secretary of the Department of Health and Human Services will notify known suppliers of banned products.

A list of banned tobacco products is available from the Tobacco Information Line on 1300 136 775 or from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

The list of banned tobacco products may change in the future. The table below shows currently banned products.

In addition, all brands or types of cigarette papers, cigar and cigarillo wraps and cigarillos that possess a distinctive fruity, sweet or confectionary-like character are banned.

| Product | Manufacturer/supplier |
|------------------------------------|--------------------------------|
| DJ Mix Lemon Fresh | D J Tobacco Co Ltd |
| DJ Mix Iced Green Apple | D J Tobacco Co Ltd |
| DJ Mix Strawberry | D J Tobacco Co Ltd |
| Peel Menthol Orange | D J Tobacco Co Ltd |
| Peel Sunny Peach | D J Tobacco Co Ltd |
| Peel Sweet Melon | D J Tobacco Co Ltd |
| Peel Super Lights Iced Green Apple | D J Tobacco Co Ltd |
| Peel Super Lights Strawberry | D J Tobacco Co Ltd |
| Peel Super Lights Lemon Fresh | D J Tobacco Co Ltd |
| Black Devil | Heupink and Bloemen Tabak B.V. |
| Pink Elephant | Heupink and Bloemen Tabak B.V. |

3.1 Penalties for breaches of tobacco laws

| Breach of tobacco law | Infringement notice | | Maximum penalties – Magistrates Court | |
|--|---------------------|------------------|---------------------------------------|-------------------|
| | Natural person | Body corporate | Natural person | Body corporate |
| Failure to display health warning | 2 penalty units | 5 penalty units | 10 penalty units | 50 penalty units |
| Failure to display U18 sign | 2 penalty units | 5 penalty units | 10 penalty units | 50 penalty units |
| Sale of fruit-flavoured or confectionery-flavoured cigarettes | 4 penalty units | 60 penalty units | 120 penalty units | 600 penalty units |
| Sale of tobacco from a temporary outlet | 3 penalty units | 30 penalty units | 60 penalty units | 300 penalty units |
| Sale of single cigarettes or cigarettes in a pack containing fewer than 20 | 3 penalty units | 60 penalty units | 120 penalty units | 600 penalty units |

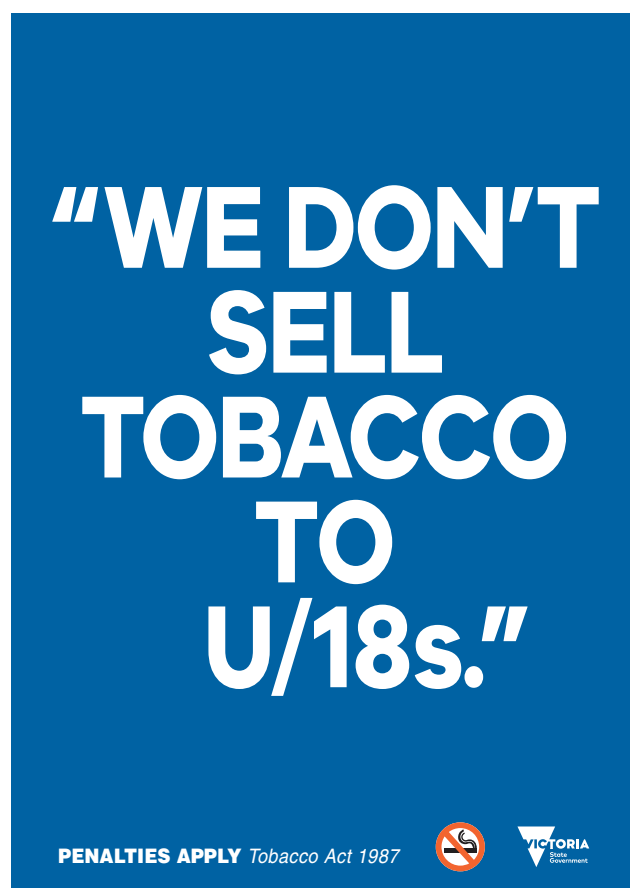
Penalty units change each year. One penalty unit in 2017–18 is \$158.57.

4 Laws banning tobacco sales to people under 18

Q 8 What are the laws about selling tobacco products to a person under 18?

Selling tobacco products, including cigarettes, cigars or loose tobacco, to any person under 18 is illegal. This includes the sale of tobacco products from vending machines to a person under 18 (see *Section 6 Tobacco product vending machines*).

If you sell tobacco products, you **must** display the sign below:



This sign must be displayed next to each point of sale for tobacco products or near the entrance of your shop where customers can easily see it.

This sign is produced by the Department of Health and Human Services and is available free of charge. Call the Tobacco Information Line on 1300 136 775 to request a sign, or download a copy of the sign from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

Q 9 Who is responsible when tobacco products are sold to a person under 18?

The employee who sold the tobacco product is responsible.

The manager or employer of the employee (the primary offender) who sold the tobacco product may also be held responsible.

Q 10 What happens if tobacco products are sold to a person under 18?

An individual (natural person) may receive an on-the-spot fine of four (4) penalty units. If found guilty of an offence in court, an individual may be fined up to 120 penalty units.

A company (body corporate) may receive an on-the-spot fine of 60 penalty units. If found guilty of an offence in court, a company may be fined as much as 600 penalty units.

The value of a penalty unit changes each year. For the current value of a penalty unit, visit the Office of the Chief Parliamentary Counsel website www.ocpc.vic.gov.au

Q 11 Who should I ask for identification (ID)?

It's not always easy to tell how old a person is. It's a good idea to ask for identification from any person who may be under 25.

Q 12 What are acceptable forms of identification (ID)?

Only identification that provides photographic proof of age is acceptable. For example:

- a Victorian or interstate proof-of-age card
- a Victorian or interstate driver's licence
- an Australian or international passport
- a Keypass
- a Victorian learner's permit.

This sign shows your customers acceptable forms of identification:



This sign is produced by the Department of Health and Human Services and is available free of charge. Call the Tobacco Information Line on 1300 136 775 to request the sign, or download a copy of the sign from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

Q 13 How can I tell if a customer is over 18 so I can be sure I can legally sell them a tobacco product?

Using an acceptable form of ID these charts will help you to work out how old a person is:

4.1 Calculating if a person is under 18 – 2017

| Year of birth | Can I sell tobacco? |
|---------------|--|
| Before 1999 | Yes |
| 1999 | CHECK DAY AND MONTH OF BIRTH: <ul style="list-style-type: none"> • if date is on or before purchase date, customer is 18 — YES • if date is after purchase date, customer is not 18 NO — REFUSE SALE |
| After 1999 | NO — REFUSE SALE |

4.2 Calculating if a person is under 18 – 2018

| Year of birth | Can I sell tobacco? |
|---------------|--|
| Before 2000 | Yes |
| 2000 | CHECK DAY AND MONTH OF BIRTH: <ul style="list-style-type: none"> • if date is on or before purchase date, customer is 18 — YES • if date is after purchase date, customer is not 18 NO — REFUSE SALE |
| After 2000 | NO — REFUSE SALE |

These charts only apply in 2017 and 2018.

Q 14 I am a manager. What should I do to make sure I am not held responsible for employees selling tobacco products to a person under 18?

Managers are responsible for ensuring that anyone allowed to sell tobacco products does so responsibly and in accordance with the law. You can be fined if an employee sells tobacco products to a person under 18 (see Q 9 *Who is responsible when tobacco products are sold to a person under 18?*).

You may be able to avoid a fine by training every employee every six months. The training must cover each of these things:

- That employees must not sell tobacco products to persons under 18 for any reason.
- That employees must ask for and see identification (ID) before selling a tobacco product to a person who might be under 18.
- That if employees sell tobacco products to a person under 18, they are committing an offence and may be fined.

Managers must have written confirmation from employees that they have received this training. Part 10 of this guide contains a *Training acknowledgement form* which you can use after training your staff.

4.3 Penalties for breaches of laws relating to the sale of tobacco to people U18?

| Breach of tobacco law | Infringement notice | | Maximum penalties – Magistrates Court | |
|--|---------------------|------------------|---------------------------------------|-------------------|
| | Natural person | Body corporate | Natural person | Body corporate |
| Manager/proprietor whose staff or agent sells tobacco to a minor | 4 penalty units | 60 penalty units | 120 penalty units | 600 penalty units |
| Person who sells tobacco to a minor | 4 penalty units | 60 penalty units | 120 penalty units | 600 penalty units |
| Failure to display U18 sign | 2 penalty units | 5 penalty units | 10 penalty units | 50 penalty units |

Penalty units change each year. One penalty unit in 2017–18 is \$158.57.

5 Display and advertising restrictions

From 1 January 2011, any display of tobacco products or packaging is banned.

Q 15 Can I display tobacco products or packaging in my shop?

No.

Tobacco products and packaging must not be visible to the public from anywhere inside or outside your shop. Tobacco products include cigarettes, cigars and loose tobacco. Tobacco packaging includes individual packets and cartons of cigarettes, cigars and loose tobacco.

The ban on the display of tobacco products and packaging also applies to tobacco product vending machines.

An exemption will apply only to on airport duty-free shops and certified specialist tobacconists.

Q 16 Can I still sell tobacco products even though I can't display them?

Yes.

You can still sell tobacco products, but the tobacco products and packaging must not be visible to the public from anywhere inside or outside your shop.

Q 17 How will people know I sell tobacco products if they are not displayed?

You may display one A4 copy of this sign to show your customers that you sell tobacco products.



**We Sell
Tobacco
Here**

This sign is produced by the Department of Health and Human Services and is available free of charge. Call the Tobacco Information Line on 1300 136 775 to request a sign, or download a copy of the sign from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

Q 18 How will people know what tobacco products I have for sale?

You may use a price board to advise customers of the tobacco products available for sale in your shop.

Price boards can list information about:

- the brand of tobacco products available for sale
- the flavour of tobacco products available for sale (for example, menthol)
- the pack sizes available for sale (for example, 25s, 30s, cartons)
- the product prices of tobacco products available for sale, but not discount information or any other information indicating a tobacco product has been discounted. This means that 'specials' stickers and other forms of price discounting are not permitted on a price board.

Q 19 What must a price board look like?

The price board in your shop must:

- be **no bigger** than 1.5m by 1.5m (150cm x 150 cm)
- have letters and numbers no bigger than 2.1 cm high and 1.5cm wide
- have letters and numbers printed in the same font, font size and font style
- be printed on one side only in black and white or up to four (4) colours, none of which is fluorescent
- not make information about one product more noticeable than another
- not make information more noticeable than other tickets or labels in your shop
- **not** highlight price information with artificial lighting greater than that used throughout the shop
- have one of the prescribed graphic health warning signs on, or immediately next to, the price board.

| Product | Type | Size | Price |
|---------|---------|--------|----------|
| Brand A | Menthol | 20s | \$21.00 |
| Brand A | Regular | 20s | \$21.00 |
| Brand A | Menthol | 25s | \$25.30 |
| Brand A | Regular | 40s | \$38.50 |
| Brand A | Menthol | 50s | \$45.00 |
| Brand B | Regular | 30s | \$27.60 |
| Brand B | Menthol | 30s | \$27.60 |
| Brand B | Regular | 50s | \$45.00 |
| Brand B | Menthol | carton | \$220.00 |
| Brand C | Menthol | 25s | \$25.30 |



Q 20 How many price boards can I display?

You may display one (1) price board in your shop.

Q 21 How do I make sure people can't see tobacco products or packaging in my shop?

There are a number of ways to keep tobacco products and packaging out of sight from your customers. As long as the tobacco products and packaging are not visible to the public from anywhere inside or outside your shop, you may choose the method best suited to your shop. For example, you may store the tobacco products under the counter or in a drawer behind the counter. You may also store the tobacco products in another room out of sight of customers.

If you have a display cabinet on the wall of your shop, you can cover it with an opaque (non see-through) material; for example, a shutter or thick curtain that your customers can't see through.

These pictures show examples of how stores can cover tobacco products and packaging:

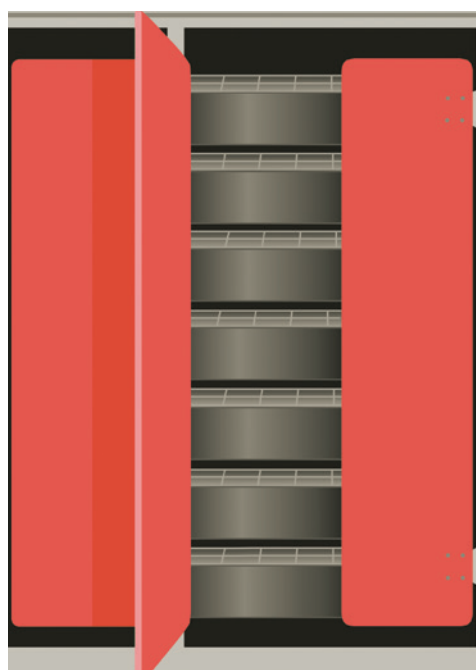
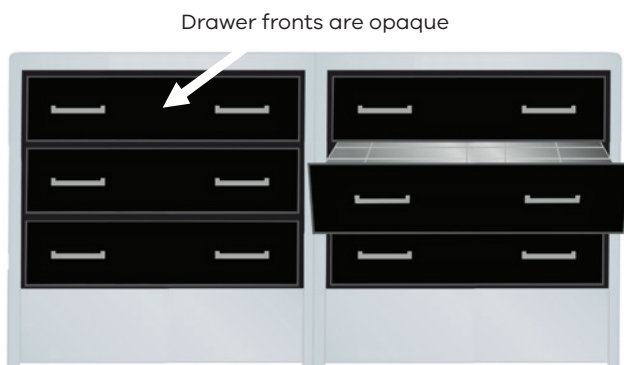


Image adapted, with permission, from the NSW Department of Health.



Tobacco products on shelves are covered with an opaque flap



An opaque curtain can be lifted to remove a product



Q 22 How do I make sure people can't see tobacco products and packaging when I serve a customer?

Tobacco products and packaging may only be visible when a customer asks for a specified tobacco product (see Q 29 *What is a 'request for a specified tobacco product'?*). The drawer, room or storage unit where the tobacco products are stored must stay closed or covered until a customer asks to buy a specified tobacco product. You can open the drawer, room or storage unit to get the requested product for the customer, but you **must** close or cover it again as soon as you have retrieved the requested product.

Q 23 How do I restock without the tobacco products or packaging being visible?

Whenever possible, only restock when your shop is closed. If your shop is open 24 hours, restock only when the shop is quiet. Restock and perform inventory as quickly as possible. You should make every effort to make sure that tobacco products and packaging are not visible to the public at any time.

If you stop restocking or taking inventory to do something else, you must close or cover the drawer, room or storage unit so that the tobacco products and packaging are not visible to the public.

Q 24 What happens when tobacco products are delivered to my shop during open hours?

If the tobacco products are not restocked immediately, they must be removed from sight as quickly as possible.

Q 25 What happens if the storage unit is damaged and tobacco products are visible in the damaged area?

The damaged storage unit must be repaired or replaced as soon as possible.

Retailers must take all reasonable measures to prevent tobacco products becoming visible to the public if the storage unit is damaged. This may include removing tobacco products from the

damaged storage unit or covering them with an opaque (non see-through) material until the unit is repaired.

Q 26 How will I know where certain tobacco products are located in the storage unit?

There are a number of ways to do this and you may choose the method best suited to your shop. For example, you could draw up a map or plan of the storage unit and keep this somewhere your customers can't see it.

You could label the outside of your storage unit, but only to help employees to find the correct product. Customers **must not** be able to read the labels and you are not permitted to display price tickets. If you are unsure whether a customer can read a label, it may be preferable to choose another method for assisting staff to locate products.

If you label your storage unit, the style or colour of the lettering and the lighting **must not** draw attention to the tobacco products, or the labels will be an advertisement, and you may be fined.

Q 27 How will I know the price of the tobacco products?

There are a number of ways to assist you with this and you may choose the method best suited to your shop. For example, you could refer to your price board for this information, or you could create a list of prices and keep it somewhere your customers can't see it.

You could also use labels, but these must be placed **inside** the storage unit.

If you use labels, the style or colour of the lettering and the lighting **must not** draw attention to the tobacco products, or it will be an advertisement, and you may be fined.

The drawer, room or storage unit where the tobacco products are stored must stay closed or covered until the customer asks to buy a specified tobacco product from you.

Q 28 Can I show a customer tobacco products if they ask what stock I have, or aren't sure what they want?

No.

You may only open the storage unit if a customer asks for a specified tobacco product (see Q 29 *What is a request for a 'specified tobacco product'?* and Q 22 *How do I make sure people can't see tobacco products and packaging when I serve a customer?*).

If the customer is not sure what tobacco products they want, show them your price board or ask questions to determine what they want before opening the drawer, room or storage unit where your tobacco products are stored.

When asking questions, you must not 'advertise' tobacco products by mentioning a particular product, for example, saying a specific brand. You may ask **general** questions, such as:

- 'What brand do you want?'
- 'What does the pack look like?'
- 'What flavour are they?'

Q 29 What is a request for a 'specified tobacco product'?

The following are examples of requests for a specified tobacco product:

- 'Can I have a pack of brand X 30s?'
- 'Can I have a pack of brand X?'
- 'Can I have brand X, flavour Y?'
- 'What have you got in brand X?'

The list above is not a complete list, at the very least the customer should request a specific brand.

These are not requests for a specified tobacco product:

- 'What have you got?'
- 'What is cheap?'
- 'What's on special?'
- 'I'll have the blue pack'.

If the customer does not request a specific product, you should show them your price board or ask questions to determine what they want before opening the drawer, room or storage unit where your tobacco products are stored.

Q 30 Can I advertise tobacco products?

No.

You **must not** display any branded or unbranded tobacco advertising anywhere inside or outside your shop. This includes the display of posters, desk pads, flags, stickers, back-lit tobacco advertising signs and tobacco advertising on vending machines.



You may display one A4 copy of this sign to show your customers that you sell tobacco products.

**We Sell
Tobacco
Here**

This sign is produced by the Department of Health and Human Services and is available free of charge. Call the Tobacco Information Line on 1300 136 775 to request the sign, or download a copy of the sign from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

Q 31 Can I offer free or discounted products to customers with the purchase of tobacco products?

No.

You **must not** offer or supply any free or discounted products (such as CDs, tins or carry cases, cardboard sleeves or stickers) or other benefits (such as vouchers or credits) with the purchase of, or to promote the sale of, a tobacco product.

Q 32 Can I include tobacco products in shopper loyalty and rewards schemes?

No.

From 1 March 2013, tobacco retailers must ensure that all tobacco products are excluded from shopper loyalty and rewards schemes.

An amendment to Section 7 of the *Tobacco Act 1987* prohibits the supply of any benefit, coupon, voucher (such as fuel discounts) or any other thing under a shopper loyalty or rewards scheme operated by a retail outlet in connection with the sale of a tobacco product.



5.1 Penalties for breaches of display and advertising restrictions

| Breach of tobacco law | Infringement notice | | Maximum penalties – Magistrates Court | |
|---|---------------------|------------------|---------------------------------------|-------------------|
| | Natural person | Body corporate | Natural person | Body corporate |
| Incorrect display of tobacco product or price board, including non-display of Graphic health warning sign | 3 penalty units | 30 penalty units | 60 penalty units | 300 penalty units |

Penalty units change each year. One penalty unit in 2017–18 is \$158.57.

6 Tobacco product vending machines

Q 33 Where can tobacco product vending machines be located?

It is illegal to sell tobacco products to a person who is under 18. Therefore, tobacco product vending machines must be visible to and monitored by staff.

Vending machines may **only** be located in these locations:

- in the bar areas of licensed premises—in the line of sight of, and not more than five (5) metres from, the outer edge of the bar counter
- at approved venues and casinos—in the line of sight of a service counter
- at bottle shops—immediately next to the service counter.

Q 34 What can tobacco product vending machines display?

The same laws apply to tobacco product vending machines as to other tobacco retail outlets. Tobacco products or packaging **must not** be visible inside or outside of the vending machine.

Q 35 How will people know the vending machine has tobacco products for sale?

You may display one A4 copy of this sign to show your customers that you sell tobacco products.



This sign is produced by the Department of Health and Human Services and is available free of charge. Call the Tobacco Information Line on 1300 136 775 to request a sign, or download a copy of the sign from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

Q 36 How will people know the price of the tobacco products in the vending machine?

Vending machines can display prescribed price tickets to show price and other information about the tobacco products for sale.

Price tickets:

- must be **no bigger** than 5 cm wide and 7 cm high
- must have letters and numbers **no bigger** than 2.1 cm high by 1 cm wide
- must be printed in either black and white or up to four colours, none of which is fluorescent
- not make information form an image or visual effect.

Price tickets can list:

- name of the product line
- strength of the product line (for example 4 mg, 8 mg)
- flavour and number of items contained in the product line (for example menthol, 30s)
- a barcode or similar identifying code of the product line
- country of origin of the product line, including any symbol representing the country of origin.



Q 37 Do I have to display the blue U18 and health warning signs?

Yes.

These signs **must** be displayed in every shop or premises that sells tobacco products. These signs **must** be displayed next to the vending machine or near the entrance to the shop or premises so that anyone who enters is likely to see them.

See Q 3 *What signs must I display if I sell tobacco products?* to see the signs you must display.

These signs are produced by the Department of Health and Human Services and are available free of charge. Call the Tobacco Information Line on 1300 136 775 to request a sign, or download a copy of a sign from the Tobacco reforms website www.health.vic.gov.au/tobaccoreforms

Q 38 Who is responsible for making sure that a tobacco product vending machine complies with the law?

The person or company in charge of the shop or premises where the vending machine is located is legally responsible for the vending machine. They must make sure that persons under 18 do not purchase tobacco products from the vending machine.

This person or company must also make sure that:

- tobacco products and packaging are not displayed inside or outside the vending machine
- the vending machine is located in an appropriate place within the shop or premises (see Q 33 *Where can tobacco product vending machines be located?*)
- all prescribed signs are displayed on or near the vending machine.

6.1 Penalties for breaches of laws relating to tobacco product vending machines

| Breach of tobacco law | Infringement notice | | Maximum penalties – Magistrates Court | |
|---|---------------------|------------------|---------------------------------------|-------------------|
| | Natural person | Body corporate | Natural person | Body corporate |
| Incorrect display of tobacco product or price ticket | 3 penalty units | 30 penalty units | 60 penalty units | 300 penalty units |
| Failure to display health warning sign | 2 penalty units | 5 penalty units | 10 penalty units | 50 penalty units |
| Failure to display U18 sign | 2 penalty units | 5 penalty units | 10 penalty units | 50 penalty units |
| Person unlawfully placing or allowing placement of a cigarette vending machine | 3 penalty units | 30 penalty units | 60 penalty units | 300 penalty units |
| Person who permits someone under 18 to obtain cigarettes from a vending machine | 3 penalty units | 30 penalty units | 60 penalty units | 300 penalty units |

Penalty units change each year. One penalty unit in 2017–18 is \$158.57.

7 Tobacco inspectors

Q 39 What is the role of tobacco inspectors?

Environmental Health Officers (EHOs) at Victoria's local councils are authorised to enforce tobacco legislation, and they enforce the laws by:

- making education visits to tobacco retailers
- undertaking test purchases in shops that sell tobacco to determine compliance with laws preventing the sale of tobacco products to people under 18.

Q 40 What powers do tobacco inspectors have?

Tobacco inspectors have the power to:

- inspect parts of the tobacco retail outlet that are open to the public
- request the name and address of anyone they believe may have committed an offence under the *Tobacco Act 1987*
- inspect and measure potential tobacco advertisements located behind the counter

Tobacco inspectors do not need written consent or a search warrant to inspect and measure the tobacco display, but they must show their identity card before going behind the counter.

Q 41 What are my rights and obligations when being interviewed by an inspector?

By law, you must provide your full name and address to tobacco inspectors.

You have the right to an interpreter.

You have the right to refuse to answer any questions asked by tobacco inspectors at any stage in the interview. However, the interview is an opportunity for you to explain the circumstances that led to the breach of the Act.

8 Definitions

| Term | Meaning |
|-----------------------------------|---|
| Acceptable form of identification | <p>a document that—</p> <p>a) is—</p> <ul style="list-style-type: none"> i) a Victorian proof-of-age card or an interstate proof-of-age card or ii) a Victorian driver's licence or an interstate driver's licence or iii) an Australian or foreign passport or iv) an approved issuer document (this currently includes a Keypass card) and <p>b) contains a photograph of the bearer and</p> <p>c) indicates, by reference to a date of birth or otherwise, that the bearer is of or over a particular age.</p> |
| Bar | <p>a place in a licensed premises that—</p> <p>a) is stocked with liquor of various types and</p> <p>b) is used solely or mainly for the supply of liquor to customers and</p> <p>c) has a counter—</p> <ul style="list-style-type: none"> i) across which liquor is supplied directly to customers and ii) at which, or in the immediate vicinity of which, customers may immediately consume the liquor supplied. |
| Bar area | <p>the area—</p> <p>a) in the immediate vicinity of a bar and</p> <p>b) not more than five (5) metres from the outer edge of the counter of the bar.</p> |
| Bottle shop | an area in a licensed premises where liquor is supplied to customers solely for consumption off the licensed premises. |
| Carton | a package that contains packages of a tobacco product, or a package designed to contain packages of a tobacco product, but does not include a package containing individually wrapped cigars (unless the package contains a further package or packages of cigars). |
| Display | in relation to a tobacco product at a retail outlet, a display to customers. |
| Manager of a primary offender | <p>a) an employer of the primary offender or</p> <p>b) a person who authorised the primary offender to sell tobacco products as the person's agent or</p> <p>c) if the primary offence was committed in the course of carrying on a business — a person who owns, manages, controls, conducts or operates that business.</p> |
| Package | <p>a) a bundle, container, box or case; something that is packed and wrapped or boxed; a parcel</p> <p>b) does not include a transparent wrapping, unless the wrapping has a tobacco advertisement printed on it.</p> |

| | |
|-----------------------|---|
| Point of sale | a place where tobacco products are sold within a retail outlet, including a vending machine from which tobacco products are sold. |
| Premises | includes any part of the premises, including a vehicle or vessel and permanent or temporary structures. |
| Primary offender | the person who sells cigarettes to a minor in breach of the Tobacco Act. |
| Product line | a kind of tobacco product distinguishable from other kinds by one or more of these characteristics: a) brand name b) nicotine or tar content c) flavour but not by the size of the package containing the tobacco product. |
| Retail outlet | premises where tobacco products are available for sale by retail. |
| Service counter | a) at an approved venue or casino, is a counter at which gaming tokens (within the meaning of the Gaming Regulation Act 2003) may be issued or redeemed b) at a bottle shop, is a counter in the bottle shop across which liquor is supplied directly to customers. |
| Temporary outlet | a temporary display stand, booth or tent, or other temporary or mobile structure or enclosure, whether or not a part of that display stand, booth, tent, structure or enclosure is permanent. |
| Tobacco advertisement | 1) any writing, still or moving picture, sign, symbol or other visual image, or any audible message, or any combination of two (2) or more of those things, that publicises or otherwise promotes or is intended to promote— a) smoking or b) the purchase or use of a tobacco product or a range of tobacco products or c) the whole or a part of a trade mark that is registered under the Trade Marks Act 1955 of the Commonwealth in respect of goods that are or include tobacco products or d) a whole or part of a design that is registered under the Designs Act 2003 of the Commonwealth in relation to products that are or include tobacco products or e) the whole or a part of the name of a person— i) who is a manufacturer of tobacco products and ii) whose name appears on, or on the packaging of, some or all of those products or f) any other words (for example, the whole or a part of a brand name) or design, or combination of words and designs, that are closely associated with a tobacco product or a range of tobacco products (whether also closely associated with other kinds or products) 2) a reference in subsection 1 to a visual image or a design includes a reference to an image or a design consisting of a colour or a scheme of colours |

| | |
|-----------------------|---|
| Tobacco advertisement | <p>3) without limiting subsection 1, a tobacco advertisement includes—</p> <p>a) the display of an immediate package of a tobacco product</p> <p>b) the advertisement of cigarette papers</p> <p>4) words, signs or symbols that appear as part of the standard wording of an invoice, statement, order form, letterhead, business card, cheque, manual or other document, ordinarily used in the normal course of the business of a manufacturer, distributor or retailer of tobacco products (a ‘business document’) do not, when so appearing, constitute a tobacco advertisement (but this does not prevent a still or moving picture, or other visual image, of a tobacco product, of the packaging of a tobacco product, or of a business document, from being a tobacco advertisement)</p> <p>5) words, signs or symbols that appear in or on land or buildings occupied by a manufacturer of tobacco products do not, when so appearing, constitute a tobacco advertisement (but this does not prevent a still or moving picture, or other visual image, of words, signs or symbols that so appear from being a tobacco advertisement)</p> <p>6) For the avoidance of doubt, the taking of any action to prevent a product from causing injury to anyone, including action—</p> <p>a) to recall a product or</p> <p>b) to disclose a defect in, or a dangerous characteristic of, a product, or</p> <p>c) to disclose circumstances in which the use of a product is or may be dangerous or</p> <p>d) to disclose procedures for disposing of a product— does not constitute a tobacco advertisement</p> <p>7) if—</p> <p>a) apart from this subsection, something (‘the advertisement’) would, technically, be a tobacco advertisement and</p> <p>b) it is clear from the advertisement that its sole or principal purpose is to discourage smoking or the use of tobacco products— then, despite subsection 1, the advertisement is not a tobacco advertisement for the purposes of this Act</p> <p>8) in this section— ‘words’ includes abbreviations, initials and numbers.</p> |
| Tobacco product | tobacco, cigarette or cigar or any other product, the main ingredient of which is tobacco, and which is designed for human consumption. |
| Vending machine | a machine, device or contrivance that is constructed to contain tobacco products that may be obtained from it by an operation that involves the insertion of a coin, note, token or similar object. |

9 Staff training checklist

Training should be completed every **six months**. Once training has been completed, you should ask each member of staff to sign a Training Acknowledgement form like that on the next page.

Training must cover the following topics

- ☐ Inform that it is illegal to sell tobacco to a person under 18, under any circumstances, even if the tobacco products are for, or claimed to be for, a person over 18.
- ☐ Inform that they should sight an acceptable form of identification (photo ID) for a person before selling a tobacco product to the person.
- ☐ Inform of examples of acceptable forms of identification (photo ID):
 - Victorian or interstate proof of age card
 - Victorian or interstate drivers licence
 - A Victorian learner's permit
 - Keypass
 - Australian or foreign passport
- ☐ Inform that it is illegal to sell cigarettes in a package containing less than 20 cigarettes.
- ☐ Inform of the penalties for selling tobacco to a person under 18.
- ☐ Warn if they sell tobacco products to a person under 18 in disregard of the instructions mentioned above, they are committing an offence against the *Tobacco Act 1987*.

10 Training acknowledgement form

You should only sign this form once you understand the instructions in the Staff Training Checklist and the warning set out below. If you have any questions about the instructions, ask your employer before signing this form. If you are unsure whether or not to sign this form, call the Tobacco Information Line on 1300 136 775.

Date

Name

I was instructed:

Not to sell tobacco products to a person under 18 in any circumstances, even if the tobacco products are for, or claimed to be for, a person over 18 years; and

To sight an acceptable form of identification (photo ID) for a person before selling a tobacco product to the person; and

I have been warned that, having received the above two instructions, if I disregard these instructions and sell tobacco products to a person under 18, I commit an offence under the *Tobacco Act 1987*.

Date

Signature

Manager/ Proprietor name and position

Date

Manager/ Proprietor signature

