

Responsibilities of a Tobacco Retail License Holder (2020)

For Neighborhood Corner Stores and Small Markets

San Francisco Department of Public Health
1390 Market Street, Suite 210
(415) 252-3800
www.sfdph.org/dph/EH/Tobacco



San Francisco Department of Public Health
1390 Market Street, Suite 210
(415) 252-3800
www.sfdph.org/dph/EH/Tobacco

Version 3, May 2020

Disclaimer: San Francisco Department of Public Health (SFDPH) cannot guarantee that the use of this booklet and implementing recommended Federal Food and Drug Administration (FDA) strategies will prevent Tobacco Retail License Holders, owners, managers or staff from selling tobacco products to persons under 21 years of age. Preventing illegal sales of tobacco products requires commitment, diligence, and action by Tobacco Retail License Holders, owners, managers and staff.



Table of Contents

What is a Tobacco Product?	Pg 3
What are the Requirements to Sell Tobacco Products in San Francisco & California?	Pg 4
What are the Requirements to Maintain a San Francisco Tobacco Permit?.....	Pg 8
San Francisco Laws that Impact Tobacco Retailers	Pg 9
How to Train Employees Annually to Comply with Laws E-Cigarette Sales Restriction Ordinance.....	Pg 12
Flavored Tobacco Prohibition Ordinance.....	Pg 13
Minimum Age to Purchase Tobacco is Now 21.....	Pg 15
State Laws that Impact Tobacco Retailers	Pg 17
Federal Laws that Impact Tobacco Retailers	Pg 19
How to Check if Customers are 21 Years or Older	Pg 20
• How to Refuse Sale to a Customer.....	Pg 21
• Common Mistakes	Pg 22
Become a Healthy Retailer!.....	Pg 23
Employee Training Verification Form	Pg 24
	Pg 25

What is this Guide for?

Stores and retail businesses, like yours, are essential to San Francisco. Your business contributes to the local economy; it is a place where people feel socially connected and can easily buy food and other products.

The San Francisco Department of Public Health wants to support your store by giving you the tools and information you and your employees may need to follow laws related to selling tobacco products. We want to help you prevent your staff and store from penalties and/or permit suspension. We recognize that there are a lot of laws to remember and follow so we hope this guide makes things easier for you.

WARNING

San Francisco Department of Public Health may suspend a tobacco permit for up to 365 days, depending on the number of repeat violations, for selling tobacco products to anyone under the age of 21 and for chronic repeat violations of health code requirements.

Become a Healthy Retailer!

San Francisco Department of Public Health believes that small businesses, like yours, are essential to the health of neighborhoods and communities. When you refuse to sell tobacco or alcohol to those under 21 years old, you are improving the health of your neighbors and customers.



To help support small markets and corner store owners like you, the Health Department and the Office of Economic Workforce Development have partnered to establish the HealthyRetailSF Program. This FREE program provides financial assistance, equipment, and other resources to stores that want to make healthy changes and improvements. Stores that have participated in the HealthyRetailSF Program have increased their profits as well as increased the amount of fresh produce, healthy snacks, and groceries available to their customers and community.

Interested? Go to www.healthyretailsf.org -or-

Call 415- **Daldas Market** 254-5094

Daldas Market

in the Tenderloin

"I'm thrilled to welcome the community today to our remodeled store," said Daldas owner Satwinder Multani "I'm proud of the changes we made, and that we will offer our neighbors the opportunity to enjoy a healthier lifestyle"

BEFORE



AFTER



San Francisco & California Permits & License

SF Tobacco Sales Permit

Permit Issued Once (DPH)

Valid as long as Annual License is renewed
and paid each year.

Display this Permit prominently. This margin may be trimmed for standard 6 x 8 frame.

Permits Do Not Transfer

SF Tobacco Retail License & Business Registration Certificate

Renew Every Year (TTX)

Annual Renewal fee must be paid every year to maintain a valid Tobacco Sales Permit.

City and County of San Francisco Office of the Treasurer & Tax Collector		License Certificate		1 Dr. Carlton B. Goodlett Place City Hall, Room 140 San Francisco, CA 94102	
Business Account Number 0123456	Period Covered 04/01/2015- 03/31/2016	Fee Paid \$285.00			
Class Account H31-123456	Description TOBACCO SALES				
Business Name TOBACCOLANDIA	Business Location 123 NICOTINE DR	Permit Number 012345			

TOBACCOLANDIA, INC.
123 NICOTINE DR
SAN FRANCISCO CA 94110

David Augustine
Tax Collector

Jose Cisneros
Treasurer

California Department of Tax and Fee Administration (CDTFA) Cigarette & Tobacco License

Renew Every Year

Annual Renewal Fee must be paid each year to maintain a valid CDTFA License.

MUST BE DISPLAYED CONSPICUOUSLY AT LOCATION ADDRESS FOR WHICH ISSUED

CALIFORNIA STATE BOARD OF EQUALIZATION

CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003
RETAILER'S LICENSE

LICENSE NUMBER
LR Q STF 91-123456

BUSINESS MAILING ADDRESS
TOBACCOLANDIA
TOBACCOLANDIA, INC.
123 NICOTINE DR
SAN FRANCISCO, CA 94123-1234

EFFECTIVE DATE:
07/08/2015 - 07/07/2016

LOCATION ADDRESS:
123 NICOTINE DR
SAN FRANCISCO, CA 94123-1234

THIS LICENSE HAS BEEN ISSUED TO YOU UNDER DIVISION 86 (COMMENCING WITH SECTION 22970) OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE.

NOT VALID AT ANY OTHER LOCATION ADDRESS.

IS HEREBY AUTHORIZED TO ENGAGE IN THE SALE OF CIGARETTES AND TOBACCO PRODUCTS.

THIS LICENSE IS VALID FOR THE EFFECTIVE DATE OR UNTIL SUSPENDED, REVOKED, OR CANCELED, AND IS NOT TRANSFERABLE.

FOR GENERAL TAX QUESTIONS PLEASE TELEPHONE OUR TAXPAYER INFORMATION SECTION AT 800-400-7115 (TTV:711).

FOR INFORMATION ON YOUR RIGHTS, CONTACT THE TAXPAYERS' RIGHTS ADVOCATE OFFICE AT 888-324-2798 OR 916-324-2798.

BOE-443-LR REV. 3 (3-11)

All city and state licenses and permits must be up to date and displayed in your store!

Common Mistakes that Lead to Selling to an Underage Customer

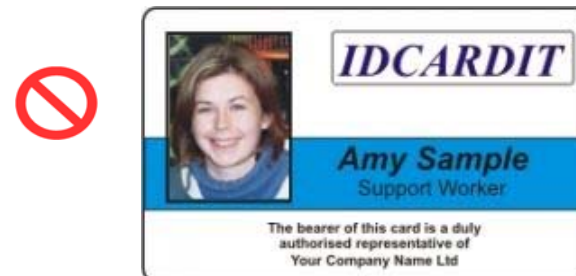
1. Not asking for ID for someone who looks younger than 27 years old
2. Asking for ID and not checking the age or miscalculating the age
3. Accepting ID that is not government issued photo ID (for example: school or work ID)
4. Overriding the computerized system for someone who looks under 27 years old
5. Allowing the sale of tobacco products by untrained employees or employees who have not received their

ONLY GOVERNMENT ISSUED IDENTIFICATION ACCEPTED.

DO NOT ACCEPT THE FOLLOWING:



School ID



Work ID

How to Refuse Sale to Customer Under Age 21

Sales clerk must refuse to sell tobacco products to a person who looks under 27 years old **AND** does not have an ID or has an expired ID or counterfeit ID.



What to say when refusing a sale:

- “I’m sorry. I cannot sell tobacco products without a valid ID.”
- “I’m sorry. It’s a store policy to check IDs.”
- “I’m sorry. I could be fined or lose my job if I sell to you. Is there anything else I can do for you?”

Preventing Sales to Minors

Post Both State and San Francisco Tobacco 21 Stickers in a Visible Place for Cashiers, Clerks and Patrons

California Sale of Tobacco Products Sticker

The Sale of Tobacco Products to Persons **Under 21** Years of Age Is Prohibited by Law and Subject to Penalties

To Report an Unlawful Tobacco Sale Call
1-800-5 ASK-4-ID

U.S. Armed Forces active duty personnel with military ID must be at least 18 years of age
Valid Identification May Be Required

This sign must be readable by the consumer and must not be altered, covered or obliterated in whole or in part

Business and Professions Code Section 22962

San Francisco Tobacco 21 Sticker

City and County of San Francisco - Department of Public Health
San Francisco Health Code Article 19P

Prohibits the Sale of Tobacco Products
including smokeless tobacco and electronic cigarettes
to Persons 18, 19 or 20 Years of Age



In San Francisco

U.S. Armed Forces active duty personnel with military ID

Must Be at Least 21 Years of Age

Valid Identification Required

This sign must be readable by the consumer, unaltered, and fully visible
Version 1 Printed 2016

San Francisco does not exempt military personnel under 21 years of age

Requirements to Maintain a San Francisco Tobacco Permit

1. Pay annual fees for both San Francisco and California licenses.
2. Post all valid permits and licenses from San Francisco Department of Public Health, San Francisco Tax Collector, and California Department of Tax and Fee Administration and make visible to employees, cashiers, and customers.
3. Post **YELLOW State of California** required sticker ([page 7](#)) visible to employees, cashiers, and patrons.
4. Post **BLUE San Francisco** required Tobacco 21 sticker visible to employees, cashier, and patrons ([page 7](#)).
5. Post **“No Smoking”** signs on the entrance of your building. **Get them here for free:**
www.sftobaccofree.org/no-smoking-signs
6. Post one general **“No Smoking”** sign inside business establishment.
7. Comply with local, state and federal laws related to tobacco (pages [9-20](#)), including NEVER selling single cigarettes.
8. Train employees annually on laws and requirements to sell tobacco products. See [page 12](#) for training overview.
9. Check the photo identification of anyone who looks under 27 years old. See [pages 21-23](#) for how to check

How to Check if Customers are 21 Years or Older

CALIFORNIA DRIVER LICENSE OR IDENTIFICATION (ID) CARDS MAKE IT EASY!

Anyone under the age of 21 is issued the **VERTICAL (up and down)** card. If the person has a vertical driver's license or ID, they are **NOT ALLOWED** to purchase tobacco products.

Anyone over the age of 21 will have a **HORIZONTAL (sideways)** driver's license or ID. They are allowed to purchase tobacco products.



Invalid or Counterfeit IDs typically have:

- Expired valid dates
- Altered look
- Photos that do not match the person
- Holes, glue or tape

Don't forget to check birthdates on other forms of ID:

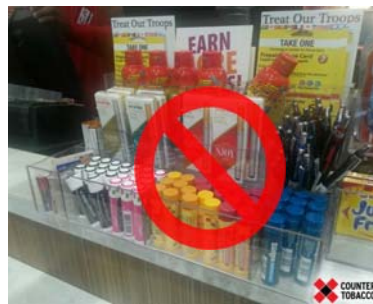
Passports and other State ID cards

ALWAYS ask for government issued photo ID if someone looks younger than 27 years old.

Federal Laws that Impact Tobacco Retailers

Under the Federal Drug Administration's Family Smoking Prevention and Tobacco Control Act, Stores are NOT allowed to:

1. Sell single cigarettes
2. Sell flavored cigarettes
3. Have self-service displays of tobacco products on counter (including e-cigarettes, e-liquids, and tobacco wrappers)
4. Give out free samples of tobacco products
5. Have vending machines with tobacco products.
6. Sell or distribute cigars or smokeless tobacco without a health warning statement displayed on the package or display case.



Stores are required to:

1. Check photo IDs of anyone who looks under 27 years old
2. Sell only child proof packaged electronic cigarettes and e-liquids (effective October 2016)



FDA's Small Business Assistance
www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/ucm20082665.htm

Call: 1-877-287-1373
Email: SmallBiz.Tobacco@fda.hhs.gov

San Francisco Laws that Impact Tobacco Retailers

1. No Sale of E-Cigarettes

Starting January 29, 2020, stores are prohibited from selling any e-cigarettes without FDA Marketing Orders, including flavored e-cigarettes. For example: cigarettes are: Nicotine Pod or E-liquid (sold without device), Vape Starter Kit with Nicotine (sold under a price).



More information at SF Dept of Public Health:

<https://www.sfdph.org/dph/EH/tobacco/ecigarettes.asp>

2. No Sale of Flavored Tobacco Products

Stores are prohibited from selling any nicotine or tobacco product, including but not limited to smokeless/chew, cigarettes, cigars, cigarillos, vape liquid and hookah tobacco, that is manufactured to have an aroma and/or flavor, such as fruit.



More information at SF Dept of Public Health:

www.sfdph.org/dph/EH/Tobacco/flavoredtobacco.asp

San Francisco Laws that Impact Tobacco Retailers

3. Minimum Age to Purchase Tobacco is 21

Effective June 9, 2016, the minimum age to purchase tobacco products is 21 years of age. [See pages 17-18.](#)

- Anyone attempting to purchase tobacco products must be 21 or older.
- Anyone selling tobacco products must check a valid ID to ensure a buyer is 21 years old or older before selling.



4. Abatement Fee

Stores must collect a \$1.00 abatement fee per pack of cigarettes as of January 1, 2020. Abatement fee is paid to the San Francisco Treasurer's office in quarterly

More information at the Treasurer's Office:

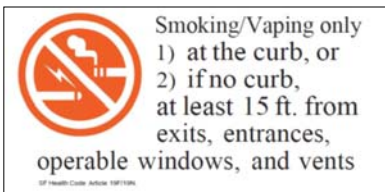
<https://sftreasurer.org/business/taxes-fees/cigarette-litter-abatement-fee-cig>

(SF Administrative Code 105: Cigarette Litter Abatement Fee)

installments.

5. Smoke Free Environments

- No smoking or vaping inside the store.
- Ask customers to smoke or vape at the curb.
- If no curb, smoking is allowed at least 15 feet from exits, entrances, windows, and vents.



More information at SF Dept of Public Health:

www.sftobaccofree.org/no-smoking-signs

State Laws that Impact Tobacco Retailers

California State Law

1. Minimum age to purchase tobacco, including hookah and electronic cigarettes, is 21 years old or older, effective June 9, 2016 .
2. Make sure tax stamps are the new, technology– based stamp that can be read by a scanner.

Current Stamp (non-OPALINE™)



New OPALINE™ Stamp



More Information at the CDTFA:

<http://www.cdtfa.ca.gov/formspubs/pub403.pdf>

More information at the CDTFA:

<http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm>

How is this Law Enforced?

California and San Francisco enforcement agencies use under age youth decoys to check and see if stores sell tobacco to anyone under 21 years old.

What happens if an employee sells to someone under 21?



Under California Law:

Employee or person selling tobacco products can be subject to:

- Criminal action or misdemeanor;
- Criminal fine of up to \$6000;
- Suspension or revocation of license.

Under San Francisco Law

Tobacco permit can be suspended up to:

- 90 days for the first violation;
- 180 days for the second violation;
- 365 days (1 year) for the third violation.



Employers are responsible for everything that happens at their business. Train your employees to follow the law so that your store does not lose customers or profit.

San Francisco Laws that Impact Tobacco Retailers

6. Tobacco Permit Density Cap

Each San Francisco Supervisorial District may only have up to 45 stores holding a Tobacco Sales Permit. One cannot open a store or sell tobacco unless the Supervisorial District is under the cap and location meets other conditions.

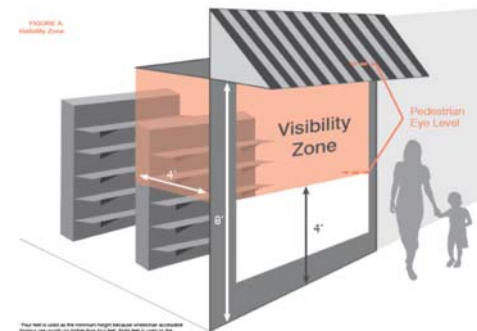
More information at SF Dept of Public Health:

www.sfdph.org/dph/EH/tobacco

www.sftobaccofree.org/density

7. Storefront Transparency Law

Storefronts must be transparent at eye level between 4 ft to 8 ft in height and be 75% open to view 4 ft inside the store from the window. This keeps you and your customers safe.



More information at SF Planning Department:

Read the Guidelines:

http://default.sfplanning.org/publications_reports/Guidelines_Storefront_Transparency-112513.pdf

How to Train Employees Annually To Comply with Laws

WHEN SHOULD I TRAIN MY EMPLOYEES?

New employees: Before they start working at your store and selling products

Existing employees: Once a year.

Each year in the spring, San Francisco Department of Public Health sends mailings to all tobacco retailers about new and existing laws related to selling tobacco products. We suggest that you train and review with your employees each year after you receive this packet.

HOW LONG SHOULD THE TRAINING BE? 30 minutes

WHAT SHOULD THE TRAINING COVER?

1. What is a tobacco product ([page 3](#))
2. Laws that relate to selling tobacco products ([pages 9-20](#))
3. How to make sure the customer buying tobacco products is 21 years or older ([page 21](#))
4. How to refuse selling tobacco products to a customer under age 21 ([page 22](#))
5. Common mistakes people make resulting in selling to an underage customer ([page 23](#))

HOW DO I SHOW THAT MY EMPLOYEES ARE TRAINED?

1. Every year after employees complete the training, ask them to sign and date the training verification form on [pages 25-26](#). Maintain this record in your files for up to 4 years.
2. FDA also recommends that the store owner does their own check to make sure your employees are not selling to minors.

Minimum Age to Purchase Tobacco is 21

In 2016, the minimum age to purchase tobacco products increased from 18 to 21 years of age (Health Code 19P) in San Francisco. Similarly, California State law (SBX2-7) also raised the minimum age to purchase tobacco products to 21 years of age, effective June 9, 2016.

Anyone attempting to purchase tobacco products must be 21 or older. Anyone selling tobacco products must check a valid ID to ensure a buyer is 21 years old or older before selling. **The minimum age to purchase tobacco and alcohol in California is 21 years old.**

San Francisco does not exempt military personnel under 21 years of age

Tobacco products are the number one cause of death in the United States and worldwide. Tobacco products can lead to all forms of cancer, heart disease, stroke, and many other diseases. All this could be prevented by not using tobacco products.



Almost all (9 out of 10) adult smokers started smoking by the age of 18. Increasing the minimum age to purchase tobacco from 18 to 21 can prevent people from becoming lifelong users of tobacco products. Youth 15-17 years old will have a more difficult time buying tobacco products underage. Raising the minimum age to purchase tobacco protects youth from the harms of tobacco products and ensures that they can have healthier lives that contribute to their family and community.

Examples of tobacco products now **banned** from sale in San Francisco:

Images are shown for educational purposes only



“Menthol” has a distinguishable taste and aroma.



“Berry” is a fruit flavor; mint has a distinguishable taste and aroma.



Sold individually and in packs;



“Cherry,” “Nectar,” “Melon,” “Apple,” “Raspberry,” “Strawberry,” “Berry” and “Fruit Medley” are fruit flavors; “Crème Brulee” and “Vanilla” are candy flavors; “Mint” and “Menthol” have distinguishable tastes and aromas; “Hawaiian Pod” has an image indicating it contains a flavor other than tobacco.



“Strawberry,” “White Grape,” “Grape,” “Peach,” and “Blueberry” are fruit flavors.



“Sour Apple” is a fruit flavor; “Mint” has a distinguishable taste and aroma.



“Lemonade” is a fruit flavored beverage; “Raspberry,” “Blueberry,” “Orange,” “Grape,” “Cherry” and “Strawberry” are fruit flavors.

No Sale of E-Cigarettes

SF Health Code 19R and 19S Restrict the Sale, Manufacture, and Distribution of Tobacco Products, Including Electronic Cigarettes

The legislation was passed by the San Francisco Board of Supervisors and approved by the Mayor on June 28, 2019. Starting on January 29, 2020 retailers must stop selling or distributing restricted tobacco products.

How do we define “E-cigarette”?

An E-cigarette is any device or delivery system sold in combination with nicotine for a single price which can be used to deliver to a person nicotine in aerosolized or vaporized form. An E-cigarette may also be known as e-cigar, e-pipe, vape pen, e-hookah or other names. The definition of E-cigarettes includes any liquid or substance containing nicotine, whether sold separately or sold in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form.

Examples of E-cigarettes are:

- Nicotine Pod or E-liquid (sold without device)
- Vape Starter Kit with Nicotine (sold together under a single price)

Electronic cigarettes do not include:

- Any device not sold in combination with any liquid or substance containing nicotine (Example – Vape Pen without nicotine).

More information at SF Dept of Public Health:

<https://www.sfdph.org/dph/EH/tobacco/ecigarettes.asp>

Examples of e-cigarettes now **banned** from sale in San Francisco:

Images are shown for educational purposes only



Vape Starter Kit with Nicotine

Sold together under a single price



Nicotine Pods or E-liquids

Sold without device



As of January 7, 2020, there are **only two** Electronic Cigarettes products approved to be sold in San Francisco:

1. Philip Morris Products S.A., Marlboro Heatsticks
2. Philip Morris Products S.A., IQOS System Holder and Charger



No Sale of Flavored Tobacco Products

San Francisco Health Code 19Q prohibits the sale of all flavored tobacco products.

The voters affirmed the decision to prohibit the sale of all flavored tobacco products in San Francisco in 2018.

What is a flavored tobacco product?

A flavored tobacco product includes menthol cigarettes, flavored e-cigarette liquids, flavored blunt wraps, flavored chewing tobacco, and other flavored tobacco products.

How can retailers comply?

1. No flavored product should be allowed on the shelf for sale.
2. Selling, displaying, or offering flavored tobacco constitutes a license violation and can result in a suspension.
3. Refuse flavored products from distributors and do not allow flavored products on your premises.
4. Inform customers that San Francisco law does not permit the sale of flavored tobacco. Continue to abide by all other laws and responsibilities of retailers.

Health inspections are conducted annually. Remember that the sale of a flavored tobacco product to anyone under the age of 21 would constitute two violations of San Francisco law, and may result in a suspension.

Optional: Post the Flavored Tobacco flyer visible to customers to inform them of the new law.

More information at SF Dept of Public Health:
www.sfdph.org/dph/EH/Tobacco/flavoredtobacco.asp