WHY THE LAW WAS ENACTED

This law was enacted to help stop the sale of tobacco products and herbal cigarettes to anyone under 18 years of age. Included are cigarettes, cigars, bidis, gutka, chewing tobacco, powdered tobacco, any other tobacco products, pipes and rolling papers. Herbal cigarettes are made primarily of an herb or combination of herbs and are intended to be used in the same manner as tobacco.

HOW TO COMPLY WITH THE LAW

1. Don't sell tobacco products or herbal cigarettes unless you possess a valid Certificate of Registration to sell cigarettes or tobacco from the State Department of Taxation and Finance.
2. Keep **all** tobacco products and herbal cigarettes behind a counter in an area accessible only to employees or in a locked container.
3. Sell tobacco and herbal cigarettes only to people who are 18 years old or older. If you are not sure of the person's age and he or she appears to be under 25 years old, you must request and review proof of age. This can be a valid driver's license or non-driver's ID issued by a state or other accepted government agency, a valid passport, or an ID issued by the armed forces of the United States, that indicates that the person is 18 or older. **ID cards issued by colleges are no longer acceptable.**
4. Post a sign[1] that your customers can easily see that reads:

   "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ELECTRONIC CIGARETTES, ROLLING PAPERS OR SMOKING PARAPHERNALIA TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW."
5. Do not sell single cigarettes, sometimes referred to as "loosies" or "singles." All cigarettes must be sold in the manufacturer's packaging.
6. **Effective December 27, 2004** minimum package size requirements have been set to prohibit the manufacture, sale or distribution of any package or other container of cigarettes containing fewer than 20 cigarettes; any package of roll-your-own tobacco containing less than 0.6 ounces of tobacco; or any package of cigarette wrapping papers, wrapping leaves or tubes containing fewer than 20 sheets, leaves or tubes.
7. "Bidis" or "beedies" and/or gutka can be sold only at tobacco businesses. These businesses must post an additional sign[1] that reads: **"SALE OF BIDIS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW." And/or**

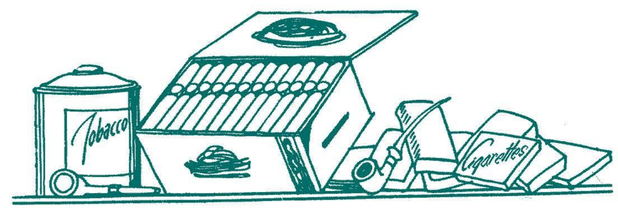
   "SALE OF GUTKA TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW."

[1] Signs are available from your local enforcement officer.

ENFORCEMENT OF THE YOUTH ACCESS TOBACCO CONTROL LAWS

The local designated enforcement officer works for the state, county or New York City Department of Health. The enforcement officers routinely visit businesses that sell tobacco to determine if they are in compliance with the law. The visits may include one or more of the following:

- Having an underage youth attempt to buy tobacco products or herbal cigarettes.
- Verifying that the appropriate proof of age is checked when someone appearing less than 25 years of age attempts to purchase tobacco.
- Attempting to buy out of package (loose) cigarettes.
- Checking the location of tobacco products (must be behind a counter or in a locked container).
- Checking for minimum package size requirements.
- Verifying that the business has a current tobacco registration.
- Verifying that a business with a suspended or revoked registration is not selling tobacco or herbal cigarettes.
- Checking that bidis or gutka are sold only at tobacco businesses.
- Looking for the proper sign(s).



WHAT ARE THE PENALTIES FOR VIOLATING THE LAW?

If your business is found in violation of the law, the enforcement officer will serve you a violation notice to appear for a hearing. If a violation(s) is sustained as a result of a hearing or an agreement where you admit to the violation(s), the enforcement officer will impose a fine and a surcharge for each violation. The New York State Department of Taxation and Finance and, if you are a lottery agent, the New York Lottery, will be notified that you were found in violation. Depending on previous violations, these departments will then suspend or revoke your registration or license according to the law.

Sale of bidis or gutka from a non-tobacco business will result in a $500 fine.

VIOLATION FOR SALE TO A MINOR

Whenever a violation is sustained against you for a sale of tobacco or herbal cigarettes to a minor, besides imposing the payments of a fine and a surcharge, you will be assigned **two points,** unless you demonstrate that at the time of the sale, the seller possessed a valid certificate from a State certified tobacco sales training program[2]. In that case, only one point will be assigned.

[2] A listing of certified training providers is available from your local enforcement official or at: www.health.state.ny.us/nysdoh/smoking/certlist.htm

Points will remain on your record for 36 months, unless your registration is suspended.

If you are assigned three or more points, your registration to sell tobacco and, if you are a lottery agent, your lottery license, will be suspended for six months. When the suspension ends, three points will be removed from your record. Any remaining points will count as the basis toward another suspension.

Whenever any points are assigned to a retail tobacco dealer, at least **two re-inspections** will be conducted each year, until the points are removed.

If you have been found guilty of ANY four violations of this law within a three-year period, the enforcement officer will direct the one-year revocation of your registration to sell tobacco, and of your lottery license, if you have one. This will occur in addition to imposing a fine and a surcharge, and even if points were assigned for any sales to minors violations.

Fines and penalties

First violation

- Fines from $300 to $1,000

Subsequent violations

- Fines from $500 to $1,500

All violations

- A $50 surcharge for each violation
- For each sale to a minor, 2 points [3] are assigned

Violation while your tobacco registration is suspended or revoked

- Fine of $2,500
- Tobacco registration **permanently** revoked and you will not be allowed to obtain a new registration to sell tobacco

All above violations will be published in the local newspaper.

If you do not have a valid tobacco registration

- your name and address will be reported to the Commissioner of the New York State Department of Taxation and Finance for investigation.

[3] or one point, if retail dealer proves seller was certified at the time of sale. A point is removed after 36 months. At the close of a six-month suspension, a total of three points are removed.

CHECK YOUR LOCAL LAWS AND REGULATIONS

Some local governments have enacted local laws regulating the sale of tobacco or herbal cigarettes. In these cases, the stricter law (state or local) must be followed.

FOR QUESTIONS ABOUT NEW YORK'S YOUTH ACCESS TOBACCO CONTROL LAWS:

Contact your local enforcement officer, or write or call:

Tobacco Enforcement Program
New York State Department of Health
Bureau of Community Envrironmental Health and Food Protection
Empire State Plaza - Corning Tower
Room 1395
Albany, NY 12237
(800) 458-1158 Extension 4

FOR QUESTIONS ABOUT TOBACCO REGISTRATION REQUIREMENTS:

New York State Department of Taxation and Finance
W.A. Harriman State Office Campus
Albany, NY 12227
(800) 972-1233

State of New York
Andrew M. Cuomo, Governor

NYS Department of Health
Nirav R. Shah, M.D., M.P.H., Commissioner

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A GUIDE FOR TOBACCO MERCHANTS

Revised January 23, 2013

RETAIL TOBACCO DEALERS and New York's Youth Access Tobacco Control Laws

If you violate these laws, you risk:

- fines of up to $2,500
- a surcharge of $50 for each violation
- loss of your certificate of registration to sell tobacco or herbal cigarettes
- suspension of your lottery license

This brochure is for informational purposes only. A full copy of the law can be obtained from your local enforcement officer.