

New tobacco laws:

Cigarette sales to minors

(commencing 1 March 2006)

Background

Evidence suggests that the earlier a person starts smoking, the more likely it is that they will become a heavier, more addicted smoker and die of a tobacco related illness. Access to cigarettes is a very important factor in the uptake of smoking by young people and research shows that youth smoking issues must be addressed through a range of strategies. Restricting the supply of tobacco products to young people, as part of a comprehensive approach, is a proven strategy for helping to reduce the prevalence of youth smoking.

What is the new law?

From 1 March 2006 the law to enforce the ban on tobacco sales to young people will be strengthened by:

- making sighting photo identification the only defence for selling tobacco to a minor;
- clearly outlining what a manager or proprietor must do to train their employees or agents not to sell tobacco to a minor;
- restricting cigarette vending machines to bar or gaming areas in line of sight of the bar or service counter, or bottle shops immediately next to the bar or service counter.

In relation to existing provisions, the law will also clarify that a manager/proprietor is liable when an employee or agent in their shop sells tobacco to a minor (a person under 18 years of age).

Why is there a need to make sighting photo identification the only defence for selling tobacco to a minor?

The strongest determinant of compliance with tobacco sales to minors laws is the willingness of retailers to ask young people for photo identification. The new law clearly outlines to tobacco retailers the importance of checking identification when selling tobacco products.

Is the manager or proprietor liable when somebody not formally employed by them sells tobacco to a minor?

Yes. A manager/proprietor can be held responsible if a staff member or another person authorised to sell tobacco products (agent), including a family member or volunteer, sells tobacco to a minor.

Are there any defences for the manager or proprietor when their employee or agent sells tobacco to a minor?

Yes. It is a defence if the manager/proprietor proves that he or she had no knowledge of the sale, and had taken prevention measures in relation to their employee or agent.

Why is there a need to clearly outline the 'prevention measures' that a manager needs to do to train their staff?

If an employee or agent is found to sell tobacco to a minor, enforcement action can be taken against the manager/proprietor unless they had no knowledge of the sale and had also sufficiently trained that person.

The new law clearly outlines what a manager/proprietor must do to train their staff and agents and this should occur every six months. This will ensure that their employees, family members and friends who sell tobacco products are aware of the law.

Why is the cigarette vending machine law changing?

Research in both Australia and America shows that minors are able to purchase cigarettes from vending machines when vending machines are located in areas which are not adequately supervised by adults such as restaurants, cafes, bingo centres, staff amenity areas and in foyer and toilet areas of licensed premises. There is a need to further restrict where vending machines can be located to reduce the likelihood of minors accessing cigarettes.

Where exactly can a cigarette vending machine be placed?

Cigarette vending machines can only lawfully be placed in the following areas:

- a) in a bar area of licensed premises in line or sight of a bar, not more than 5 metres from the outer edge of the bar counter; or
- b) in a gaming area in line of sight of a service counter; or
- c) in a bottle shop immediately adjacent to the service counter.

What is the penalty?

A person who sells tobacco to a minor may receive a fine or be prosecuted, as may the manager/proprietor of the shop. A person who places or permits the placement of a vending machine in any area other than the three types of areas listed in a), b) and c) above may receive a fine or be prosecuted. The table below shows the applicable penalties.

	Fine	Maximum Penalty if Prosecuted
Manager/proprietor where their staff or agent sells tobacco to a minor	2 penalty units	50 penalty units
Person who sells tobacco to a minor	2 penalty units	50 penalty units
Person unlawfully placing or permitting the placement of a cigarette vending machine	1 penalty unit	10 penalty units

**the value of a penalty unit for 2005/06 is \$104.81 (indexed annually).*

For further information:

Tobacco Information Line: 1300 136 775

www.health.vic.gov.au/tobaccoreforms/

Disclaimer: This fact sheet is intended only as a general guide and introduction to the relevant provisions of the *Tobacco (Amendment) Act 2005*. The Department of Human Services does not accept any liability for any expense, loss or damage suffered as a result of reliance upon this fact sheet.