



Contact us: 208-334-0642

ID Tobacco Project Website: healthandwelfare.idaho.gov
Select the "medical" menu and then "Idaho Tobacco Permits"

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2021 FACTS AND STATS

What was the
Compliance Grade
after last month's
state tobacco
inspections?

Grade A
for
April 2021

According to Idaho Code 39-5701, the Idaho Department of Health and Welfare must inspect each Permitted Retailer that sells tobacco and electronic smoking devices to ensure that it does not sell these products to minors.

How well did these Permitted Retailers comply with the law in April 2021?

- 302 Permitted Retailers were inspected.*
- 12 Permitted Retailers sold to the inspecting minor.
- The compliance rate for April 2021:

96.03%
SUPER!

*Non-minor Exempt Inspections where purchase attempts were made.

Understanding Idaho Code 39-5700 and the Compliance Inspection

What does the Idaho Compliance Inspection look for?

Idaho law requires that at least one random compliance check take place per Idaho Tobacco Retailer per year in the state of Idaho, plus additional checks based on the non-compliance rate for the previous year. Idaho Tobacco Inspection Teams conduct inspections at all Idaho Tobacco Retailers to determine the Retailer's compliance with all the requirements of [Idaho code 39-5700](#), including:

- Ensuring that Idaho Tobacco Retailers do not sell tobacco or electronic smoking devices to minors (See Idaho Code 39-5705). Remember that while Idaho's law currently restricts sales of tobacco and electronic smoking devices to anyone under 18, the federal law raised that age to 21. We encourage all Idaho Tobacco Retailers to comply with the federal laws outlined under [Tobacco21](#) which would ensure compliance with both state and federal tobacco age requirements.
- Ensuring the Idaho Tobacco Retailer sales of tobacco or electronic smoking devices are vendor assisted (See Idaho Code 39-5706),
- Ensuring there are no self-service displays of tobacco or electronic smoking devices unless the retailer is exempt from this requirement (See Idaho Code 39-5706),
- Ensuring that no Idaho Tobacco Retailer sells tobacco or electronic smoking devices from a vending machine (See Idaho Code 39-5706(2)),
- Ensuring that the Idaho Tobacco Retailer does not sell open packages, sample or freebies of tobacco or electronic smoking devices (See Idaho Code 39-5707).

Who Conducts the Inspections?

These state tobacco inspections occur using an inspection team that consists of an adult inspector as well as a minor inspector. These team members (the adult and the minor) are authorized under the law to conduct these inspections. The minor inspector attempts to purchase tobacco or electronic smoking devices from the Idaho Tobacco Retailer to ensure compliance with all elements of [Idaho Code 39-5700](#) and specifically 39-5705.

Is it Legal for a Minor Inspector to Possess the Tobacco They Purchase?

While using minors to attempt to purchase tobacco can seem confusing since there are laws that prohibit minors from possessing, selling, or distributing tobacco products or electronic cigarettes (Idaho Code 39-5703), it is important to note that minors who participate in legitimate state or federal tobacco inspections are EXEMPT from possession laws (Idaho Code 39-5703 (4)) that could otherwise get a minor attempting to purchase tobacco or electronic smoking devices into trouble. Therefore, it is essential that Idaho Tobacco Retailers remember that it is unlawful to confiscate an inspecting minor's ID or otherwise detain, harass, or threaten an inspecting minor in any way.

What if the Store Policy Requires the Clerk to Confiscate a Minor ID?

Some Idaho Tobacco Retailers might have store policies that require the clerk to hold the minor's ID card and even call the minor's parents. However, be careful that store policies do not interfere with state or federal laws. Idaho Tobacco Retailers can have prevention policies, including confiscating the minor's customer's ID and calling parents, but it is not lawful to confiscate and refuse to return the ID if the minor customer who turns out to be a state authorized minor inspector. To do so would interfere with the tobacco enforcement process established under Idaho Code 39-5700.

State minor inspectors are paid employees who conduct inspections with the full authority of the State of Idaho and have immunity under the law. You should also be aware that FDA minor inspectors are also protected by Federal law to conduct enforcement inspections, so the same applies to them.

So, what should a clerk do if they are instructed by their store's policy to confiscate the ID of a minor customer and find out it was a minor inspector instead? In that case, the DHW asks that you return the minor's ID without delay or hesitation. The adult inspector accompanying the minor inspector will approach the clerk, identify themselves, and then request the ID be returned to their possession. A legitimate minor inspector WILL NOT ask for their ID back themselves. Instead, the request will be made by a credentialed adult tobacco inspector.



Need information on the Idaho tobacco law, training and point-of-sale resources, information about what IDs look like, a helpful quiz and game to practice when to refuse the sale of tobacco to a customer, and many other resources tailored to Idaho Tobacco Retailers? Check out our website designed just for Idaho Tobacco Retailers: Preventthesale.com/Idaho



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