



Contact IDHW's Idaho Tobacco Project at: 877-641-4468
ID Tobacco Project Website: healthandwelfare.idaho.gov/providers
Select the topic "Retailers" then "Idaho Tobacco Project."

Volume 22, Issue 4
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2023 FACTS AND STATS

What was the Compliance Grade for state tobacco and electronic smoking device inspections?

**Grade A
for
March 2023**

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 March 2023?

- 208 Permitted Retailers were inspected.*
- 11 Permitted Retailers sold to the inspecting minor.
- The compliance rate for March 2023 was:

94.71%

GREAT WORK!

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

Inspections Under Way

State inspections enforcing [Idaho Code 39-5701, et seq.](#), are going on in your community right now! Each permitted Idaho Tobacco and Electronic Smoking Device Retailer should expect to be inspected at least 2 times this year, maybe more. While retailers may get reinspected by a state tobacco and electronic smoking device inspection team, each inspection will be at least 30 days apart.

In addition to state inspections, the FDA is conducting its own series of inspections with its own inspection teams. The FDA inspections are completed separately from state compliance activities. How often FDA inspections occur at your retail location is dependent on their own rules and requirements. We recommend that Idaho Tobacco and Electronic Smoking Device Retailers reach out to the FDA's Center for Tobacco Products (CTP) at 1-877-CTP-1373 with questions regarding FDA inspection procedures and any federal requirements for selling tobacco and electronic smoking devices to the public. Information and helpful resources can also be found at the [FDA's Center for Tobacco Products \(CTP\)](#) website.

What happens during an inspection?

During state compliance inspections, an underage inspector (those inspectors older than 16, but younger than 21) will attempt to purchase tobacco or electronic smoking device products from a permitted Idaho Tobacco and Electronic Smoking Device Retailer. At the end of the purchase attempt, one of two things happen:

A Passed Inspection: If the clerk refuses to sell tobacco or electronic smoking devices to the underage inspector, the underage inspector leaves the establishment without further incident. The retail owner is notified by mail that an inspection occurred and that the retail location "passed" the inspection with our congratulations for a job well done. Given our high monthly compliance rate, this is the experience most of you have with Idaho Tobacco and Electronic Smoking Device Compliance Inspections.

A Failed Inspection: If the retailer "fails" the inspection and the clerk sells tobacco or electronic smoking devices to the underage inspector, the clerk is fined immediately by the adult inspector who witnessed the transaction. The retailer is notified by mail of the violation and could also be issued a fine based upon previous violations over the past 24 months.

What are the penalties for failing an inspection?

For Clerks:

- There is no warning for the first violation! The clerk will be fined every time they sell tobacco or electronic smoking devices to an underage inspector.
- A citation is issued directly to the clerk right after the underage inspector successfully purchased tobacco or electronic smoking devices from the clerk.
- The citation is issued by the inspection team leader (an adult over 21) who witnessed the unlawful sale.
- It is the responsibility of the clerk, not the business to pay the fine.
- The fine for each violation is \$100.00.
- Clerks should also be aware of any rules set by their employer. Some employers have a zero-tolerance policy. For some clerks, getting a citation for selling tobacco or electronic smoking devices to underage inspectors means immediate termination from their job.

We encourage clerks to remain vigilant when selling tobacco and electronic smoking devices to customers and ALWAYS check the ID of any customer who appears to be under the age of 30.

For Retail Owners:

Citations can be issued to owners for several reasons. In addition to a clerk selling tobacco or electronic smoking devices to an underage inspector, retail owners can be cited for:

- self-service displays of tobacco and electronic smoking devices (certain retail stores are exempt from this requirement),
- vending machines that sell tobacco and electronic smoking devices directly to the public,
- offering samples or having open packages of tobacco or electronic smoking devices, and
- having non-vendor assisted sales (certain retail stores are exempt from this requirement).

Check out all retailer requirements under [Idaho Code 39-5705 to 39-5707](#) for more details on violations that will result in a retailer fine, and for rules on exemptions.

A retailer citation cycle is 24 months (2 years). This means that violations will accumulate for 24 months after the first violation and fines issued to retailers throughout those 24 months will increase in amount and could lead to permit suspension or revocation at that retail location. [Idaho Code 39-5708, Civil Penalties for Violations of Permit](#) outlines the fine structure for Idaho's Tobacco and Electronic Smoking Device Retailers.

Prevent-The-Sale!

Idaho Tobacco Retailers have two resources for Prevent-The-Sale content: Visit Idaho's Department of Health and Welfare's official [Idaho Tobacco Project-Prevent The Sale](#) webpage for statewide information. Visit Idaho Tobacco Projects interactive website [Preventthesale.com](#) for interactive and evolving content, including newsletter archives, information on IDs, and downloadable resources and documents. This site has new material available for download!



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PLEASE DISTRIBUTE TO EMPLOYEES