



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 7
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2023 FACTS AND STATS

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

**Grade A
for
June 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 June 2023?

- 109 Permitted Retailers were inspected. *
- 16 Permitted Retailers sold to the inspecting minor.
- The compliance rate for June 2023 was:

94.50%

GREAT WORK!

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

Success = Staying on Top of The Details

Running a retail establishment can be difficult. Clerks can have very busy and stressful days, and retailers often face high staff turn-over causing numerous training and staffing challenges. It can be difficult to keep up with clerk training and remain in compliance with all the state and federal laws.

Therefore, we encourage Idaho Tobacco and Electronic Smoking Device Retailers to stay on top of the details of selling these products to the public. In addition, retailers should have a clear pathway to ensure existing and new regulations are passed on to their retail clerks. Each clerk, whether existing or new staff, should be prepared with the tools they need to prevent the sale of these products to those customers under 21. Here are some topics that might be of interest to both retailers and their staff:

Physical Barriers and Vendor Assisted Sales

Tobacco products and electronic smoking devices must be displayed behind a counter or in a location where customers do not have direct access to them. This means a physical barrier must exist between the customer and the tobacco products or electronic smoking devices. It is never okay to display samples or to offer these products in unopened packages.

Customers (regardless of their age) are not allowed to handle tobacco products or electronic smoking devices **BEFORE** purchasing their product and the sale transaction is completed. For example, a clerk cannot hand a tobacco products or electronic smoking devices to a customer prior to purchasing the product, and then have the customer carry it to a different cashier to pay. Instead, customers must ask the clerk for the product they wish to purchase and purchase it directly from that clerk. If the product must be transferred to a different register, it must be carried by the clerk or store staff.

The only Idaho Tobacco Retailers **EXEMPT** from this requirement are those that meet the Vendor Assisted Exemption conditions outlined in Idaho Code 39-5706. Most Idaho Tobacco Retailers are **NOT EXEMPT** and must follow the requirements for Vendor Assisted sales.

Hiring Minors Under 18 and Young Adults Under 21

As of July 1, 2022, the rules for hiring those under 21 were clarified. See [Idaho Code 39-5704](#) for additional details. Here are a few key take-aways:

- **Minors under 18 CANNOT** sell or distribute tobacco products or electronic smoking devices. For example, a minor under 18 cannot be a clerk who sells these products.
- **Minors under 18 CAN**, in the course of their employment duties, stock shelves with tobacco products or electronic smoking devices. They can also help a customer to their car by carrying packages that contain these products.
- **Employees between 18 and 21 CAN** do all activities those under 18 can do and they can also sell and distribute tobacco products and electronic smoking devices. This means **employees between 18 and 21 CAN** act as clerks and sell tobacco products and electronic smoking devices directly to customers.

Are Juul Products Still Banned in 2023?

Back in our [June 2022 newsletter](#), we mentioned that the FDA could be banning Juul brand vape products. Although the FDA did ban Juul products from being sold in the U.S. in June 2022, the agency has since put an administrative hold on the 2022 Juul ban until it can review the company's marketing application again. On July 5th, 2022, the FDA stayed the marketing denial order. While the FDA has not lifted the 2022 Juul ban, until the agency finishes its review, Juul can continue to sell its devices and unflavored vaping pods. This also means that people can still buy Juul products until the FDA makes a final decision. This means in 2023, Juul products are still available for purchase.

Source: <https://www.banyantreatmentcenter.com/2023/02/02/the-truth-behind-the-juul-ban-2022/>

Be Sure to Have the Proper Age-Restricted Signage

Retailers who are **age-restricted bars** or **adult businesses** (see [Idaho Code 39-5702\(7\)](#)) or retailers that are **exclusively tobacco or vape shops** (see [Idaho Code 39-5706\(3\)](#)) **MUST** post signage on all public doors indicating customers under 21 are prohibited from entering their establishment.

In addition, [Idaho Code 39-5704\(6\)](#) encourages **ALL** retailers to have signage stating the prohibition of the sale of tobacco products and electronic smoking devices to any customer under 21.

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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