



Idaho Department of Health and Welfare

Idaho Tobacco Project:

A Requirements Guide for Tobacco and ESD Retailers

The State of Idaho has statutes and rules establishing standards for the permitting of tobacco and electronic smoking device (ESD) retailers, sales of tobacco and ESD products and conduct of compliance inspections. Idaho retailers need to be aware of these requirements to ensure they, and their sales staff, comply. The purpose of this guide is to provide a summary of the Idaho laws and tobacco and ESD sales restrictions, as well as fines and penalties for failure to comply. Idaho's law focuses on the prevention of tobacco and ESD sales to minors. For more information about the State of Idaho tobacco and ESD seller requirements, please check our retailer education website, www.preventthesale.com or our message line at 877-641-4468. To apply for an Idaho Tobacco Retailer permit, you can apply online at www.tobaccopermits.com/idaho. For permitting assistance submit a "Contact Us" request located on the homepage of www.tobaccopermits.com/idaho.

The Law: Copies of Idaho Code and Administrative Rules are available for download on the Idaho Department of Health and Welfare's website at: <https://healthandwelfare.idaho.gov/providers/idaho-tobacco-project/prevent-sale-law> OR www.Preventthesale.com.

The Restrictions: The State of Idaho has requirements that tobacco sellers must follow in order to legally sell all tobacco products in Idaho. They are:

- All retailers selling tobacco and ESD products must have a permit issued by the Department of Health & Welfare
- Tobacco and ESD sales can only be made by individuals over 21 years of age
- No sales to youth under age 21, even if they have a note from parents
- Use of vending machines to sell tobacco products is illegal**
- Persons under 21 may possess tobacco products for work such as stocking shelves or carrying bags to customers' vehicles or when conducting compliance inspections
- Stores whose tobacco and ESD products comprise at least 75% of total merchandise are exempt from vendor assisted sales, **IF minors are not allowed in the store and there is a sign posted on all entrances**
- No self-services displays, except in designated tobacco and ESD stores
- No free samples of tobacco or ESD products may be given away
- Retailers are responsible for educating their employees on the requirements in Idaho Code 39-5700 and IDAPA 16.07.25.
- Tobacco and ESD packages cannot be opened and must be sold in the sealed package provided by the manufacturer



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Idaho Training Requirements: In order to comply with Idaho requirements, tobacco and ESD retailers need to establish a training policy for their employees. The following information must be included in a training policy to ensure employees understand Idaho laws.

- Idaho laws covering all tobacco and ESD products
- It is illegal to sell cigarettes, smokeless tobacco, ESDs and other tobacco products to persons under age 21
- Individuals must be over the age of 18 to legally sell any tobacco product
- Individuals under the age of 18 may possess tobacco products at work for stocking shelves, carrying purchases to customers' vehicles or when conducting compliance inspections
- All tobacco products must be sold in a direct, face-to-face exchange unless they are sold in an establishment where no person under 21 is permitted to enter.
- Selling tobacco products in vending machines is prohibited**
- Giving away free samples of cigarettes, ESD, or any other tobacco product is prohibited
- Opening cigarette or smokeless tobacco packages to sell products in smaller amounts is prohibited
- Selling single cigarettes (also called “loosies”) or packages containing fewer than 20 cigarettes is prohibited

Fines and Penalties: FDA and Idaho Tobacco Project compliance inspections are conducted separately. Idaho uses a random sample method to select the retailers to be inspected. A suspension or revocation of an Idaho permit requires the tobacco or ESD retailer remove all tobacco products from public view and makes it illegal for the retailer to sell any tobacco or ESD product until the penalty has been lifted.

- Idaho cites and fines both the clerk and the retailer
- Selling tobacco or ESDs in Idaho without a permit is a criminal offense
- Clerks will be fined \$100 every time that they sell to a minor inspector
- Retailers are provided with a warning and are not fined for the 1st violation
- 2nd violation fines can be waived if the retailer can demonstrate having provided training to the seller that meets Idaho requirements
- Retailer fines will range from \$200 to \$400 for the 2nd, 3rd, and 4th violation within 24 months
- For a 3rd violation in 24-month timeframe, a retailer's permit may be suspended for up to 7 days
- For four (4) or more violations in a 24-month timeframe a retailer's permit is revoked for a minimum of 30 days and will not be reinstated until all fines are paid and the retailer has demonstrated an effective plan for training employees.