

SELLING AND STORING TOBACCO: Avoiding fines by avoiding simple mistakes

By Jill C. Urie

Did you know Idaho's tobacco law does more than prohibit sales to minors? The law defines how vendors should store and display tobacco.

Idaho's law prohibits self-service displays, non-vendor assisted sales, and much more. Here is a detailed explanation of the laws' requirements and prohibitions for storing and displaying tobacco.

SELF-SERVICE

- The law: It shall be unlawful to sell or distribute tobacco products from self-service displays (Idaho Code 39-5706 (3)). Stores with tobacco products comprising at least seventy-five percent (75%) of total merchandise are exempt from requiring vendor assisted sales, if minors are not allowed in the store and such prohibition is posted clearly on all entrance doors (Idaho Code 39-5706 (4)).
- What does the law mean? If your customers can pick up tobacco from a display and take it to the counter for purchase without asking a store employee for assistance, then you are in violation of the law. The only exception is businesses with at least 75% of their merchandise in tobacco products. These vendors must clearly post a sign at all entrances restricting anyone younger than 18 from entering.

NON-VENDOR ASSISTED SALES

- The law: It shall be unlawful to sell or distribute tobacco products by any means other than vendor assisted sales where the customer has no access to the product except through the assistance of the seller (Idaho Code 39-5706 (1)).
- What does the law mean? Customers should not receive the tobacco product at any time before payment. For example, if the customer receives the tobacco product from one clerk and takes it to another for purchase, this is a violation of the law. All sales must be totally vendor assisted. At no time should the customer have the tobacco product until the purchase is complete.

OPEN PACKAGES, SAMPLES, FREEBIES

- The law: It shall be unlawful to sell or distribute tobacco products for commercial purposes other than in the federally required sealed package provided by the manufacturer with all the required warning labels and health warnings. It shall be unlawful to sell or distribute tobacco products for free or below the cost of such products to the sellers or distributors of the products for commercial or promotional purposes, to members of the general public in public places or at public events (Idaho code 39-5707 (1) (2)).

Selling and Storing Tobacco *continued*

- What does the law mean? Tobacco products should never be removed from their original packaging. For example, removing cigarettes from their packs and placing them on individual display is a violation of the law. Cigars sold individually should be stored in a locked container and should remain in their original wrapping. And never give tobacco products away for free or at below cost. Keep it simple: only sell tobacco in its original packaging and at the lawful price.

VENDING MACHINES

- The law: On and after January 1, 2000, it shall be unlawful to sell or distribute tobacco products from a vending machine (Idaho Code 39-5706 (2)).
- What does the law mean? Vending machine sales of tobacco are prohibited even if the only person(s) with access to the machine are the store employees. So if a store employee takes money and puts it into a vending machine, then gives the cigarettes to the customer, this is a violation of the law. Some businesses still use vending machines to store cigarettes. This is not against the law, as long as the vending machine

cannot to accept money. The only lawful way to use the vending machine is for storage. The vendor must be careful to place the machine behind the counter or away from customer access and should assist all sales of tobacco.

Knowing how to lawfully sell and store tobacco will not only prevent unwanted citations and fines, but will assist in your efforts to prevent the sale of tobacco to minors.

Factoids and Statistics

A Six-Month Summary “B” Average

According to Idaho Code 39-5701 the Idaho Department of Health and Welfare must inspect each business that sells tobacco to ensure that it does not sell tobacco to minors. Here is a summary of the inspection compliance from January to June 2003:

- ❖ 965 Vendors were inspected.*
- ❖ 162 Vendors sold to the inspecting minor.
- ❖ The compliance rate for the first six months of 2003 was 83.21%.

*Inspections where purchase attempts were made.

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