

## Tobacco 21 FAQ's

### **What is the effective date of the law?**

October 17, 2019

### **Are individuals who turn 18 before the effective date of the law exempt from this prohibition?**

No. A “grandfathering” clause was in this section of the budget bill, but this part of the section was vetoed by the governor. Therefore, starting October 17, 2019, it will be prohibited to sell any tobacco product to an individual who is less than 21 years of age.

### **To what products does the prohibition apply?**

There were some definitional changes to ORC 2927.02 that expand and/or clarify the definition of what is defined as a tobacco product. Sale of the following are prohibited:

- Any product made or derived from tobacco or that contains any form of nicotine (if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means)
- Tobacco products include, but are not limited to:
  - - Cigarette
    - Electronic smoking device
    - Cigar
    - Pipe tobacco
    - Chewing tobacco
    - Snuff
    - Snus
    - Dissolvable products that contain nicotine
    - Filters, rolling papers, pipes, blunt or hemp wraps
    - Liquids used in electronic smoking devices (whether or not they contain nicotine)
    - Vapor products – a product, other than a cigarette or other tobacco product that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. Includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product.

NOTE: Tobacco and vapor products do not include any product that is a drug, device, or combination product as those terms are defined or described in 21 U.S.C. 321 and 353(g) – products such as nicotine replacement therapy for use when quitting tobacco.

### **Are signs a requirement of the law?**

Signs were already required, but this law added the requirement to be clearly visible and legibly printed in letters at least ½ in high. ODH is working with the Ohio Department of Mental Health and Addiction Services (ODMHAS) on updating a model sign. A model sign will be provided to retailers, along with notification of the changes in law, and the sign will be available for download at [OhioTobacco21.gov](http://OhioTobacco21.gov)

Where vending machines selling tobacco, products are permitted under 2927.02(C), a clearly visible notice must be posted, in letters that are legibly printed and at least one-half inch high, and in this specific case, must

state “It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products.” A model sign is available for download at OhioTobacco21.gov

**What are the penalties for violating the laws that prohibit sale of tobacco to those persons under 21?**

There are several potential violations. Please see the attached sheet for a summary of the violations and their penalties. For more information please see the appropriate sections of the Ohio Revised Code and/or consult your legal counsel.

<b>Summary of Penalties for Violation of Sale of Tobacco/Vaping Products to Those Under 21 Years of Age</b>				
Violation	Child <18	18 - <21	Clerk	manufacturer, producer, distributor, wholesaler, or retailer
Possession or use	No Penalty	None	Clerks under 18 are allowed handle as part of employment	
Furnishing False ID	No more than 20 hours community service	M4 – 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense		
Giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person less than 21 years of age		M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense
Giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person less than 21 years of age when no sign is posted		M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense
Knowingly furnishing any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person.		M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense
Manufacturing, selling, or distributing in Ohio any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco		M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense
Selling cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer		M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense
Giving, selling, or otherwise distributing alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification		M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense	M4- 1 <sup>st</sup> Offense M3 – 2 <sup>nd</sup> Offense
A <b>misdemeanor of the fourth degree</b> is generally punishable by no more than 30 days in jail and a fine of up to \$250. (See ORC 2929.24(A)(4) and ORC 2929.28(A)(2)(a)(iv)) A <b>misdemeanor of the third degree</b> is generally punishable by 60 days in jail and a fine of up to \$500. (See ORC 2929.24(A)(3) and ORC 2929.28(A)(2)(a)(iii)) The <u>fine for an organization</u> that is convicted of a <b>misdemeanor of the fourth degree</b> is \$2,000, and a fine for an organization convicted of a <b>misdemeanor of the third degree</b> is \$3,000. (See ORC 2929.31(A)(10) and (A)(11))				

**If I have people under the age of 21 working in my establishment, is this still permitted, after October 17?**

If the youth handles tobacco or vaping products as a function of their employment, they may continue to be employed in this capacity.

## How is the law enforced?

As of October 17<sup>th</sup>, there are several organizations that conduct compliance checks for the law. The United States Food and Drug Administration does a sample of checks in Ohio through a third-party contracted agency. The Ohio Department of Public Safety/Ohio Investigative Unit is contracted to complete compliance checks throughout Ohio by the Ohio Department of Health and the Ohio Department of Mental Health and Addiction Services. Additionally, many local health departments are also conducting compliance checks as part of grant funded activities or as part of stricter local Tobacco 21 ordinances that have been passed in their jurisdictions.

All compliance checks are unannounced and use trained youth or young adults to conduct the compliance checks.

Source: [www.ohiotobacco21.gov](http://www.ohiotobacco21.gov)

Example Sign (meeting the law's requirement):

**TOBACCO AGE OF SALE**

**ONLY 21+** **It's the LAW**

**TOBACCO PRODUCTS,  
ALTERNATIVE NICOTINE  
PRODUCTS, E-CIGARETTES,  
AND VAPE SALES AGE 21  
AND OVER**

*In accordance with ORC 2927.02.*



Department of Health  
Department of Mental Health  
and Addiction Services



**Quit Line:**  
**1-800-QUIT-NOW**

