

Tobacco 21

On December 20, 2019, the President signed legislation amending the Federal Food, Drug, and Cosmetic Act, and raising the federal minimum age for sale of tobacco products from 18 to 21 years. This legislation (known as “Tobacco 21” or “T21”) is effective immediately, and it is now illegal for a retailer to sell any tobacco product—including cigarettes, cigars, and e-cigarettes—to anyone under 21. The new federal minimum age of sale applies to all retail establishments and persons with no exceptions.

FDA will continue to update this page with resources and information about T21 as they become available.

On this page:

- Commonly Asked Questions
- Resources for Retailers
 - Webinar
 - T21 Web Statement
 - T21 Fact Sheet
 - FDA’s Age Verification Tools

Commonly Asked Questions

Below are some commonly asked questions to help retailers, consumers, and state and local law enforcement navigate the new law.

1. Is there a federal carveout (or can states seek a waiver for a carveout) for active duty military personnel or military veterans ages 18-20?

No, the law does not provide any exemptions from the new federal minimum age of 21 for the sale of tobacco products. Retailers in the United States must not sell tobacco products to anyone under the age of 21.

2. What is the list of tobacco products covered by the new T21 law?

The T21 law applies to sales of tobacco products – including cigarettes, smokeless tobacco, hookah tobacco, cigars, pipe tobacco, electronic nicotine delivery systems including e-

cigarettes and e-liquids – to anyone under 21 years of age.

3. What is the timeline for enforcement, and will there be a grace/transition period for compliance?

The Tobacco 21 legislation was enacted on December 20, 2019 and immediately took effect. FDA's enforcement of the federal minimum age of sale of tobacco products is ongoing.

Initially, FDA recognized that both the agency and some retailers would need to update current practices to implement the new law and stated that FDA would use only minors under the age of 18 in the compliance check program during the ramp up period. During this period of transition, the FDA expected retailers to follow the law and take measures to ensure an individual purchasing tobacco products is 21 or older, including manually checking IDs. Now that a reasonable transition period has concluded, FDA has begun utilizing individuals under the age of 21 in its nationwide compliance check inspection program to determine retailer compliance. FDA also expects that retailers will continue to verify the age of anyone under the age of 27.

4. How will the T21 law be enforced by the federal government? Will it be the same as before passage of the T21 law?

FDA's enforcement of the T21 law will generally be carried out using the same process. FDA will continue to conduct compliance check inspections of tobacco product retailers to determine a retailer's compliance with federal laws and regulations.

During Undercover Buy inspections, tobacco product purchasers (who are under the supervision of FDA-commissioned inspectors) attempt to purchase tobacco products. If, during these inspections, a tobacco product is sold to an underage purchaser, FDA sends the retailer a Compliance Check Inspection Notice. This notice, which is not an official action, promptly provides the retailer with information including, but not limited to, the retailer's establishment name and address, the time and date of the inspection, and a statement that a potentially violative inspection occurred at the establishment.

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5. What will states need to prove to show compliance with the T21 law for purposes of the law known as the “Synar Amendment”?

This question refers to the amendments to the Public Health Service Act, and the various steps that the states must take in order to qualify under Synar. SAMHSA administers the Synar program. For more information about this program, please visit <https://www.samhsa.gov/synar>. (<https://www.samhsa.gov/synar>)

6. Does the T21 law have a sunset provision? How long will the new law be enforced?

There is no sunset provision for the new federal minimum age requirement of 21.

Resources for Retailers

Webinar

FDA’s webinar, “Recent Changes that Impact the Sale of Tobacco Products in Retail Establishments (https://www.youtube.com/watch?v=umw8_Z_yGe4&feature=youtu.be) <http://www.fda.gov/about-fda/website-policies/website-disclaimer>(12:25)” provides retailers with updated information on how to comply with T21.

Download slides (</media/135555/download>) (Spanish translation slides) (</media/136988/download>)

T21 Web Statement

In January 2020, CTP released a web statement providing details on the T21 law (</tobacco-products/ctp-newsroom/newly-signed-legislation-raises-federal-minimum-age-sale-tobacco-products-21>) and what it means for retailers going forward.

T21 Fact Sheet

Retailers looking for a quick reference guide for how the federal law regarding minimum age for sale of tobacco products is changing can find one here (https://digitalmedia.hhs.gov/tobacco/print_materials/RE-30).


FDA’s Age Verification Tools for Retailers

FDA has free resources available to assist retailers in calculating the age of customers.

This is Our Watch Digital Age Verification Calendar

(<http://www.fda.gov/about-fda/website-policies/website-disclaimer>)



(<https://play.google.com/store/apps/details?id=gov.fda.CTP.MAC1>)  (<http://www.fda.gov/about-fda/website-policies/website-disclaimer>)

In Summer 2019, FDA released the digital age verification calendar as part of the "This is Our Watch (/tobacco-products/retail-sales-tobacco-products/our-watch)" voluntary retailer education program. Retailers who use FDA's "This is Our Watch" digital age verification calendar may update the minimum purchase age on the calendar to 21 years. Retailers who would like a "This Is Our Watch" digital age verification calendar may order one free of charge from FDA's Center for Tobacco Products Exchange Lab (https://digitalmedia.hhs.gov/tobacco/print_materials/RE-26).

FDA "This Is Our Watch" Digital Age Verification ...



FDA Age Calculator

FDA's voluntary smartphone application, "FDA Age Calculator," can help retailers comply with federal, state, and local age restrictions for selling tobacco products. With the "FDA Age Calculator," retailers can use their personal smartphones to help determine if a customer is old enough under federal law to buy tobacco products. Retailers who use FDA's Age Calculator app should update the age limit to 21 years through the app settings. Instructions are provided within the help feature of the app.

Download the "FDA Age Calculator," a voluntary smartphone application to help retailers comply with federal, state, and local age restrictions for selling tobacco products.



(<https://itunes.apple.com/us/app/fda-age-calculator/id1128878035?mt=8>) 