



Government of **Western Australia**
Department of **Health**

A guide for selling tobacco products in Western Australia



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Introduction

This guide contains information to help you and your staff understand your obligations when selling tobacco products.

The sale and supply of tobacco products in Western Australia (WA) is governed by the *Tobacco Products Control Act 2006 (the Act)*.

For a copy of the Act visit www.legislation.wa.gov.au

Tobacco products

The definition of Tobacco Products is broad, and includes:

- tobacco in a form prepared for human consumption or use; or
- a cigarette or cigar or any other product the main, or a substantial, ingredient of which is tobacco and which is designed for human consumption or use; or
- a product prepared for smoking that contains a herb or other plant matter, whether or not the product also contains tobacco, such as shisha and molasses tobacco products

but does not include:

- nicotine, or a product that contains nicotine, in a form that is a poison; or
- a prohibited plant or a prohibited drug.

Tobacco licensing

Do I need a licence to sell tobacco products in WA?

Yes. Retailers, wholesalers and indirect tobacco product sellers are required to hold an appropriate licence in WA. Tobacco products cannot be legally sold until a licence has been issued.

How do I obtain a licence to sell tobacco products?

Businesses that sell tobacco products by retail sale, wholesale or indirect sale are required to complete an application form and return it to the Department of Health with the relevant fees and supporting evidence.

More information about applying for a licence to sell tobacco products and application forms are available at ww2.health.wa.gov.au/Articles/S_T/Tobacco-sellers-licensing

Do I need to display my tobacco licence?

Yes. A current licence to sell tobacco products must be displayed so it can be clearly seen by the public at the place of sale of the tobacco products.

Do I need to renew my tobacco licence?

Yes. Licences are valid for 12 months and must be renewed if the licensee continues to sell tobacco products. Reminder letters and relevant information will be issued before licence expiry.

To ensure a licence remains valid, licence holders must follow the instructions forwarded with the reminder letters and fully complete and promptly return the renewal forms. Renewal forms must be signed by the registered licence holder.

Can I obtain a licence to sell tobacco products at sporting, cultural or other events?

No. Since 18 March 2019 licences for the sale or supply of tobacco products at sporting, cultural and other events such as music festivals or market stalls have not been permitted.

More information about renewing your tobacco licence is available at ww2.health.wa.gov.au/Articles/U_Z/What-you-need-to-know-about-renewing-your-tobacco-sellers-licence

Sale and supply of tobacco products and smoking implements

What are the laws about selling tobacco products to children?

Under the Act, it is illegal for a person or a licence holder to sell or supply a tobacco product or smoking implement to a child, a person under the age of 18 years.

Tobacco products in a form prepared for human use may include cigarettes, cigars, shisha or molasses tobacco products (with or without tobacco as an ingredient).

If you are caught selling tobacco products or smoking implements to a child, you and/or the licence holder may be issued with an 'On the Spot' fine of \$1,000 or you may be prosecuted. The penalty for the sale or supply of tobacco products or smoking implements to a child is a maximum of \$10,000 per offence for an individual and up to \$40,000 per offence for a business.

Can adults buy tobacco products or smoking implements for children?

No. An adult who supplies tobacco products to a child may be prosecuted. You should not sell tobacco products or smoking implements to any person who you believe will supply that tobacco product or smoking implement to a person under the age of 18 years.

Can tobacco products or smoking implements be sold to children if they have permission from a parent or guardian?

No. It is illegal to sell or supply tobacco products or smoking implements to children regardless of parental permission.

Should I ask for proof of age identification?

Yes. You should ask for proof of age identification from anyone asking for tobacco products or smoking implements that appears to be under the age of 25 years or whom you believe is not of legal age to purchase tobacco products or smoking implements.

You must not sell tobacco products or smoking implements to any customer who cannot produce photographic identification when requested, or if the identification does not include their date of birth, or if the identification appears to have been tampered with, looks fake or looks like it has been forged.

What forms of proof of age identification are acceptable?

- A current Australian driver's licence.
- A current passport.
- A current photographic proof of age card issued under the *Liquor Control Regulations 1989* or proof of age cards issued by equivalent State or Territory governments.
- A current photo card issued under the *Western Australian Photo Card Act 2014*.

Note: ID must be current and include a photograph of the person and the person's date of birth. A University or College Student Card is not an approved proof of age card.

Who can sell tobacco products?

Licence holders and their adult employees may sell tobacco products, however it is important to note that a tobacco retailer must not authorise or allow employees under the age of 18 years to sell tobacco products.

Tobacco licence holders have a responsibility to ensure that:

- tobacco products are only available from one place of sale in the premises
- all employees receive adequate training on the laws about selling tobacco products.

Refer to the section of this document on staff training.

Are there any tobacco products that I can't sell?

Yes. The following products are prohibited from sale:

- Any tobacco product that does not comply with [plain packaging laws](#) (*Plain Packing Act 2011*) and health warnings requirements (*Competition and Consumer (tobacco) Information Standard 2011*). Refer to <https://legislation.gov.au/series/C2011A00148>
- Fruit and confectionery flavoured cigarettes.
- Single cigarettes.
- Cigarettes in a package containing fewer than 20 cigarettes. This includes packages that are designed or are capable of being split into two or more portions that contain fewer than 20 cigarettes.

Are there any other products that I can not sell?

Yes. Any food, toy or other product that is not a tobacco product, but is designed to resemble a tobacco product or package.

E-cigarette devices have been found to resemble a tobacco product and are not permitted to be sold by tobacco or other general retailers in WA.

Can I run competitions, promotions or reward schemes involving tobacco products?

No. In WA it is an offence to distribute or supply free tobacco products. Prizes, gifts and vouchers cannot be offered in connection with the purchase of a tobacco product.

It is also prohibited for tobacco products to be included in shopper loyalty reward schemes. The only exception is rewards points received when using a credit card as a method of payment, such as bank reward programs and frequent flyer points.

Storing and displaying tobacco products

Can I display tobacco products?

No. Since September 2010 retail outlets in WA have been prohibited from displaying tobacco products and smoking implements.

What does a display ban mean?

Tobacco retailers need to ensure that tobacco products, including individual packets and cartons as well as smoking implements cannot be seen by the public from inside or outside the premises.

What types of smoking implements are covered by the display ban?

The types of smoking implements covered by the display ban include:

- cigarette papers
- pipes
- cigarette holders
- rolling machines
- hookahs and water pipes intended for the use of smoking tobacco products (including shisha)
- any other smoking implements which may be used for smoking tobacco.

Matches and cigarette lighters are not smoking implements so are not covered by the display ban and may continue to be displayed.

Where can I store tobacco products for sale?

All tobacco products must be kept in a tobacco sales unit that is completely covered so that tobacco products are not visible to persons inside or outside the shop. The tobacco products that are located at the point of sale must only be:

- tobacco products that are available for sale
- unopened packages of tobacco
- opened packs of single cigars sold separately
- single cigars sold separately.

A tobacco sales unit may have cupboard doors, drawers or flippers. When doors or flippers break, require repair or need replacing, all visible tobacco products must be covered immediately. If these cannot be covered, or doors, drawers or flippers repaired immediately, then all tobacco products that remain visible as a result must immediately be removed from the tobacco sales unit and stored out of view until repairs are completed.

What happens when I'm serving a customer, or if I'm re-stocking the tobacco sales unit?

The tobacco sales unit must remain closed at all times, however incidental viewing of tobacco products is sometimes unavoidable. When removing a requested product for a customer, when replenishing the tobacco sales unit or when stocktaking, the tobacco products that are visible must not:

- comprise more than 150 product lines
- occupy more than 1m².

Also:

- only one package of each tobacco product must be visible – the tops of packs may be visible but packs of the same product cannot be displayed next to each other
- only one type of package of each product is visible (for example, soft pack/hard pack)
- any attempt to illuminate, highlight, or make a tobacco product or product line stand out or be brighter than its surroundings will be considered a display of tobacco product which is prohibited.

Keep exposure of tobacco products to a minimum, for example replenish stock and undertake stocktaking when the store is quiet or is closed.

Where can I put the tobacco sales unit?

Tobacco products can only be sold from one place within any premises. The tobacco sales unit must be located behind (but not on) a counter on the seller's side, or directly above a counter with a vertical distance of at least 1.7m between the bottom of the tobacco sales unit and the floor (on the customer's side).

Cigars may be kept in one or two cigar cabinets that are behind (but not on) a counter on the seller's side, or directly above a counter with a vertical distance of at least 1.7m between the bottom of the cabinets and the floor (on the customer's side). A cigar cabinet is defined as a fully enclosed cabinet or box that is used to store only cigars.

A retailer operating from liquor licensed premises may store cigars in one or two cigar cabinets on either side of a counter.

Note: Tobacco products must not be located within one metre of confectionery or products designed specifically for, or marketed specifically to, children.

Can I display any product information signs or price boards?

Yes. Licensed tobacco retailers may display a tobacco price sign (price board), or an information sign ("Tobacco products sold here" or "Tobacco products and smoking implements sold here").

Where can I display an information sign or price board?

The information sign or price board must:

- be located at the tobacco sales unit (place where tobacco products or smoking implements are sold)
- be located on the seller's side of a counter used for serving customers
- not be located on or in front of a counter used for serving customers.

An information sign or price board for cigars must be affixed, or immediately adjacent to the cigar cabinet.

What information can be on a price board?

A price board must:

- only contain information relating to:
 - product lines available
 - type of packaging available (pack size, soft or hard packs)
 - country of origin
 - price
- display, at the top of the sign, an approved Quitline logo that is at least 2cm in height, or at least 1cm in height in the case of a price board for cigars
- not display information about a particular product line more than once. If a product line is available in more than one type of packaging (pack size, soft or hard packs), information about each type of those packages may be displayed once.

What must the price board look like?

A price board must:

- have a white background with black lettering or a black background with white lettering and no other colouring
- be no larger than A4 size (297mm x 210mm). This does not include the area occupied by the Quitline logo
- not contain letters or numbers that exceed 1cm in height
- not contain letters or numbers in different sizes or fonts
- not present any information about a product line to make it stand out from information about any other product line.

What must the information sign look like?

The information sign must only contain the words “Tobacco products sold here”, or “Tobacco products and smoking implements sold here”. The information sign must:

- have a white background with black lettering or a black background with white lettering and no other colouring
- be no larger than A4 size (297mm x 210mm)
- not contain letters or numbers that exceed 1cm in height
- not contain letters or numbers in different sizes or fonts.

Can I provide customers with a price list?

Yes, but only if:

- it is available only upon request
- it is not available to be taken away by a customer
- it is not larger than A4 size (297mm x 210mm)
- the pages are bound or fixed together and can't be easily separated
- an approved Quitline logo that is at least 1cm in height is displayed at the top of each page.

Can I display price tickets?

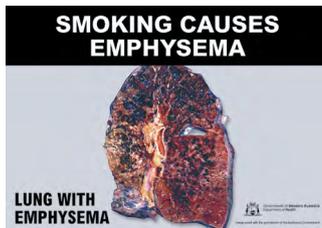
Yes, but only if an information sign or price board is **not** displayed

- All price tickets must have the same colour lettering and background
- All lettering and numbering must be the same height (maximum 8mm)
- Tickets of maximum 35cm² in size can be used to advertise the price of cigarette packets and must be black text on white background, or white text on black background
- Only one price ticket per product line is permitted
- Ad hoc or special tickets and tickets showing a sale or saving are not permitted.

What are the health warning sign requirements?

If you display an information sign, a price board or price tickets you must also display a health warning sign.

One of the following health warning signs (below) must be located adjacent to the information sign, price board or price tickets that accompany a tobacco sales unit or vending machine. The health warning sign must be A4 (297mm x 210mm) in size, or A5 (210mm x 148mm) in the case of a tobacco vending machine that is too small to display an A4 sized health warning sign.



The health warning sign shown here (right) must be located adjacent to the information sign, price board or price tickets that accompany a cigar cabinet or humidified room.

The health warning sign must be A4 (297mm x 210mm) in size, or A7 (105mm x 74mm) in the case of a cigar cabinet that is designed to be portable and has a volume not exceeding 50cm³.



These graphic health warning signs are under licence from the Commonwealth of Australia and may only be permitted by the Department of Health WA.

Graphic health warnings are available by contacting the Tobacco Control Branch, Environmental Health Directorate, Department of Health WA via email tcb@health.wa.gov.au.

What other signs must I display?

A warning sign about the prohibition of the sale of tobacco products and smoking implements to underage persons must be located above counter height adjacent to the tobacco sales unit.

This sign must be A5 sized and easily visible to a person when purchasing tobacco products or smoking implements.



Tobacco product vending machines

Can I sell tobacco products from a vending machine?

Yes, tobacco products can be sold from a vending machine if it is located within liquor licenced premises or a staff hospitality area at a mine site. The manager of the area is responsible for ensuring that tobacco products from a vending machine cannot be purchased or obtained by a child (a person under the age of 18 years).

You should ask for proof of identification from anyone attempting to purchase tobacco products from a vending machine that appears to be under the age of 25 years or whom you believe is not of legal age to purchase tobacco products.

Where can tobacco product vending machines be located within a licenced premise?

Tobacco licence holders must ensure that tobacco vending machines are positioned in an area of the liquor licensed premises or staff hospitality area of a mine site, so that it can be monitored and is clearly visible to the manager or employees at all times during the day.

A maximum of two tobacco product vending machines can be located at the liquor licenced premises or mine site.

Can price tickets be displayed on tobacco product vending machines?

Yes, price tickets can be displayed on tobacco product vending machines if they meet the following requirements:

- All price tickets must have the same colour lettering and background on all vending machines at the premises
- All lettering and numbering must be the same height (maximum 8mm) on all vending machines at the premises
- Tickets of maximum 35cm² in size can be used to advertise the price of cigarette packets and must be black text on white background, or white text on black background
- No more than four price tickets can be displayed for each product line available
- Ad hoc or special tickets and tickets showing a sale or saving are not permitted.

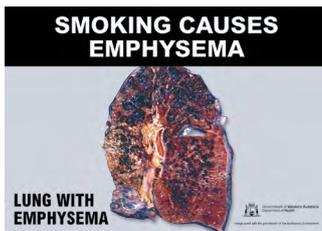
Can I display a product information sign or price board for a tobacco product vending machine?

A tobacco product vending machine may display a product information sign or price board, but only if price tickets are not displayed. Refer to the question above.

Do I have to display a health warning sign for a tobacco product vending machine?

Yes. If you display price tickets, a product information sign or a price board on the vending machine, you must also display a health warning sign. A health warning sign must be clearly visible to a customer when purchasing a tobacco product from the vending machine.

The health warning signs (below) must be located adjacent to the price tickets that accompany a vending machine. The health warning sign must be A4 (297mm x 210mm) in size, or A5 (210mm x 148mm) in the case of a tobacco vending machine that is too small to display an A4 sized health warning sign.



What other signs must I display for a tobacco product vending machine?

An A5 sized warning sign about the prohibition on the sale of tobacco products and smoking implements to underage persons must be clearly visible to a customer when purchasing tobacco products or smoking implements from a vending machine.



Penalties

Individual and Company fines may apply for any breaches of legislation and all staff are responsible to ensure they do what is right.

Fines of up to \$10,000 for a first offence and up to \$20,000 for second and subsequent offences may apply for those responsible for a breach. Note that if your business operates as a Company, fines of up to \$40,000 for a first offence and up to \$80,000 for second and subsequent offences may apply. Alternatively, modified penalties apply for some of the offences, and individuals may be issued an infringement notice and liable to pay 'On the Spot' fines.

Learn more about penalties at ww2.health.wa.gov.au/Articles/N_R/Penalties-under-the-Tobacco-Products-Control-Act-2006

Compliance

The primary role of the Tobacco Control Branch, Department of Health WA is to coordinate, develop and conduct activities to promote industry and community compliance with legislation. The Tobacco Control Branch recognises that most businesses and individuals want to comply with the law, and care is taken to assist businesses and others in meeting their legal obligations without unnecessary expense.

However, firm action will be taken, including prosecution where appropriate, against those who flout the law or act irresponsibly.

Compliance activities include retailer and industry education, advisory visits and inspections. It may also include service of 'On the Spot' fines and prosecution action.

Staff training – sales to minors

What information must I give my employees?

Retailers play an important role in tobacco product control by ensuring their businesses operate in accordance with provisions of the Act that aim to prevent the sale or supply of tobacco products and smoking implements to minors.

It is vital that your employees receive adequate information and training on the laws relating to the sale and supply of tobacco products and smoking implements.

It is recommended that you provide this information and training at least every six months.

The training you provide must inform employees that:

- it is illegal to sell or supply a tobacco product or smoking implement to anyone under the age of 18 years
- a tobacco retailer must not authorise or allow employees under the age of 18 years to sell tobacco products
- adult employees must ask for proof of age identification from anyone asking for a tobacco product or smoking implement that appears to be under the age of 25 years or who they believe may not be of legal age to purchase tobacco products or smoking implements
- acceptable forms of proof of age identification are:
 - a current Australian driver's licence
 - a current passport
 - a current proof of age card issued under the *Liquor Control Regulations 1989* or proof of age cards issued by equivalent State or Territory government
 - a current photo card issued under the *Western Australian Photo Card Act 2014*
- they should not sell tobacco products or smoking implements to any person who they believe will supply that tobacco product or smoking implement to a person under the age of 18 years
- if they sell or supply tobacco products or smoking implements to a person under the age of 18 years they are committing an offence under the Act, and enforcement action may be taken against them if they are found to have broken the law
- products that resemble tobacco products (food, toy or other product), including e-cigarette devices, cannot be sold by tobacco or general retailers.

Note: Proof of age identification must be current and include a photo of the person and the person's date of birth.

Note: A University or College Student Card is not an approved proof of age card.

A staff training package, (including an acknowledgement form and checklist, questionnaire and answer sheet) have been developed to support retailers to train and assess their staff knowledge and understanding of the laws regarding the sale and supply of tobacco products in Western Australia.

The training package is available for download from the WA Department of Health, Tobacco Control webpage at https://ww2.health.wa.gov.au/Articles/F_I/Guides-to-support-tobacco-retailers-and-license-holders.

This document can be made available in alternative formats on request for a person with disability.

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