

# **PREVENTING TOBACCO SALES TO MINORS**

## **Frequently Asked Questions**

### **1. WHAT IS THE TOBACCO YOUTH ACCESS LAW?**

City of Philadelphia Ordinance Section §9-622. Cigarettes and Tobacco Products- first enacted in 1995. In November 2010 City Council voted unanimously to increase penalties for violations of the law. The law states:

- No tobacco sales to minors (anyone under 18 years of age)
- No sale of unpackaged cigarettes or cigars (“loosies”)
- Clerk must check ID of anyone who appears under the age of 27
- Age warning sign must be posted

Store owners are responsible for illegal sales made by their employees.

### **2. WHY DO THESE LAWS EXIST?**

These laws are designed to protect the health of our young people by preventing them from becoming addicted to tobacco products. Cigarette smoking is the leading cause of preventable death in the United States,<sup>1</sup> accounting for approximately 443,000 deaths, or 1 of every 5 deaths, in the United States each year.<sup>2,3</sup> Each day, 4,000 U.S. children try their first cigarette and 1,000 become regular smokers.<sup>4</sup> Nearly 90% of adult smokers begin smoking in their teens.<sup>5</sup>

### **3. IS THE SALE OF TOBACCO TO MINORS A PROBLEM IN PHILADELPHIA?**

Yes, it definitely is a big problem. About one-third of compliance checks result in a sale to a minor. In fiscal year 2012 the sales rate to minors was 30%. Although the youth sales rate has decreased from fiscal year 2011 by almost 20%, there is still a lot of room for improvement to protect the health of young people. In 2009, one-third of youth smokers in Philadelphia reported that they regularly purchased their own cigarettes.<sup>6</sup>

### **4. WHAT IS A TOBACCO COMPLIANCE CHECK AND HOW IS A CHECK CONDUCTED?**

A tobacco compliance check is how Philadelphia, as well as cities and states across the country, work to prevent illegal tobacco sales to youth. An adult and a youth who is under 18 years-old conduct these checks. The minor uses his/her actual ID and attempts to purchase tobacco. If a sale occurs, a ticket will be issued within a few days.

### **5. WHAT IS THE EVIDENCE OF THE SALE?**

The tobacco product purchased by the youth is labeled by the adult with information about the sale and is placed in a plastic bag. In addition, the adult completes a survey which includes the date, time, and location of the sale; the product that was sold; and the purchase price.

## **6. DO YOUTH SURVEYORS RECEIVE INCENTIVES FOR GETTING SALES?**

No. Both youth and adults that conduct compliance checks are paid by the hour regardless of the result of the compliance check survey.

## **7. WHY DID I RECEIVE MORE THAN ONE TICKET, ALSO KNOWN AS A CODE VIOLATION NOTICE?**

Vendors can receive up to 4 tickets per compliance check. Each ticket is for \$250. Tickets are issued for the following reasons:

- \$250 fine for the sale of a tobacco product to a minor (under 18)
- \$250 fine for sale without checking ID
- \$250 fine for sale of tobacco removed from packaging (loosies)
- \$250 fine for no age warning sign posted

## **8. WHY ISN'T A TICKET ISSUED IMMEDIATELY AFTER THE SALE?**

In order to protect the identity of the youth surveyor, the youth or the adult chaperone cannot issue the ticket. A City of Philadelphia health sanitarian issues the ticket after receiving notice that a merchant made a sale to a minor. The average time between a compliance check and delivery of a ticket is less than 5 business days. Our goal is to issue tickets within 2 business days.

## **9. WHY DOES THE CITY GIVE ME TICKETS EVERY YEAR?**

We try to check each store every year, and then recheck stores that sold tobacco to youth on the first check. For stores that sell illegally once, about 35% will sell to a minor again when they are rechecked.

## **10. WHY DID I GET A TICKET, EVEN THOUGH I ASKED FOR ID?**

All youth who conduct compliance checks are under 18 years-old. If you (or your clerk) asked for ID and appropriately checked it, you would see that the youth was under 18. In this case, you should have denied the sale.

## **11. WHY DID I GET A TICKET; I NEVER SOLD TO A MINOR?**

Tickets are only given to stores that sell tobacco to a minor during a tobacco compliance check. The sale could have been made by you or one of your staff. If you feel that you were issued a ticket in error, you may appeal it by following the instructions on the back of the ticket under, "OTHER INSTRUCTIONS."

## **12. WHY AM I RECEIVING A TICKET IN THE MAIL ONE MONTH LATER?**

This is not a ticket. It is a notice to remind you to pay the ticket which was issued. If you do not pay a ticket within 10 days, a reminder is automatically sent to you after 30 days with a copy of the ticket enclosed. The copy will include the date on which the ticket was issued.

## **13. HOW DO I PAY FOR A TICKET?**

Tickets can be paid online: [www. Phila.gov](http://www.Phila.gov). Select *Pay code violation notices*;

Tickets can also be paid in person at the Violations Branch on behalf of the Finance Dept.:  
913 Filbert Street  
Philadelphia, PA 19107

#### **14. HOW DO I APPEAL A TICKET IF I BELIEVE A VIOLATION WAS ISSUED IN ERROR?**

If you think that a ticket was issued in error, you may request a hearing with the Office of Administrative Review. You can make this request by following the instructions on the back of the ticket under, "OTHER INSTRUCTIONS. You will receive a notice in the mail scheduling a hearing at the Office of Administrative Review.

#### **15. DO I NEED AN ATTORNEY / LAWYER, FOR AN ADMINISTRATIVE HEARING?**

No. Administrative hearings do not require an attorney / lawyer, but you may bring one if you want.

#### **16. WILL AN INTERPRETER BE PROVIDED AT THE ADMINISTRATIVE HEARING?**

If you would like to request an interpreter, you should call the Office of Administrative Review 215-567-2605, in advance to request one. You may also do so when you report for your scheduled hearing, but the hearing will be postponed so that an interpreter can be present.

#### **17. IS MERCHANT EDUCATION MANDATORY; I ALREADY KNOW THE LAW?**

Merchants have the right to refuse the education. However, it is always in the owner's best interest to refresh his memory about the Philadelphia Youth Tobacco Access Laws and to have their employees participate in the training as well. It is the responsibility of the store owner to train all employees and family members who work at the register. The owner is responsible for any violations that occur in their store, so it is important to make sure that all employees know how to comply with the law. To request an education session in English, Spanish or Chinese call: 215-731-6150.

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<sup>1</sup>Centers for Disease Control and Prevention. Vital Signs: Current Cigarette Smoking Among Adults Aged  $\geq$  18 Years—United States, 2005–2010. *Morbidity and Mortality Weekly Report* 2011; 60(33):1207–12 [accessed 2012 Jan 24].

<sup>2</sup>Centers for Disease Control and Prevention. Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States, 1995–1999. *Morbidity and Mortality Weekly Report* 2002; 51(14):300–3 [accessed 2012 Jan 24].

<sup>3</sup>Centers for Disease Control and Prevention. Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 2000–2004. *Morbidity and Mortality Weekly Report* 2008; 57(45):1226–8 [accessed 2012 Jan 24].U.S.

<sup>4</sup>Substance Abuse and Mental Health Services Administration (SAMSHA), HHS, *Results from the 2010 National Survey on Drug Use and Health, NSDUH: Summary of National Findings*, 2011.

<sup>5</sup>SAMSHA, HHS, Calculated based on data in 2009 National Household Survey on Drug Use and Health. <http://www.oas.samsha.gov/nsduh.htm>.

<sup>6</sup>Centers for Disease Control and Prevention, Youth Risk Behavior Survey 2009.