

Trading Standards

Age Restricted Sales



**Information and guidance for retailers
on legal requirements and best practice**

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Contacting Us

If you would like further copies of this guidance booklet, which is available in a variety of languages and large print, or you would like a refusals register or more information on age restricted sales, please contact us.

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Introduction

Age restricted products in the wrong hands can cause serious harm and can cause children and young people to act in anti-social ways that blight the lives of other individuals and communities.

This booklet has been produced by Staffordshire County Council's Trading Standards as a common sense guide to help retailers to better understand their legal and social responsibilities. It will particularly benefit small businesses who may not have access to their own legal advisors, however all retailers are recommended to read the guide and to implement the suggested precautions.

These guidelines provide details of the laws governing each product, the consequences of breaking the law and practical guidance on how to avoid doing so.

It is important that you keep up to date with any amendments to the law, you can do this by contacting Staffordshire County Council's Trading Standards who offer free advice and training.

It is in everyone's interest to stop young people from buying these types of products.

Section One

This section is intended for **use by the business owner and/ or the person responsible for delivering staff training**. If your store has a licence to sell alcohol the Designated Premise Supervisor (DPS) has responsibility for ensuring staff training is carried out. The person(s) reading Section One should also read Section Two and complete the Test of Knowledge before carrying out any staff training. These tests can be found on the following web page: **www.staffordshire.gov.uk/Agerestricted**

Section Two

This section is designed for **use by all staff**. Staff can read through the information independently; or the trainer can use the section to discuss the information with staff individually, or in groups. Whichever method is chosen it **should always be recorded** using the table provided, at the back of the booklet, and then followed up with a test of knowledge.

Please be aware that this training material is to help you start your own training system and you are encouraged to build upon it as deemed appropriate for your business.

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Preventing Underage Sales

If you, or a member of your staff, make a sale to an underage person you may be prosecuted.

In deciding whether or not to prosecute, a number of issues will be taken into consideration. These are fully explained in the Enforcement Policy available from the Staffordshire County Council web site which is listed at the front of this booklet. In particular the precautions you have taken to avoid committing the offence will be taken into account; it is a defence for the accused to show that they exercised all due diligence to avoid committing the offence.

Doing nothing is not an option, if you or your staff do sell an age restricted product and you have failed to take any precautions you are more likely to be prosecuted.

It is for each business to decide what steps it needs to take to avoid sales, some of the steps businesses commonly use include;

- Ensuring training is provided and records kept for all staff.
- Operating the 'Challenge 25' & 'No ID No Sale' Policy.
- Operating a refusals register.
- Displaying prominent notices.
- Using a till prompt system.
- Advising staff on how to spot under age purchasers.
- Handling refusals appropriately.
- Carrying out self checks and assessments.
- Proxy Sales.
- Other Precautions.

These precautions and other steps you can take are explained in more detail in the following pages.

Staff Training

It is important to train your staff, so that they understand their legal responsibilities and obligations. You should also train your staff in the policies and procedures your business operates to prevent underage sales and the consequences of not following them. This training should be given to all staff, including family members who may help out occasionally and staff who do not operate on the tills.

Written records of training, detailing the date and content, should be kept for each staff member. Training material should be signed off by the trainer and the staff member receiving the information. To ensure staff have understood the training a test of knowledge should be completed. A copy of this test should be kept with your training records. Any incorrect answers should be discussed with the staff member to clarify their knowledge and a re-sit should be considered.

Once staff have received an initial training session they should be given refresher training at least every **6 months**. This refresher training can be in the form of a knowledge test or a refresh of information combined with a test of knowledge. Again, a record of any refresher training should be signed, dated and kept with your training records.

Prominent Notices

Signage advising members of the public of the policies that the shop have in place, such as 'No ID No Sale' and 'Challenge 25', will help deter potential underage purchasers. It sends out a constant and consistent message that under no circumstances will the store serve an age restricted product to somebody who is not the required age.

Till Prompts

A useful way of reminding members of staff that they need to check the purchaser's age before completing the sale is by using reminders on point of sale terminals. Programming terminals so that a message such as 'Check age!' is displayed, when an age restricted product is scanned through, ensures that staff verify the purchaser's age before continuing with the sale. Ideally the till operator should have to key in the purchaser's age, or a button should have to be pressed by the member of staff to confirm that they have performed the age check.

If your till is not the type that can be programmed to give a 'prompt' then a written reminder on the till may assist your staff.

Self Checks & Assessments

You should be checking that your staff are following procedures. You can use the Refusals/ Challenge Register to check the entries staff are making. Where entries are not being made you should discuss this with relevant staff, as it may identify a training need and at what time of day you need to take extra care. Sign and date the Refusals/ Challenge Register each time you check it, which should be at least every two weeks.

A Test of Knowledge after training helps identify what your staff have understood and identify any gaps in the training.

You can supervise staff or use CCTV to monitor staff and check they are asking for ID.

Do not send in underage persons to test your staff. They should be over 18 but look under 25. There are companies who can be commissioned to carry out these checks for you.

Proxy Sales

A proxy sale is when someone over the age of 18, purchases an age restricted product on behalf of someone underage. Being proactive in preventing young people attempting to purchase age restricted products is good practice and should be adopted by every retailer. Proxy sales may occur when a person or persons underage, congregate outside your premise and ask other shop users to purchase an age restricted product for them. If you are aware of this happening you should refuse the sale, and remind the adult customer that they are committing an offence by engaging in a proxy sale. Monitoring the inside and outside of your shop is a good way to prevent this. Proxy sales may also occur when a parent/relative or older friend attempts to purchase an age restricted product for a person underage. If you suspect that the product will be given to a person underage you should refuse the sale.

Other Precautions

Other precautions you may wish to consider:

- Regular examination of any store CCTV,
- Senior/experienced members of staff on duty at the time of most risk, e.g. after school, school holidays etc.,
- To only allow senior staff to sell age restricted products,
- Consider moving displays of age restricted products to nearer the counter or even behind it, to minimise the risk of theft and to deter underage purchasers,
- Liaise with Police and Local Authorities.

In relation to Licensing Issues

Ensure you have a written Authorisation, by the Designated Premise Supervisor (DPS), for staff to be selling alcohol in their absence. Also, ensure you have a full copy of your Premise Licence on site as well as the Premise Licence Summary being displayed in the store.

Checklists/ Reminders

Please note that the information on this page should be shared with all staff during their training, once the relevant responsible person has completed it.

Staff Refresher Training Due Dates:

MM/YY MM/YY MM/YY MM/YY MM/YY

Notices to be Displayed

Prominent / Legal Notices	Where Displayed?
Statutory Tobacco Notice	
Premise Licence Summary	
Challenge 25 Posters	
Proxy Posters (if applicable)	
Statutory Fireworks Notice (if applicable)	

Location of Full Premise Licence (This should be in the premises)

.....

Location of DPS Written Authorisation (for staff to serve alcohol)

.....

Location of Tobacco Prices

.....

Section Two Staff Training Manual

Important

It is a criminal offence if you, or a member of your staff sell an age restricted product to an under age person.

Trading Standards frequently carry out 'test purchases' involving young people to test the systems in place at premises selling age restricted products.

Summary of Age Restricted Products

Product	Age Restriction
Alcohol	18
Butane	18
Volatile Substances	18*
Fireworks	18
Tobacco	18
Nicotine Inhaling Products	18
Spray Paints	16
Knives and Blades	18
BB Guns	18
Lotteries (including scratch cards)	16
Video/DVDs	12/15/18 (BBFC)
Video Games	12/16/18 (PEGI)
Party Poppers	16

*If reasonable cause to believe product will be used for causing intoxication

Alcohol

Licensing Act 2003

It is an offence:

- To sell alcohol to a person under the age of 18 years.
- To sell to anyone buying alcohol on behalf of a person under the age of 18.
- To sell alcohol to a person who is intoxicated.
- To allow a person who is under 18 to sell alcohol unsupervised.
- To persistently sell alcohol to children.

If a sale is made, the person buying, the person selling, the Premise Licence Holder and the Business Owner are all breaking the law.

Offenders are liable to an unlimited fine and the Premises Licence may be reviewed, and could result in a reduction in serving hours, new or amended conditions (e.g. Challenge 25) or even suspension or revocation of the licence.

If alcohol is sold on two or more occasions from the same premises within a three month period, this offence carries an unlimited fine, or a suspension of licence or a closure order.

The Designated Premise Supervisor (DPS) as identified on the Premise Licence should authorise you to sell alcohol. The full Premise Licence should be on site and the Premise Licence Summary should be displayed in store.

A product of 0.5% ABV or over is classed as alcohol.

Tobacco

Children and Young Person’s Act 1933

Children and Young Persons (Protection from Tobacco) Act 1991

Children and Families Act 2014

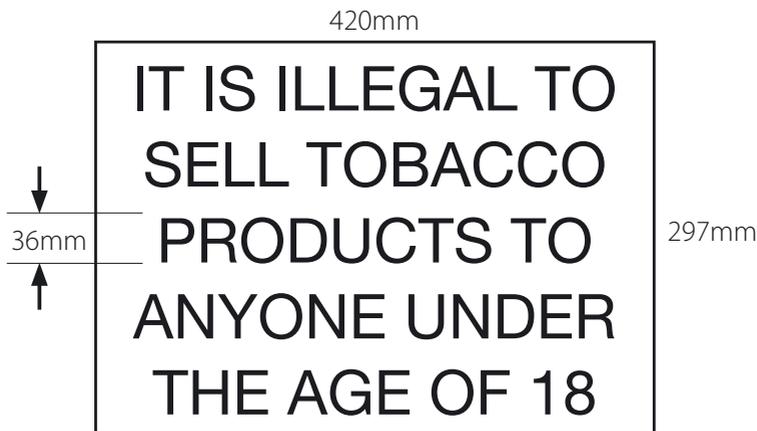
It is an offence to sell tobacco or tobacco products to a person under the age of 18.

It is also an offence for a person aged 18 or over to buy or attempt to buy tobacco on behalf of an individual aged under 18.

Tobacco products include cigarettes, cigarette papers, products intended to be smoked as a substitute for tobacco, and any other product that contains tobacco.

Cigarettes can only be sold in pre-pack quantities of ten or more (in their original packaging). It is an offence to sell cigarettes individually to anyone whatever their age.

Anyone who sells any cigarettes must display a notice stating;



Copies of the notice are available from Trading Standards.

Anyone who sells any tobacco products to under 18’s and/ or fails to display the above notice commits an offence and could be fined up to £2,500.

An adult purchaser of a tobacco product, who purchases the item on behalf of an individual aged under 18 years commits an offence and could be fined up to £2500. Although the adult has committed the offence, you have a duty as a responsible retailer to prevent such sales from occurring.

There is also an offence for the persistent sale of tobacco products. ‘Persistent’ is defined as, at least two previous sales of a relevant product in a two year period. (Relevant products include; cigarettes, tobacco, cigarette papers and nicotine inhaling products)

For this offence a Restricted Premises/ Sales Order can be applied to a premise/ individual for up to 12 months which then prevents that premise/ individual from selling the relevant product/s. An individual would also be prohibited from having involvement in the management of a business engaged in selling the relevant products. A breach of these orders can incur an unlimited fine.

Tobacco Display Ban

The Tobacco Advertising & Promotion (Display)(England) Regs 2010

The Tobacco Advertising & Promotion (Display of Prices) (England) Regulations 2010

Tobacco products need to be covered from public view, including when being transported through the premises. There are exemptions regarding when the tobacco products can be exposed. A price list of specific size with prescriptive font type is used to inform customers what products are being sold.

Anyone who in the course of a business displays tobacco products, or causes tobacco products to be displayed, or displays the prices of tobacco in a way that does not meet the requirements of the legislation, will be guilty of an offence unless an exemption applies and could face;

On summary conviction in a Magistrates Court to an unlimited fine, or imprisonment for a term not exceeding 6 months or both.

Or

On conviction on indictment in the Crown Court to imprisonment for a term not exceeding 2 years, a fine or both.

For further details regarding the above please contact Trading Standards using the contact details located at the front of this booklet.

Nicotine Inhaling Products

Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

Children and Families Act 2014

It is an offence to sell a nicotine inhaling product to a person under 18 years old. It is also an offence for a person aged 18 or over to buy or attempt to buy a nicotine inhaling product on behalf of an individual aged under 18.

A 'nicotine inhaling product' is defined as any of the following:

- a nicotine inhaling device (used to inhale nicotine through a mouthpiece);
- a nicotine cartridge (contains nicotine and forms part of a nicotine inhaling device);
- a nicotine refill substance (usually referred to as an e-liquid).

Nicotine inhaling devices are generally referred to as electronic cigarettes or e-cigs. The law covers both disposable and rechargeable devices. Customers may refer to their use of these products as 'vaping'.

Anyone who sells any nicotine inhaling products to a person under 18 years old commits an offence and could be fined up to £2500.

An adult purchaser of a nicotine inhaling product, who purchases the item on behalf of an individual aged under 18 years commits an offence and could be fined up to £2500. Although the adult has committed the offence, you have a duty as a responsible retailer to prevent such sales from occurring.

There is an exception for nicotine inhaling products that are licenced as medicines or medical devices. This exemption only applies to the extent to which the product is authorised.

There is also an offence for the persistent sale of nicotine inhaling products. 'Persistent' is defined as, at least two previous sales of a relevant product in a two year period. (Relevant products include; cigarettes, tobacco, cigarette papers and nicotine inhaling products)

For this offence a Restricted Premises/ Sales Order can be applied to a premise/ individual for up to 12 months which then prevents that premise/ individual from selling the relevant product/s. An individual would also be prohibited from having involvement in the management of a business engaged in selling the relevant products. A breach of these orders can incur an unlimited fine.

Butane

Cigarette Lighter Refill (Safety) Regulations 1999

Consumer Protection Act 1987

It is an offence to sell/ supply any cigarette lighter refill canister containing butane, or a substance with butane as a constituent part, to any person under 18 years old.

The penalty is an unlimited fine and/ or up to 6 months imprisonment.

Important Note

All age restricted products are dangerous or harmful to young people but this product is probably the most dangerous:

It can kill a child the first time it is inhaled.

Volatile Substances

Intoxicating Substances (Supply) Act 1985

It is an offence to supply a substance to anyone under 18 or a person acting on behalf of a person under the age of 18 if you know, or have reasonable cause to believe, that the substance is or its fumes are likely to be inhaled by the person for the purpose of causing intoxication.

It is not an offence to sell Volatile Substances for the use normally intended for that product.

Anyone who commits an offence faces an unlimited fine and/ or 6 months imprisonment.

Volatile substances include: nail varnish remover, hairspray, turpentine, anti freeze, deodorant and antiperspirant.

Spray Paints

Anti-Social Behaviour Act 2003

It is an offence to sell an aerosol paint container to a child under the age of 16.

An aerosol paint container is defined as a device which contains paint stored under pressure and is designed to permit the release of the paint as a spray.

The maximum penalty is a fine of £2,500.

BB Guns

Violent Crime Reduction Act 2006 (Realistic Imitation Firearms) Regulations 2007

Violent Crime Reduction Act 2006

Realistic Imitation - These are grey/black or another realistic gun colour with the size and shape similar to a gun, whether it is capable of firing or not. It is an offence to sell these to any age apart from exceptions such as for Airsoft Skirmishing or Theatrical/ TV/ Museum use.

Un-Realistic Imitation - These are under a certain size (70mm in length x 38mm in width) or one of the specific bright colours (Red; Orange; Yellow; Green; Pink; Purple or Blue). It is an offence to sell these to any person under 18.

Toy Guns - Do not have the appearance of a gun e.g. supersoakers/ futuristic. These have no age restriction.

The maximum penalty for selling an un- realistic imitation to a person under 18 is an unlimited fine and/ or 6 months imprisonment.

Fireworks

Pyrotechnic Articles (Safety) Regulations 2015

Firework Regulations 2004

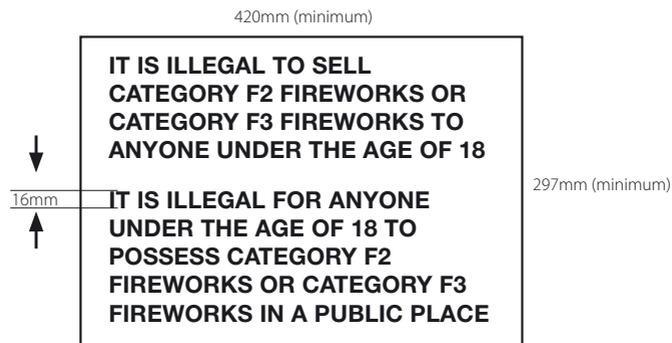
Consumer Protection Act 1987

It is an offence to supply Category F2 and F3 fireworks (including sparklers) to anyone under 18 years of age.

It is also an offence to sell Category F1 fireworks (includes birthday cake fireworks; party poppers; throw downs & serpents) to anyone under 16 years of age.

The penalty for committing an offence is an unlimited fine and/ or 3 months imprisonment.

All premises that wish to sell fireworks must obtain a licence, to store and sell the fireworks, from their local Licensing Authority. This licence will dictate what quantity of fireworks you may store and when you may sell those fireworks. You must also display a notice stating:



This notice should be no less than 420mm by 297mm (A3), with letters no less than 16mm high.

Fireworks, categories F2 and F3 are defined as adult fireworks because they can only be used outside; F2 in confined spaces (e.g. gardens) and F3 in large open spaces. Category F1 covers party poppers and other low risk fireworks.

Knives and Blades

Violent Crime Reduction Act 2006

Offensive Weapons Act 1996

Criminal Justice Act 1988

It is an offence to sell to a person under the age of 18 any knife, knife blade, razor or axe.

It does not apply to a folding pocket knife with a blade of less than 3 inches, a razor blade permanently held in a cartridge or similar housing. It also doesn't apply to items such as scissors or a compass.

The maximum penalty for selling one of these products to a person under 18 is an unlimited fine and/ or 6 months imprisonment.

Videos and Video Games

Video Recordings Acts 1984 and 2010

It is an offence for a person who supplies or offers to supply a video recording (including games) to a person who has not attained the age specified.

The British Board of Film Classification (BBFC) issues certificates for video recordings. The legal age restrictions apply to the 12, 15 and 18 certificates. The U and PG certificates are for guidance.

The Pan European Game Information (PEGI) system certifies video games and the legal age restrictions apply to the 12, 16 and 18 certificates. The 3 and 7 certificates are for guidance.

We would urge responsible retailers to abide with guidance certificates.

When magazines offer a free DVD or Video Game, the magazine and the free item become age restricted to the age of the free DVD or Video Game.

The maximum penalty for committing an offence is an unlimited fine and/ or 6 months imprisonment.

Lotteries

National Lottery Regulations 1994

Gambling Act 2005

National Lottery etc. Act 1993

It is an offence to sell a Lottery ticket or scratchcard to anyone under 16.

It is also an offence for anyone under 16 to sell a ticket or scratchcard.

Under the National Lottery Operator's Licence, retailers must display one or more notices which state that it is unlawful to sell tickets to anyone under 16; and provide a telephone number which members of the public may call to report retailers who are not following the law.

The fine for committing an offence is up to £5,000.

Other Products

(Best Practice – self implemented restrictions)

There are other products that do not carry a legal age restriction but do have health/ social implications for young people who use them frequently. Therefore we ask retailers to be responsible and consider imposing their own age restrictions on these products.

Product	Self Implemented Age Restriction
Energy Drinks	16
Caffeine Supplements	16

No ID No Sale

A 'No ID No Sale' Policy means that anyone who is suspected to be under the legal age restriction should be asked for identification (ID). If they cannot provide reliable ID to verify their age, then under no circumstances should they be sold the product. Asking for ID is the best way to establish a person's age. Asking questions such as "how old are you?" is not good enough.

ID needs to be reliable, so only accept the following forms;

- Photo Driving licence.
- Passport.
- PASS endorsed ID with a PASS hologram, e.g. Citizencard.

You should take the ID off the person so you can check it is not fake. For instance, check a driving licence by running your finger over the person's surname and the codes at the bottom, then on the back the headings in the table, these should be raised. If the date of birth is raised it has been tampered with and should not be accepted.

Challenge 25

Challenge 25 is widely used in Staffordshire and nationally. Anyone who appears to be under 25 should be asked for ID. It reduces the likelihood of mistaking somebody who is under the age restriction, as being old enough. A young person is less likely to appear 25 than they are 16 or 18. This policy should be used alongside 'No ID No Sale'.

Remember – It is your licence and/ or livelihood that will suffer if you hesitate to question those customers' whose ages you are unsure of.

How to Spot Underage/ Proxy Purchasers

There are certain signs that can indicate somebody may be underage.

- Their body language/attitude should be assessed alongside appearance.
- You may know which products attract the underage buyers.

When trying to assess age it is useful to look at the people they are with; whether they are at the till or in the store together. Do not be afraid to request ID from the whole group before going ahead with the sale.

Adults may also come and attempt to purchase products that you have just refused to serve a young person, indicating that the adult is buying on behalf of the young person. In this situation the adult should be refused, even though they are old enough to purchase the product, as making the sale could be seen as the store allowing the supply of the product to the young person. Refusal to serve the adult prevents them from breaking the law as they can be issued with an £80 on the spot fine or face a fine in court up to £5000.

Other potential problems involve people buying dangerous combinations of products such as glue and plastic bags, or large quantities of alcohol and fireworks. Again these types of sales should be refused.

These are useful guides and can be used in training staff; however, on their own they are not adequate. **Remember, No ID No Sale; don't guess!**

Handling Refusals

It is important when refusing to serve somebody that it is done in a polite and professional manner, apologise then explain that the law says you are not allowed to serve them with the product, and that you can be prosecuted. Try not to antagonise or humiliate the person as this may create further problems. Avoid prolonged eye contact and if problems persist seek the assistance of another member of staff. If the person becomes violent or threatening you should telephone the Police. Record these incidences in the Refusal/ Challenge Register to enable other staff to be aware of any potential problem people.

If you feel uncomfortable asking for ID you must speak to your Manager/ Business Owner. Ask them to provide you with further training, such as shadowing a more experienced member of staff to see how they do it; or doing role play scenarios around refusals.

Refusals/ Challenge Register

A Refusals/ Challenge Register is a book that is used to record every time a member of staff refuses to serve someone, no matter what the reason may be. It can also be used to record when a challenge for ID is made and the customer presents an acceptable form of ID. The register helps staff refuse further attempted purchases. All staff should read the register when they start their shifts to identify any customers who may attempt to purchase the age restricted product again when a new staff member is working.

The Refusals/ Challenge Register should be kept by the till(s).

Refusals/ Challenge Registers are available from Staffordshire County Council.

