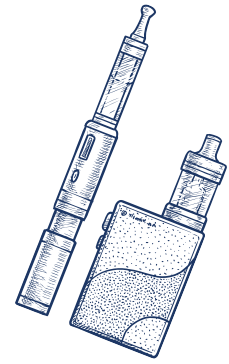


FEDERAL TOBACCO 21

THE LAW OF LAND



Congress recently passed a \$1.37 trillion spending bill that included a provision to raise the minimum legal sales age for all tobacco products from 18 to 21 nationwide. Upon the President's signature on December 20, 2019, the age change became effective immediately. Highlights and FAQs are below:

- » It is now a violation of federal law for any retailer to sell any nicotine or tobacco products to anyone under the age of 21.
- » FDA will oversee enforcement of the minimum legal sales age at 21. (Due to the dramatic increase in e-cigarette use by middle and high school age youth since 2016, there is an opportunity to strengthen local and state level enforcement measures around all tobacco and nicotine products to supplement the FDA's national efforts.)
- » There are no exemptions for sales to members of the military who are under 21.
- » The law does not phase in age restrictions (i.e., there is no "grandfathering") of those who are currently 18, 19, or 20.
- » The law does not preempt cities, counties, or states from passing and enforcing their own age restriction laws and does not preempt Tobacco 21 laws already in place in cities, counties, and states.
- » The law penalizes retailers for selling tobacco products to youth, not those attempting to purchase, although many states and cities retain purchase, use, and possession (PUP) laws.
- » The law does not require that states pass laws to raise their sales age to 21, but it does require states to demonstrate that their retailers are complying with the law. If not, the state eventually risks losing some portion of their federal substance abuse grant funding.

THE MINIMUM
LEGAL SALES AGE
**FOR ALL
TOBACCO
PRODUCTS**
IS NOW
21

WHAT DOES THE FEDERAL TOBACCO 21 BILL DO?

- » Amends the Federal, Drug, and Cosmetic Act 906(d) to include a new subsection, 906(d)(5), which states: **Minimum Age of Sale–It shall be unlawful for any retailer to sell a tobacco product to any person younger than 21 years of age.*
**Note: This amendment makes it clear that the retailer is responsible, rather than the sales clerk or youth purchaser.*
- » Amends Federal, Drug, and Cosmetic Act 906(d) (3)(ii) to restrict the FDA from establishing a minimum legal sales age above age 21.
- » FDA will continue to enforce the minimum legal sales age. The law does not increase fines/penalties for violations.
- » Amends the Public Health Services Act Sec. 1926 (42 U.S.C. 300x-26) (the Synar Amendment) with respect to grant monies, enforcement, implementation, and compliance rates (discussed more in depth in Question 5).
- » Enables the Secretary of Health and Human Services to promulgate regulations for tobacco product sales to increase the minimum age of sale from 18 to 21 and update the ID verification age from 27 to 30.
- » The law provides grant funding to the states to assist in obtaining retailer compliance, but federal funds are meant to “supplement” state-funded tobacco control efforts not “supplant” state funding to that effect.
- » United States Health and Human Services will provide technical assistance to the states.
- » No exemptions or phase-ins were included, including no military exemption or grandfathering of age groups.
- » The law does not preempt states or localities from passing their own age restriction laws.
- » Congress appropriated \$18.5 million in grant money available to support states in their transition, with a sunset period until September, 2024.



The bill is available at the link provided below and the Tobacco 21 provisions begin on page 1492

- » <https://docs.house.gov/billsthisweek/20191216/BILLS-116HR1865SA-RCP116-44.PDF>
- » <https://tobacco21.org/federal-tobacco-21-faq/>



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