

Tobacco 21

It is now illegal to sell any tobacco product - including cigarettes, cigars and e-cigarettes - to anyone under 21

What is Tobacco 21?

On December 20th, 2019 President Trump signed a bill raising the minimum age-of-sale of tobacco products from 18 to 21. This applies to cigarettes, cigars, little cigars, smokeless tobacco, e-cigarettes and vaping products, and other tobacco products.

It is now illegal to sell tobacco products to anyone under the age of 21. This is true even though as of January 10, 2020, Kentucky law still lists the minimum age-of-sale as 18. There are no exemptions for military personnel, people between the ages of 18 and 21 who were previously allowed to purchase tobacco products, or any other group.

This bill does not apply to nicotine replacement therapy (e.g. patches, gum, lozenges, etc.). This bill also does not apply to e-cigarettes that do not contain nicotine (e.g. e-liquids that only contain flavors or that contain substances like CBD, THC, etc. without the addition of nicotine).

How and when will Tobacco 21 be enforced?

The U.S. Food and Drug Administration (FDA) is charged with enforcing laws that prevent illegal tobacco sales to minors. Currently the FDA has a contract with Kentucky Alcoholic Beverage Control (ABC) to conduct compliance checks in Kentucky. This contract will need to be updated to change language from 18 to 21.

According to the federal bill, the FDA has up to 180 days to update existing regulations, followed by 90 days to implement the regulations. This means the FDA might not enforce the new Tobacco 21 law until 270 days after the bill was signed on December 20, 2019.

What about Kentucky state law?

Kentucky law currently considers the age of sale to be 18, but federal law pre-empts Kentucky law. This means the federal law applies to Kentucky and other states, even if Kentucky law is not changed. Kentucky does not need to pass legislation raising the age of sale to 18, but because there are currently differences between state law and federal law, it would be easier and less confusing to enforce the federal law if Kentucky law changes to match the federal law.

How can communities help?

Local health departments and healthcare providers are encouraged to promote tobacco cessation to all tobacco users, including those between the ages of 18 and 21 who are no longer able to legally purchase tobacco products. Community coalitions are encouraged to reach out to tobacco retailers to ensure they understand the new law and that Tobacco 21 is in effect.

What resources are available?

If you know of a tobacco retailer that is selling tobacco products to minors, you can report them to the FDA at: [FDA.gov/tobacco-products/compliance-enforcement-training/report-potential-tobacco-product-violation](https://www.fda.gov/tobacco-products/compliance-enforcement-training/report-potential-tobacco-product-violation)

