

# Tobacco Retailers Guide

From 1 March 2012

Department of Health and Human Services  
Public and Environmental Health



## Message from the Director of Public Health

This guide aims to help tobacco retailers comply with legal provisions around the sale and display of tobacco products in Tasmania.

Tobacco is a lethal product which kills more than 500 Tasmanians each year. This is why we place such strong restrictions on how it is sold – although it is just one of the many ways we are working to reduce the harm that smoking causes to individuals, our community and our health system.

There is recent evidence that such measures are working. But while smoking rates are declining in Tasmania, we must continue our efforts.

From 1 March 2012, new tobacco control laws come into effect. These include stronger restrictions on the sale and display of tobacco products by specialist tobacconists and licensed venues. Provisions around how a tobacco seller's licence is obtained, transferred and displayed have also been amended.

I strongly advise all retailers to read this guide in conjunction with the *Public Health Act 1997* which can be accessed at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

If you need more information, contact a Tobacco Control Officer, or go to [www.dhhs.tas.gov.au/peh/tobacco\\_control](http://www.dhhs.tas.gov.au/peh/tobacco_control)



Dr Roscoe Taylor  
**Director of Public Health**

February 2012

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# I. Tobacco Licensing

Anyone who sells tobacco products in Tasmania must:

- have a Tobacco Seller's Licence, issued by the Director of Public Health under the *Public Health Act 1997* (the Act), or
- be employed by a licence holder to do so.

Retailers who want to sell tobacco from more than one outlet must have a separate licence for each premises. Tobacco licences will not be issued for temporary public events. You must be 18 years of age or older to apply for a licence.

If a licence holder, or a person acting on their behalf, does not comply with tobacco laws and licence conditions, the Director of Public Health may put restrictions on the licence or cancel it, and issue an infringement notice or commence court proceedings.

## How do I apply for a licence?

You must complete an application form, provide proof of age (which shows your photo and date of birth) and pay the prescribed licence application fee.

You can submit your application and payment:

- at any Service Tasmania outlet
- by posting your application form and a money order/cheque to:  
Tobacco Licensing Officer  
Department of Health and Human Services  
Level 3/25 Argyle Street  
HOBART Tas 7000
- by choosing one of the payment options on a licence renewal invoice which is posted to existing licence holders.

Money orders and cheques should be made out to the Department of Health and Human Services.

## What happens if I sell tobacco without a licence?

You are breaking the law and may be issued with an infringement notice. If you continue to sell tobacco without a licence you may also be prosecuted.

The maximum penalty for selling tobacco without a licence is 50 penalty units for a first offence and 100 penalty units for a subsequent offence.

## How long does a licence last for?

A licence is issued for a period of up to 12 months.

## How will I know when my licence expires?

All licence holders are advised in writing about 30 days before their licence expires. However, you should keep a record of the date your licence expires because if you do not renew your licence by its expiry date you may be issued with an infringement notice for selling tobacco without a licence.

## If I sell my business, can my licence be transferred to another person?

No. A licence is not transferable to any other person.

If you sell your business, the new owners will need to apply for a licence for that premises. The same applies for people who lease a business. Similarly, if you take over another business and want to sell tobacco, you will need to apply for a new licence for that premises.

## Do I need to display my licence?

No. You should not display your licence, unless there is a condition on your licence stating that it must be displayed. You should keep a copy of the licence on your premises as proof you do have a licence to sell tobacco.

## 2. Sale and Display of Tobacco Products

### Where can I sell my tobacco products from?

Tobacco products, including cartons and cigars, may only be sold from plain sales units. This includes any shelving, receptacle or vending machine from which tobacco products are dispensed when sold. Cigar humidors must meet the definition of a plain sales unit.

Only premises with a liquor licence can have a vending machine, and it must be located in a service area within a restricted area (ie where children are not allowed). Only one machine is allowed.

### What can my sales unit look like?

You must make sure the plain sales unit:

- only displays product or pricing information contained in the *Guidelines for the Sale of Tobacco*
- does not have colour coding or design which makes the display stand out
- does not have any wording, trademarks or colour schemes usually used in the packaging of tobacco products
- does not display empty packets or packages of any tobacco product
- does not have any enhancements such as lights, mirrors, holograms, turntables or spotlights
- displays the under 18 warning notice attached to its front surface if the sales unit is in public view (see Section 4 for more information)
- displays other health notices required by the Director of Public Health (see Section 4 for more information).

### Where can I put my sales unit?

You must make sure the plain sales unit is in the service area, and:

- is not located within 75 centimetres of any confectionery or product that is designed or marketed for the use of children
- does not face towards a window or public entrance unless it is at a right angle to the plane of the public entrance or external window, or at least two metres away
- is not within five metres of colours used on tobacco product packaging.

### Where can I store my tobacco products?

You may use a plain sales unit or concealed storage facility. A concealed storage facility is an enclosed space (eg storeroom) or a cupboard, locker or drawer that is inaccessible to the public. It must be kept closed except when there is an immediate need to place or remove things from it. When closed, its contents mustn't be visible.

### Can I display tobacco products?

No. The permanent display of tobacco products is not permitted.

Specialist tobacconists only may permanently display up to four square metres of ancillary tobacco products in a single area. In that case, only one example of each product line may be displayed. Examples of ancillary tobacco products include (but are not limited to) cigarette papers, cases and ashtrays. Specialist tobacconists can also display matches, cigarette and pipe lighters outside the four square metre area of ancillary tobacco products.

You may incidentally and fleetingly display up to one square metre of tobacco products when:

- stocking or replenishing a plain sales unit with tobacco products
- removing tobacco products from a plain sales unit for immediate sale
- stocktaking tobacco products
- removing tobacco products to a concealed storage facility or a place off site, for the purposes of cleaning, servicing, repairing, relocating or replacing the sales unit, or repairing or refurbishing the premises
- removing tobacco products from a concealed storage facility off site
- where a consignment of tobacco products is delivered, the immediate placement of that consignment in a concealed storage facility
- it's connected with immediate use of a personal quantity of tobacco (and relevant smoking accoutrements) by a person working at the premises.

These actions must be concluded promptly and the sales unit and concealed storage facility must not be left open if staff are interrupted. The Department will take action against anyone abusing the incidental viewing provision.

### 3. Advertising, Product and Price Information

#### Can I advertise that I sell tobacco?

No. Tobacco advertising is prohibited except for the product and price information set out below and the display of ancillary tobacco products by specialist tobacconists. You must not otherwise display, publish or broadcast a tobacco advertisement so that it can be seen or heard in or from a public place. You can sell tobacco products at a discounted price but this cannot be advertised.

#### How can I show my customers that I sell tobacco products?

You do not have to display product or price information in your store. If you do, you must be aware of the restrictions that apply.

#### General retailers

The only product or pricing information relating to tobacco products that may be displayed on a plain sales unit (excluding a vending machine) is one square metre of price tickets during the fleeting incidental display of tobacco products, **and**:

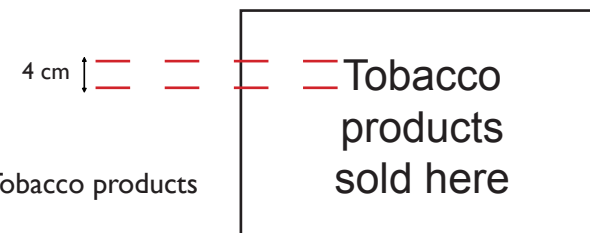
- one product availability notice (PAN) **or**
- one price board.

#### Specialist tobacconists

The only product or pricing information relating to tobacco products that may be displayed on a plain sales unit is one square metre of price tickets during the fleeting incidental display of tobacco products and a maximum of four square metres of price tickets relating to any ancillary tobacco products that are displayed.

Specialist tobacconists may display a price board, but must not display a PAN.

#### Product availability notice (PAN)



- PAN may only read: 'Tobacco products sold here', once only.
- Use black text (no bold, italics or underline) in Arial font with a maximum size of four centimetres high (160 point size) on a white background.
- Place text on one side only.
- Do not use any colours.
- Do not include any lines, images or other markings.

#### Price board

PRODUCT	PACKET	CARTON
Product line A	\$	\$
Product line B	\$	\$
Product line C	\$	\$
Product line D	\$	\$
Product line E	\$	\$
Product line F	\$	\$
Product line G	\$	\$
Product line H	\$	\$
Product line I	\$	\$
Product line J	\$	\$
Product line K	\$	\$
Product line L	\$	\$
Product line M	\$	\$

- Price boards may be a maximum size of 100 by 75 centimetres.
- Use black text (no bold, italics or underline) in Arial font with a maximum size of two centimetres high (80 point size) on a white background.
- Place text on one side only.
- Do not use any colours.
- Limit text to tobacco brand name (mentioned once), packet and carton prices and quantities, and headings relating to this information.

## Price tickets



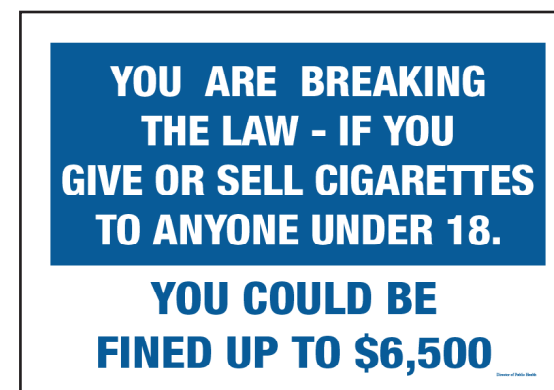
- A vending machine may display a maximum of 40 price tickets.
- Use one price ticket per tobacco product line and position immediately adjacent to the tobacco product to which it relates.
- Limit text to tobacco brand name (mentioned once), a barcode, symbol identifying country of origin, packet and carton prices and quantities and headings relating to this information.
- Use black text (no bold, italics or underline) on a white background with a maximum size of two centimetres high (80 point size) for sales units and five millimetres (20 point size) for vending machines.
- Place the text on one side of the price ticket only.
- Coloured text and background is permitted when consistent with all price ticketing in store (two colours only and colouring must not correspond to tobacco packaging).

## 4. Notices

### What notices must be displayed?

The Director of Public Health has approved Notices A, B, C and D which must be displayed.

These notices may change over time. The most up-to-date versions will always be available from a Tobacco Control Officer or on the tobacco control website at [www.dhhs.tas.gov.au/peh/tobacco\\_control](http://www.dhhs.tas.gov.au/peh/tobacco_control)

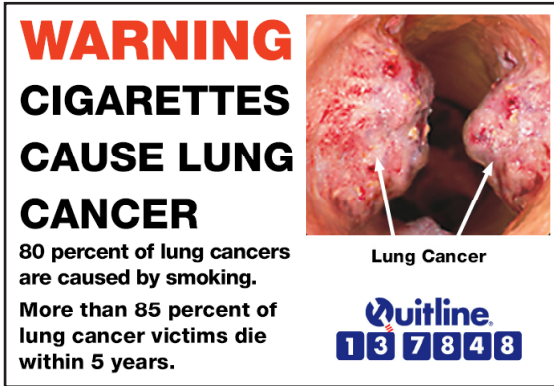


Notice A

### Notice A

All premises that sell tobacco are required to display the Under 18 warning notice. This notice must be displayed in a conspicuous position, directly on the front surface of the sales unit (including a vending machine or electronic dispensing unit).

Where the sales unit is not in public view, it must be placed in the service area so that it can be easily seen and read by staff and the public.



Notice B

### Notice B

If you are a specialist tobacconist and display ancillary tobacco products, you must display a graphic health warning notice on the front surface of the sales unit.

If you have a liquor licence and sell tobacco from a vending machine, you must display a graphic health warning notice on the front of your vending machine. The notice must be positioned so that it can be easily seen and read by staff and the public.

### Notices C and D

If you display a price board, you must also display a health promotion notice such as the examples shown below.

The notice must be displayed in a conspicuous position, abutting or directly on the front surface of the price board so that it can be easily seen and read.



Notice C



Notice D

### What happens if I don't display the required notice/s?

You may be issued with an infringement notice or be prosecuted. The maximum penalty for not displaying the required notice/s is 50 penalty units for a first offence and 100 penalty units for a subsequent offence.

## 5. Vending Machines and Electronic Dispensing Units

Two types of machines that dispense cigarettes are permitted: a vending machine (only in liquor licensed premises) and an electronic dispensing unit (EDU) - both of these are sales units. Neither unit may be operated by a member of the public.

### What is a vending machine?

A vending machine is a machine (other than an EDU) that is designed to dispense tobacco products.

### What is an EDU?

An EDU is a machine that is designed to dispense tobacco products and is operated through an electronic keypad. EDUs are not permitted to display any product or pricing information but they must display certain notices (see Section 4 of this guide).

If the keypad contains images of tobacco products or wording of tobacco products, the keypad/console must not be visible to the public from inside or outside the premises. This would be classed as advertising, which is prohibited.



## 6. Tobacco-Related Products and Promotions

### What tobacco-related products can't I sell?

The following products cannot be sold, displayed or supplied in Tasmania:

- Confectionery that resembles or is intended to represent a tobacco product.
- Toys that resemble or are intended to represent a tobacco product.
- Packets of cigarettes that are designed to be, or can easily be, split into smaller packets which contain less than 20 cigarettes.
- Single cigarettes or packages containing less than 20 cigarettes.
- Fruit or confectionery flavoured or scented tobacco products.

### Can I run competitions which involve tobacco?

No.

### Can I provide free samples of tobacco products to customers for buying cigarettes?

No.

### Can I offer prizes, gift vouchers or any other benefits to customers for buying tobacco products?

No. This includes any type of business loyalty program.

It does not include a program that rewards its customers for the method of payment. For example, reward schemes attached to credit or debit cards.



## 7. Selling Tobacco to Children

You must not sell, lend, give or supply (or offer to sell, lend, give or supply) any tobacco product to, or for the use of, a child. A child is a person under the age of 18 years.

We strongly recommend you ask for proof of age before selling cigarettes to any young person, especially if you are unsure of their age. There are currently five acceptable proof of age documents:

- a driver's licence
- a passport
- a photographic Keypass Identification Card
- a firearms licence issued under the *Firearms Act 1996*
- a Tasmanian Government Personal Information Card.

A student identification card issued by a school is not an acceptable proof of age.

When you view identification provided to you, inspect it closely to ensure the photo is of the person attempting to buy tobacco products. Check that the photo, or other details (such as the year of birth) have not been tampered with.

### What happens if I sell tobacco products to a child?

Warnings are not issued. You will automatically be issued with an infringement notice, or be prosecuted. The maximum penalty for selling tobacco products to a child is 50 penalty units for a first offence and 100 penalty units for a subsequent offence.

### Who is responsible when tobacco is sold to a child?

The person who sold the tobacco product is responsible. In addition, the holder of the tobacco seller's licence may also have their licence cancelled.

### Can I sell lighters and matches to a child?

Yes. A child is legally able to purchase lighters and matches, although many retailers voluntarily choose not to sell these to children.

### Can an employee under the age of 18 sell tobacco?

Yes, although it is not recommended.

The less exposure children have to tobacco products the less likely they are to view it as a normal product.

### What information must I give my employees?

A person in charge of any premises that sells tobacco products must give information on the sale and supply of tobacco products to children to all employees before they commence work.

This information may be provided verbally, but we recommend you provide it in writing.

The information you must give is contained in the *Guidelines for the Sale of Tobacco* or you can access it online at:  
[www.dhhs.tas.gov.au/peh/tobacco\\_control](http://www.dhhs.tas.gov.au/peh/tobacco_control)

## 8. Enforcement

Tobacco Control Officers employed within the Department of Health and Human Services enforce tobacco legislation. These officers visit retailers to check compliance with the Act and to ensure you are aware of your obligations in selling tobacco.

Tobacco Control Officers have a legal power to enter and inspect the area where tobacco products are sold.

A person must not assault, abuse, threaten, hinder, obstruct or delay a Tobacco Control Officer from attempting to exercise their powers under the Act. The maximum penalty for this offence is 100 penalty units or up to six months imprisonment, or both.

### What happens if I do not comply with tobacco laws?

Tobacco Control Officers may:

- deliver a verbal warning
- issue a warning letter
- issue an infringement notice
- commence court proceedings.

Additionally, conditions may be placed on a licence, or it may be cancelled.

### False information

It is an offence for any manufacturer or supplier of tobacco products to provide false information regarding tobacco laws or the health effects of tobacco products. The maximum penalty for this offence is 2 500 penalty units and 10 000 penalty units for a subsequent offence.

## Glossary

*Act: the Public Health Act 1997*

*Ancillary tobacco product: a tobacco product other than:*

- tobacco in any form
- a product of which tobacco is an ingredient
- a package or cigarette shipper containing a thing referred to in paragraph (a) or (b) of this definition.

*Approved: approved by the Director of Public Health.*

*Business loyalty program: a program or arrangement, other than a business transactions program, that rewards its customers or clients of a business for their patronage.*

*Business transactions program: a program or arrangement that rewards the customers or clients of a business for using a particular means of payment to purchase its goods or services or not using a particular means of payment to purchase its good or services.*

*Carton: a package that contains more than one packet of cigarettes.*

*Cigarette shipper: packaging that contains more than one carton.*

*Concealed storage facility: a storeroom, cellar or other enclosed place, or a cupboard, locker or drawer that:*

- is inaccessible to the public
- is kept closed, except when there is an immediate need to put things in it or take things from it
- when closed, cannot be seen into by the public.

*Confectionery:*

- sweets, chocolates and candy
- popcorn and other snack foods containing potato, nuts or cereal
- confectionery novelties
- muesli bars, fruit bars, health food bars and other similar products.

*Electronic dispensing unit (EDU): a machine that is designed to dispense tobacco products and be operated by means of an electronic keypad, whether or not, at a given time, the machine is in working order.*

External window of premises: a window through which a person standing outside the premises can see into the premises (or any part thereof).

Package:

- (a) a box, carton, cylinder, packet, pouch, tin and wrapping
- (b) the material or substance from which a package is made.

Packet: an individual packet containing tobacco or a tobacco product.

Penalty units: set by the *Penalties Units and other Penalties Act 1987*. For more information, go to [www.justice.tas.gov.au](http://www.justice.tas.gov.au)

Plain sales unit: a sales unit that:

- (a) does not display any wording or imagery that contravenes the guidelines
- (b) does not have any mirror or other reflective device
- (c) does not have any interior or exterior lighting
- (d) does not have any lighting directed specifically at it, whether from a spotlight, down light or otherwise and whether the illumination is constant or intermittent
- (e) is not fitted with or connected to any device capable of causing the sales unit (or any part of it) or its contents (or any of its contents) to move in a way that is visible to the public
- (f) is not displaying any wording, trademarks or colour schemes usually used in the packaging of any tobacco products held in it
- (g) is not displaying any partial wording or imagery of any packaging of tobacco products held in it
- (h) has no lines, border or other visual design effects that make it stand out
- (i) is not linked to any hologram.

Product line (in relation to a tobacco product): a kind of tobacco product distinguishable from another kind of tobacco product by any one or more of the following characteristics:

- (a) its length, mass or volume
- (b) its content
- (c) its brand name or trade mark
- (d) in the case of a packet of cigarettes or cigars, the number of cigarettes or cigars in the packet.

Proof of age:

- (a) a driver's licence
- (b) a passport
- (c) a class of document specified in the guidelines for the purpose of this definition.

Restricted area of a licensed premises: an area of premises that is designated under section 84(1) of the *Liquor Licensing Act 1990* as an area in which a person under the age of 18 years cannot enter or remain.

Sales unit:

- (a) (in the case of specialist tobacconist premises): a receptacle, area of shelving, electronic dispensing unit or other thing from which tobacco products are dispensed when sold
- (b) (in the case of retail premises other than specialist tobacconist premises): a receptacle, area of shelving, vending machine, electronic dispensing unit or other thing from which tobacco products are dispensed when sold.

Sell:

- (a) dispose by any method for valuable consideration
- (b) barter or exchange
- (c) dispose to an agent for sale on consignment
- (d) offer or expose for sale
- (e) keep or have in possession for sale
- (f) agree to sell
- (g) send, forward or deliver for sale
- (h) dispose by way of raffle, lottery or other game of chance
- (i) provide a sample.

Service area: an area of premises:

- (a) from where sales of tobacco or tobacco product are ordinarily effected
- (b) to which the public does not normally have access.

Specialist tobacconist premises:

- (a) premises that are operated independently and apart from any other retail business and where only tobacco, tobacco products, matches and cigarette or pipe lighters are sold
- (b) premises that, under section 72B, are determined to be specialist tobacconist premises.

## Contact Information

Tobacco advertisement: writing, still or moving picture, sign, symbol or other visual image or message or audible message, or a combination of two or more of them, that gives publicity to, or otherwise promotes or is intended to promote:

- (a) the purchase or use of tobacco or a tobacco product
- (b) the trademark or brand name, or part of a trademark or brand name, of tobacco or a tobacco product.

Tobacco product:

- (a) tobacco in any form
- (b) any product of which tobacco is an ingredient
- (c) any device designed or article designed or intended only for the use in connection with tobacco
- (d) any prescribed product
- (e) any package, or cigarette shipper, containing a thing referred to in paragraph (a), (b), (c) or (d)

Tobacco product (for the purposes of the display provisions): a tobacco product package that has been emptied of its contents.

Tobacco product (for the purposes of business loyalty programs):

- (a) a discount on a tobacco product, and
- (b) a coupon, voucher or other instrument that may be redeemed for a tobacco product.

Vending machine: a machine, other than an electronic dispensing unit, that is designed to dispense tobacco products, whether or not, at a given time, the machine is in working order.

Tobacco seller's licence: a tobacco seller's licence in force under Division 3 of Part 4 of the *Public Health Act 1997*.

For more information contact:

Tobacco Control  
Department of Health and Human Services  
Level 3/25 Argyle Street  
HOBART Tas 7000

Telephone (toll free) 1800 671 738  
Email [public.health@dhhs.tas.gov.au](mailto:public.health@dhhs.tas.gov.au)  
Web [www.dhhs.tas.gov.au/peh/tobacco\\_control](http://www.dhhs.tas.gov.au/peh/tobacco_control)

Tobacco Control Officer North/North West Tasmania

Telephone (03) 6336 2279  
Fax (03) 6334 3057

Tobacco Control Officer Southern Tasmania

Telephone (03) 6222 7726  
Fax (03) 6222 7692

Tobacco Licensing

Telephone (03) 6222 7724  
Fax (03) 6222 7692

### Legislation

The *Public Health Act 1997* can be accessed at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

Tobacco Guidelines including the *Guidelines for the Sale of Tobacco* (or any successor guidelines) can be obtained at [www.dhhs.tas.gov.au/peh/tobacco\\_control](http://www.dhhs.tas.gov.au/peh/tobacco_control)

**Disclaimer** The information in this Guide has been prepared in good faith but is not to be taken as an expression of the law. Legal obligations arise under the *Public Health Act 1997* and relevant guidelines issued by the Director of Public Health. This Guide is not a substitute for legal or other professional advice with respect to the obligations arising under the *Public Health Act 1997*. The Crown in Right of Tasmania does not warrant the accuracy or completeness of this Guide and will not be responsible for any loss howsoever arising from the use of or reliance on it.



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1800 671 738

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