

Oregon Health Authority
Tobacco Retail License
Training Manual
for Retailers



Contents

TRANSLATION HELP PAGE	4
TOBACCO RETAIL LICENSING SUPPORTS RETAILERS AND PROTECTS YOUTH	5
Supporting retailers	5
Protecting youth	6
FREE RESOURCES, TRAINING, AND SUPPORT FOR BUSINESSES	7
OHA provides:	7
DOR provides:	7
Additional Resources	8
ABOUT YOUR LICENSE	9
Tobacco retail license overview:	10
Who needs one and what it covers	10
How to get a license, what it costs and what the fee covers	11
How to display your tobacco retail license	12
TOBACCO PRODUCTS COVERED BY THE LICENSE	14
Tobacco products regulated under the license	14
Products NOT regulated under the license	17
Oregon Liquor and Cannabis Commission or Oregon Medical Marijuana Program licensed marijuana retailers	17
TOBACCO RETAIL LICENSE REQUIREMENTS	18
No self-service tobacco products	19
Flavors	20
Oregon Health Authority Tobacco Retail License Retailer Training Manual	2

Child-resistant packaging rules	21
Inhalant delivery systems (IDS) design rules	22
HOW ENFORCEMENT WILL BE CONDUCTED	23
Tobacco sales law violations	23
Inspection types	24
PENALTIES FOR NOT MEETING REQUIREMENTS OF TOBACCO RETAIL LICENSE	26
QUESTIONS?	27

Translation help page

English	Do you need help with translation? For free translation, contact us: Tobacco.Inspections@dhsoha.state.or.us or 971-673-2283, 711 TTY.
Spanish	¿Necesita servicios de traducción? Para recibir una traducción gratuita, contáctenos en al 971-673-2283, 711 TTY o escriba a Tobacco.Inspections@dhsoha.state.or.us .
Korean	한국어 번역이 필요 하신가요? 971-673-2283, 711 TTY 번으로 전화하시거나. Tobacco.Inspections@dhsoha.state.or.us 로 연락 하시면 무료로 번역 서비스를 받으실 수 있습니다.
Vietnamese	Quý vị có cần trợ giúp bản dịch? Để nhận được bản dịch miễn phí, liên hệ chúng tôi theo số 971-673-2283, 711 TTY hoặc Tobacco.Inspections@dhsoha.state.or.us .
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Arabic	هل انت بحاجة إلى مساعدة في الترجمة؟ للترجمة المجانية، تواصل معنا عبر: Tobacco.Inspections@dhsoha.state.or.us أو اتصل على الرقم: 971 673-2283 ، والخط الفرعي 711 الخاص بالصُّم.

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Tobacco retail licensing supports retailers and protects youth

Supporting retailers

On July 17, 2021, Governor Kate Brown signed [Senate Bill 587](#) into law (codified as [Oregon Revised Statutes 431A.190 - 431A.220](#)). As of January 1, 2022, all tobacco retailers in Oregon are required to get a license to sell tobacco and inhalant delivery system (IDS) products (commonly referred to as “e-cigarettes” or “vape”).

Tobacco retail licensing lets the state track where tobacco is being sold, enforce tobacco sales laws, and support retail owners and staff with education and training. The law, along with education and support from Oregon Health Authority (OHA), creates a level playing field so all retailers are held to the same baseline standards. This is an important part of the state’s efforts to prevent youth tobacco use.



When we refer to “tobacco” we are referring to commercial tobacco products. Commercial tobacco is tobacco that is sold by the tobacco industry – including cigarettes, inhalant delivery systems (“vape” or “e-cigarettes”), chewing tobacco, cigars and other products that are designed to sustain addiction. These are different from the traditional tobacco or other plant mixtures that Native peoples use for ceremonial and spiritual purposes.

Oregon Department of Revenue (DOR) and OHA worked closely with a rules committee made up of retailers, Local Public Health Authorities, health professionals and members of communities most impacted by commercial tobacco to develop the rules for this law.

Protecting youth

Tobacco use is still the main preventable cause of death in Oregon. Almost 90% of people who use tobacco start before they turn 18. This makes youth tobacco prevention one of the best ways we can improve health in our state.¹

Tobacco companies market their products aggressively to young people. They use fruity flavors and advertisements placed at the eye level of a 9-year-old to try and addict kids to nicotine. If youth think that they can easily buy tobacco, they are more likely to use it.² But when a tobacco retail license requirement is enforced, the number of youth who use tobacco is reduced and illegal sales to youth also decline.

In Oregon, 1 in 6 tobacco retailers inspected by OHA in 2019 sold tobacco products illegally to people under 21. That was even higher for flavored products, which are most popular with kids: 1 in 5 retailers sold IDS products illegally, and 1 in 4 retailers sold flavored cigars illegally.

Better retailer education and expanded inspections will ensure that young people in every part of Oregon have the same protection from addictive and deadly tobacco products.

An assessment by the American Lung Association's Center for Tobacco Policy & Organizing found that the rate of illegal sales to minors dropped by an average of 26% in 33 California cities and counties after tobacco retail license ordinances were enacted. (Source: <http://cupertino.granicus.com>)

¹ U.S. Department of Health and Human Services (HHS), Preventing Tobacco Use Among Youth and Young Adults, A Report of the Surgeon General, (2012).

https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf.

² J L Forster, D M Murray, M Wolfson, T M Blaine, A C Wagenaar, and D J Hennrikus, 1998: [The effects of community policies to reduce youth access to tobacco](https://doi.org/10.2105/AJPH.88.8.1193). American Journal of Public Health 88, 1193_1198, <https://doi.org/10.2105/AJPH.88.8.1193>.

Free resources, training, and support for businesses

DOR, OHA, and Local Public Health Authorities are available to help retailers understand and comply with the law.

OHA provides:

- A fact sheet about the law (available in six languages)
- Answers to frequently asked questions about the law (available in six languages)
- Access to state program staff for answers to questions about the law or for support to ensure compliance
- Inspections, paired with education, to ensure retailers understand and are following the law
- Interpretation services to help retailers follow the law
- Training on how to comply with all tobacco laws in Oregon
- Updates when state, federal and local laws change

To learn more about and access these resources, visit www.healthoregon.org/tobaccoretailsales.

DOR provides:

- Answers to frequently asked questions about the law or licensing
- Access to state program staff for answers to questions about the law or for support to ensure compliance
- Inspections to help retailers follow the law
- Updates when state, federal and local laws change

To learn more about and access these resources, visit go.usa.gov/x999.

Additional Resources

Tobacco 21 signs and instructions on how to read an Oregon ID

All retailers that sell tobacco products or inhalant delivery systems must clearly display a sign stating that the sale of tobacco products and inhalant delivery systems to persons under the age of 21 is prohibited by law. [This sign](#) or a notice substantially similar must be posted in a location clearly visible to the seller and the purchaser. OHA provides signs for download and instructions for reading Oregon IDs at www.healthoregon.org/tobaccoretailsales.

This is Our Watch

The U.S. Food and Drug Administration's (FDA) [This is Our Watch](#) program helps tobacco retailers better understand FDA tobacco regulations and show their commitment to protecting youth from the harms of tobacco. A full toolkit of resources is available to retailers – including posters, stickers, age verification tools and more. Retailers are encouraged, but not required, to display This is Our Watch materials in stores. Participation is voluntary.

FDA age calculator

The FDA provides a free age verification calculator and calendar to help retailers quickly determine if a customer is old enough to legally purchase commercial tobacco products. The age verification calculator is available as a smartphone app and the calendar is available to order for free directly from the FDA. More information on the calendar and calculator can be found on the FDA's [This is Our Watch](#) program website: <https://www.fda.gov/tobacco-products/retail-sales-tobacco-products/our-watch>.

Nicotine waste disposal

Nicotine is toxic waste and carries disposal responsibilities for retailers. The Oregon Department of Environmental Quality (DEQ) provides free consulting on how to dispose of nicotine or other waste for retailers. [The Nicotine Waste Disposal Guide](#) provides information on proper management and disposal of Nicotine and E-Cigarette Waste for Oregon Retailers. Visit [DEQ's Technical Assistance for Hazardous Waste website](#) to learn more and request technical assistance.

About your license

Managed by Oregon Health Authority (OHA) and Oregon Department of Revenue (DOR)

Statewide tobacco licensing roles		
Department of Revenue	Oregon Health Authority	Local Public Health Authorities
<ul style="list-style-type: none">- Issue license, annually renew license- Collect fees associated with license- Suspend, revoke, refuse to issue or renew license- Information sharing	<ul style="list-style-type: none">- Enforce state laws and rules on tobacco and inhalant delivery system sales- Establish database to collect local standards and public complaints- Retailer education and outreach- Annual license inspections- Technical assistance to local jurisdictions- Evaluate policy effectiveness- Information sharing	<ul style="list-style-type: none">- May keep local license program (if they already have one)- May conduct education and outreach- May help enforce state and/or local tobacco retail laws

Oregon’s tobacco retail license program is a collaboration between OHA and DOR. OHA conducts retailer education and outreach, as well as inspections to prevent sales to people under 21. OHA also offers training, shares information about changes to the law and evaluates how well this law works.

DOR issues licenses to retailers, annually renews licenses, collects fees associated with licenses and penalizes retailers selling tobacco without a license. DOR may suspend, revoke, or refuse to issue or renew a license.

Local jurisdictions, including county public health departments, may have a local license program or provide further support to retailers. (Please refer to DOR's [Statewide Tobacco Retail License website](#) to find out who issues tobacco retail licenses in your jurisdiction: go.usa.gov/xe999.)

Tobacco retail license overview: Who needs one and what it covers

According to [ORS 431a.190](#), any business that sells tobacco products or inhalant delivery systems in Oregon is required to purchase an annual tobacco retail license through [DOR](#).



Tobacco retail license, valid for one year

This license requirement applies to any business that sells tobacco and inhalant delivery system (IDS) products, including:

- Grocery stores
- Campground stores
- Events
- Music venues
- Convenience stores and other retail stores
- Cigar and hookah lounges
- Bars
- Hotels
- Vape Shops
- Restaurants



Exceptions:

There are three types of exceptions to the statewide tobacco retail license requirements:

- The license does not apply to retailers operating on Tribal lands.
- The license does not apply to Oregon Liquor and Cannabis Commission licensed marijuana retailers or OHA licensed Oregon Medical Marijuana Program marijuana dispensaries that do not sell IDS that contain nicotine.
- Most counties that already had their own tobacco retail license program kept their existing fee structures and continue to operate their program separately from the state. *Please refer to DOR's [Statewide Tobacco Retail License website](https://go.usa.gov/xs999) to find out who issues tobacco retail licenses in your jurisdiction: go.usa.gov/xs999.*

The license covers all tobacco products.

This includes cigarettes, smokeless tobacco and IDS (also known as “e-cigarettes” and “vape”) products; chewing tobacco, cigars and other products that contain nicotine.

It does NOT include U.S. Food and Drug Administration (FDA) approved tobacco cessation products. (See the “Tobacco products” section starting on page 13 for more details.)

How to get a license, what it costs and what the fee covers

Retailers can apply for a tobacco retail license through DOR's [Statewide Tobacco Retail License](https://go.usa.gov/xs999) website: go.usa.gov/xs999.



Retailers will pay an annual fee of \$953 for a license, effective Jan. 1, 2022. Retailers with multiple locations will need to have a license for each location. This fee covers the actual costs of the program, including stronger and more frequent enforcement and retailer education. No additional revenue is generated, and DOR and OHA will review the fee annually to ensure the fee is accurate for actual costs.

How to display your tobacco retail license

DOR requires the following for your tobacco retail license:

- A license will only be issued to retailers in a fixed and permanent premises that is not located in an area zoned exclusively for residential use. The premises must meet all qualifications for the retail sale of tobacco or IDS products adopted by local ordinances.
- A separate license is required for each address at which any tobacco or IDS product is sold.
- Each license must be prominently displayed in plain view of the general public at each licensed location.
 - Customers AND employees should clearly be able to see the license.
 - An employee break area or back office is NOT an acceptable place to display the license and sign.
- A licensed retailer must follow all local, state and federal laws regulating the sale of tobacco or IDS products, or they may face a suspension or revocation of their license.

Retailers are required to display two signs where they can easily be seen:

The tobacco retail license



The “Tobacco 21” Oregon State Notice Posting (ORS 431A.175, ORS 431A.178)

You can download this (in multiple languages) at www.healthoregon.org/tobaccoretailsales. (Click the “Retailers” link on the left)

ORS 431A.175, ORS 431A.178

The sale of tobacco products and inhalant delivery systems to persons under 21 years of age is prohibited by law. Any person who sells, or allows to be sold, a tobacco product or inhalant delivery system to a person under 21 years of age is in violation of Oregon law.

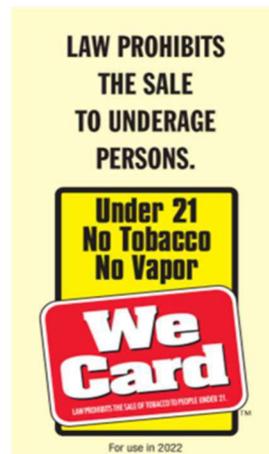
Oregon Health
PUBLIC HEALTH DIVISION

SMOKEFREE
oregon

Want to Quit Smoking?
1.800.QUIT.NOW (1.800.794.8689)
www.quitnow.net/oregon

Failing to post the state sign (or a notice that is substantially similar) in a location clearly visible to the seller and the purchaser, **will result in a violation.**

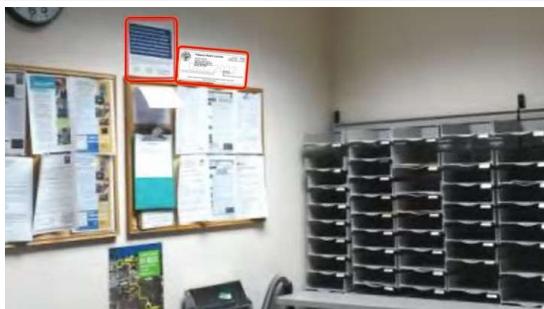
Signs ---like this one---or similar signs do **NOT** meet the state requirement.



IF YOU WERE BORN AFTER TODAY'S DATE IN
2001 2001
YOU CAN'T BUY TOBACCO, E-CIGARETTES OR VAPOR PRODUCTS!
YOU CAN'T BUY ALCOHOL PRODUCTS!

NOT ALLOWED X

The signs are posted in a break room where they are not seen by customers.



ALLOWED ✓

The signs are posted where both the employee and customer can see them.



Each license is valid for one location only.

NOT ALLOWED X

Not allowed because there are three locations with only one license

ALLOWED ✓

Allowed because each location has its own license



Tobacco products covered by the license

Tobacco products regulated under the license

Retailers are required to have a tobacco retail license if they sell any tobacco products or inhalant delivery systems. For the purposes of this license, “tobacco products and inhalant delivery systems” includes all forms of tobacco products, IDS products, and all tobacco and IDS devices used to deliver those products. The images below are examples of each of these products and do not represent every type or brand or product of that category.



Cigarette products



Cigars



Cigarillos (Swisher Sweets)



Chewing tobacco



Little cigars



Snus



Pipe tobacco



Shisha (hookah) with nicotine



Inhalant delivery systems (IDS)



E-liquids (e-juice, vape juice)

If your store sells any “tobacco products,” you are required to have a tobacco retail license:



Pipes



Hookah pipes

Products NOT regulated under the license

Retailers that only sell products containing nicotine that are authorized by the U.S. FDA as a tobacco cessation product or for any other therapeutic purpose – if the product is marketed and sold solely for the approved purpose – are not required to obtain a license unless they also sell tobacco products or inhalant delivery systems.



Oregon Liquor and Cannabis Commission or Oregon Medical Marijuana Program licensed marijuana retailers

Retailers making sales of inhalant delivery systems at medical marijuana dispensaries registered under ORS 475B.858 or marijuana retailers licensed under ORS 475B.105 are not required to obtain a tobacco retail license unless they also make retail sales of inhalant delivery systems that contain nicotine and/or sell any other nicotine or tobacco products.

Tobacco retail license requirements

Businesses that sell tobacco products and inhalant delivery systems in Oregon are responsible for complying with local, state and federal laws and rules regulating the sale of tobacco products and inhalant delivery systems. Many of them are listed below. If you have questions about any of these or other rules that regulate the sale of tobacco products or inhalant delivery systems, please reach out to OHA or Oregon DOR.

Local (county, city or other jurisdictions):

Check with your city, county or other jurisdiction's public health authority/department to see if there are additional local tobacco regulations. You can find a list of local program websites on DOR's [Statewide Tobacco Retail License](https://www.oregon.gov/StatewideTobaccoRetailLicense) website: go.usa.gov/x999.

Oregon regulations:

- Retailers cannot sell tobacco products or inhalant delivery systems without a tobacco retail license.
- Retailers must display their tobacco retail license.
- IDS product labeling must contain federal health warnings as required by law.
- IDS products must be in packaging that is child-resistant and not attractive to minors.
- Tobacco products must be sold from a licensed, fixed location.
- IDS, cigarettes, and smokeless tobacco cannot be sold online.
- Retailers cannot sell to any person under age 21.
- Retailers must display [the state sign](#) (or a notice that is substantially similar) clearly stating that tobacco products and IDS cannot be sold to any person under age 21.
- Retailers cannot sell cigarettes in any form other than a sealed package containing at least 20 cigarettes.
- All tobacco products must be behind the counter or in a locked case, inaccessible to customers without employee assistance (this does not include establishments that are off limits to persons under age 21).

Self-service vending machines – whether or not they are only accessible to individuals over the age of 21 – do not satisfy this requirement.

- Sales of cigarettes, smokeless tobacco, and IDS (also known as “e-cigarettes”) from self-service vending machines are prohibited under [ORS 180.441](#)
- Retailers must follow all federal, state and local laws.

You can find a checklist to make sure you are in compliance with Oregon tobacco sales laws and ready for inspections here: [How to Comply with Oregon Tobacco Laws](#).

You can find more details on these specific Oregon laws at: www.healthoregon.org/tobaccoretailsales.

Federal regulations:

- Retailers cannot sell single smokeless tobacco products or flavored cigarettes.
- No gifts or other items may be offered in exchange for purchasing a cigarette or smokeless tobacco product.
- No free samples of tobacco products except in “adults-only facilities.”
- It is prohibited to sell cigarettes labeled “light,” “low” or “mild.”
- No misbranded or adulterated products.

For more information about federal regulations, visit the U.S. FDA: <https://www.fda.gov/tobacco-products/compliance-enforcement-training/retail-sales-tobacco-products>.

No self-service tobacco products

Keep all tobacco products behind the counter in an area only accessible to employees/owners OR in a locked case. The clerk can only sell tobacco products to the customer (who looks under the age of 30) once their ID has been checked. Do not place tobacco products where customers are able to get them without help from a clerk.

NOT ALLOWED X

Because e-liquid is accessible to customers



ALLOWED ✓

Because tobacco products are in a locked case



Tobacco products may not be in a place where customers can get them without help.

Flavors

The legality of flavors can be confusing for tobacco and IDS products and is regulated by the FDA.

All flavored cigarettes are banned **EXCEPT** for **menthol**. (Flavored cigarettes, other than menthol, are no longer legal in the U.S. per federal law). Flavored little cigars can be sold but are taxed as cigarettes.

All other forms of flavored tobacco products are allowed (e.g., chew tobacco, cigarillos, nicotine-containing, non-tobacco products) in many jurisdictions. Please check with your Local Public Health Authority for additional restrictions on the sale of tobacco products.

NOT ALLOWED X

Any flavored, cartridge-based IDS product, like JUUL (other than tobacco or menthol flavor)



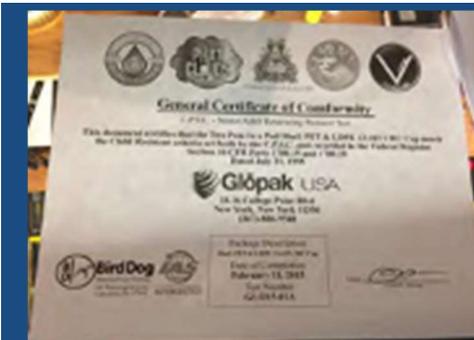
ALLOWED ✓

- Mods and larger refillable products
- Disposables (does not recharge)



Child-resistant packaging rules

Liquid nicotine and non-nicotine containers, as well as fillable inhalant delivery systems sold with nicotine, must be in child-resistant packaging. Child-resistant packaging is defined as packaging that is difficult for a child under 5 years of age to open quickly. Per [OAR 333-015-0360](#) retailers must provide verification of a manufacturer's written laboratory testing report describing the results of whether packaging is child-resistant based on the protocol set forth in 16 CFR 1700.20 (1995) to OHA when requested.



Example verification of a manufacturer's written laboratory testing report

Inhalant delivery systems (IDS) design rules

IDS packaging cannot be designed to look attractive to minors. According to [OAR 333-015-0357](#) this includes packaging presentation, shape, graphics, coloring or writing that is likely to appeal to minors. It also includes characteristics such as the use of celebrities, athletes, mascots, fictitious characters including cartoons; packaging including food and beverages that appeal to minors such as soda, candy, desserts, and sweet flavors including fruit; as well as descriptive words such as “tart, sweet, cool, ice, juicy, candy, etc.”

NOT ALLOWED X		ALLOWED ✓
<p>Because the packaging shows a cartoon, fruit, and the words “ice” and “sweet”</p>  A large clear plastic bottle of Vapehead Ice e-liquid. The label features a cartoon character with a crown and a mustache, surrounded by watermelon slices and the words "Vapehead ICE". The bottle is surrounded by ice cubes and a watermelon slice.	<p>Because the packaging and labeling depicts soda and fruit flavors</p>  A black box and a black bottle of Cherry Lime Cola e-liquid. The box and bottle have a red and black abstract design and the text "CHERRY LIME COLA". A red banner at the bottom of the box says "E-Liquid".	 A row of several small e-liquid bottles from the brand "Taste of Life". The bottles are in various colors (blue, orange, green, red) and have labels with different flavors like "Honeydew", "Graham Smith", and "Honey".

How enforcement will be conducted

Any business or person known to be selling tobacco will be subject to inspection. Tobacco retailers must allow inspectors into their business to do inspections. If you do not let the inspector perform the inspection you may be in violation of the law or the rule. Inspectors are here to help your business follow the rules of the tobacco retail license, and to impose penalties for those who do not.

Tobacco sales law violations

Below is a list of violations of tobacco sales laws in Oregon:

Sales to people under 21	It is prohibited to sell tobacco products to customers under the age of 21.
Operating without a license	An Oregon state tobacco retail license is required to sell tobacco products.
Tobacco retail license not displayed	It is required that the tobacco retail license is displayed in a place visible to customers and employees.
Vending machine sales of cigarettes, smokeless tobacco, or IDS	Sales of cigarettes, smokeless tobacco, and IDS (also known as “e-cigarettes”) from self-service vending machines are prohibited under ORS 180.441.
Vendor assisted sales	Locating tobacco products in a location where they are accessible by the customer is only permitted in places where customers under 21 are prohibited from entry. Self-service vending machines - whether or not they are only accessible to individuals over the age of 21 – do not satisfy this requirement.
Pack size less than 20	Cigarettes must be sold in packages of 20.
Smokeless tobacco singles sold	No single smokeless tobacco pouches can be sold.
Flavored cigarettes sold	It is prohibited to sell any flavored cigarettes except menthol. Some restrictions on flavored IDS products.

Gifts offered	No gifts or other items may be offered as part of a cigarette or smokeless tobacco sale.
No state sign	It is required to post a sign that states that it is unlawful to sell tobacco or inhalant delivery systems to customers under 21.
Incorrect IDS packaging	Inhalant delivery systems must be packaged according to rules adopted by Oregon Health Authority (OHA).
Incorrect IDS labeling	IDS must be labeled according to the rules.
Misbranded or adulterated tobacco products sold	It is prohibited to sell misbranded or adulterated tobacco products.
Failure to permit access	Tobacco retailers must permit access for inspection or investigation.
Light, low, or mild cigarettes sold	It is prohibited to sell cigarettes labeled "light," "low" or "mild."
Free samples	No distributing free samples of tobacco products (smokeless tobacco may be distributed in an area inaccessible to a person under 21 years of age).

Inspection types

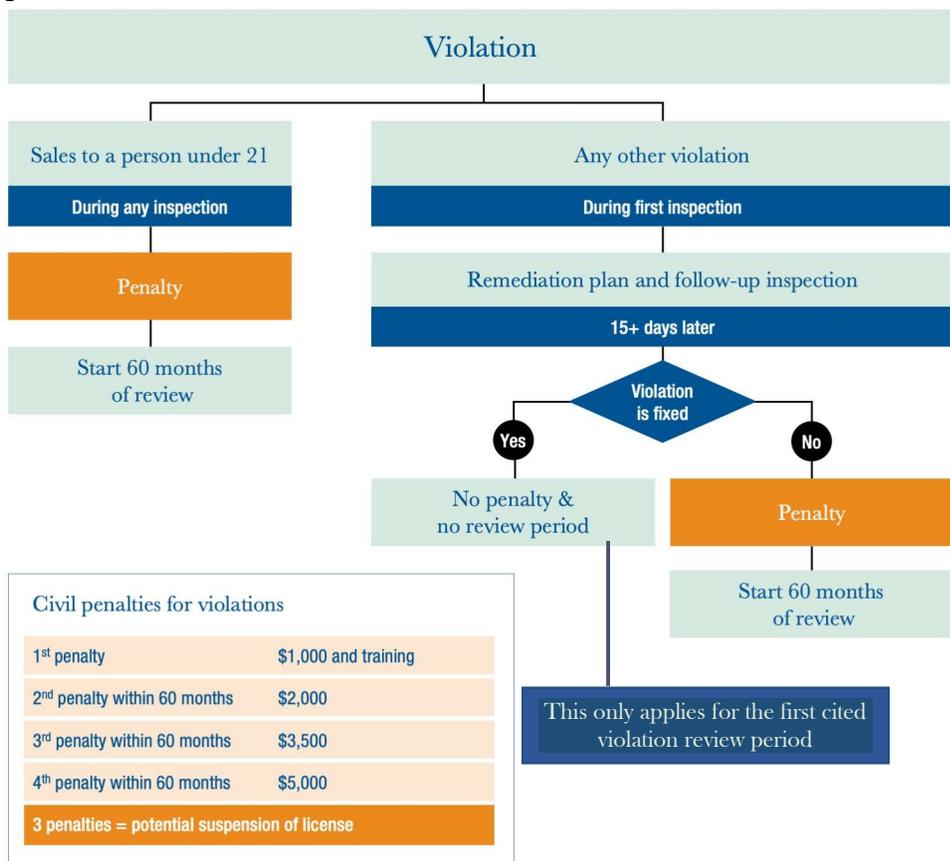
Inspector	Inspection type	Details
OHA and DOR	Surveillance inspections	OHA and DOR will also conduct surveillance inspections to find unlicensed retailers. Tobacco retailers that are under surveillance will be inspected to ensure that they do not have tobacco or IDS products displayed. Retailers who receive a final order of suspension will be subject to surveillance inspections to ensure that they are not selling tobacco or IDS products during their suspension and have the suspension notice displayed. Retailers that notify DOR that they are no longer selling tobacco or IDS products will also be under surveillance.

OHA or contracted Local Public Health Authority	Compliance inspection	<p>As of July 1, 2022, any retailer selling commercial tobacco will be inspected at least one time every year during regular business hours to make sure there are no violations of state or federal laws, regulations, or rules.</p> <p>Local Public Health Authorities may also inspect for local tobacco sales ordinances.</p>
	Minimum legal sales age inspection	<p>Tobacco retailers may also be inspected by OHA or a contracted Local Public Health Authority each year during regular business hours to make sure there are no tobacco or IDS sales to customers under 21 years old.</p> <p>Resources to help comply with the minimum legal sales age, including posters, age verification calendars and more, are available at: https://www.fda.gov/tobacco-products/retail-sales-tobacco-products/our-watch.</p>
	Complaint inspection	OHA may conduct additional inspections in response to complaints received against tobacco retailers to make sure there are no violations.
	Recheck inspections	OHA recheck inspections will happen if violation(s) are found during a routine or complaint inspection. Retailers that don't pass a routine inspection will receive a follow-up inspection no sooner than 15 days after the first inspection.
DOR	Tax inspections	DOR will inspect retailers to ensure they have a current tobacco retail license and display the license as part of DOR regular tax inspections.
U.S. FDA	Federal compliance inspections	Retailers may also be subject to federal inspections of tobacco product retailers, conducted by the FDA.

Penalties for not meeting requirements of tobacco retail license

The statewide tobacco retail license law includes real consequences for retailers that don't follow the law, such as fines and/or suspending or revoking a retailer's ability to sell tobacco products or IDS for repeated violations. The statewide tobacco retail license law penalizes store owners – not store clerks or youth – when illegal tobacco sales take place.

The following chart shows what will happen if a violation occurs within a 60-month period:



After an initial violation, a remediation plan is put in place for a 60-month review period. Additional violations during the review period will be applied as penalties. After 60 months, the review period ends.

In addition to a civil penalty issued by OHA, a license may be suspended or revoked by DOR, as described in OAR 150-323-0520 and retailers may be subject to civil penalties issued by DOR. An Appeal can be made for any penalty.

Questions?

For questions about OHA compliance inspections and enforcement:

- Tobacco.Inspections@dhsoha.state.or.us
- 971-673-2283
- www.healthoregon.org/tobaccoretailsales

For questions about DOR compliance inspections and enforcement:

- TRL.help@dor.oregon.gov
- 503-945-8120
- go.usa.gov/x999