

# **Protect Your Business: Resources for Businesses That Sell Alcohol and Tobacco Products in Washington County**

Provided by the Washington County Department of  
Public Health and Environment

651-430-6655



Equal Employment Opportunity / Affirmative Action

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**Protect Your Business:**

# Resources for Businesses that Sell Alcohol & Tobacco Products in Washington County

Keeping alcohol and tobacco products out of the hands of youth and limiting over-serving are important steps to keeping our community safe. Businesses in Washington County play an important role in this process. *Protect Your Business* was created to clarify the laws and to give you ideas on how to assure that your business stays in compliance with alcohol and tobacco products sale laws.

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Thank you for your efforts to reduce youth access to alcohol and tobacco products in Washington County. For more information, call the Washington County Department of Public Health and Environment at 651-430-6655.

## The Importance of a Policy

Every establishment can benefit from having written policies. Written policies can reduce your risk of problems, and your employees will be better able to manage situations that threaten your business (for example, “Excuse me, our policy requires us to see identification”). When employees know their responsibilities, they are less likely to sell alcohol or tobacco products to an underage person.

**Written policies are an important part of being a responsible licensee.** When you have no written policies, each employee may have his or her own idea about what the rules are, what they mean, and when they should be applied. These materials will assist you in developing your establishment’s policies. In the long term, by being a responsible establishment, you will build a strong and loyal customer base.

Here are some suggestions on writing and administering your policies:

- It is always a good idea to request feedback from your managers and employees when writing new policies. The employees will be more supportive of new policies they help create.
- Make sure the policies are clear and specific.
- Provide all employees with a copy of the policies.
- To ensure that employees understand their responsibilities, have them sign an Employee Agreement Statement. Keep this agreement in each employee’s personnel file.
- Reinforce the policies by providing regular training (e.g., quarterly or semi-annual trainings) to employees.
- Between trainings, hold regular staff meetings where you review and discuss the rules, recent problem situations, and ways to prevent those situations from happening again.
- Advise employees that you will spot-check their compliance with the policies and provide them with a regular (e.g., annual) performance review.
- Reward employees who show exceptional performance as responsible sellers of alcohol or tobacco.

Remember, as a licensee, you are responsible for violations of local laws by your employees. By establishing written policies, good communication and a supportive environment, and by providing regular (e.g., annual) performance reviews, you will go a long way toward protecting your business.

## Sample Policy: Employee Policy on The Sale and Service of Alcohol and Tobacco Products

Our business is committed to the safe sale of alcohol and compliance with federal, state, and local laws regulating sales of tobacco. We have developed the following policy and have provided trainings to ensure that we never sell tobacco products or alcohol to underage or intoxicated customers. Referring to this policy and doing trainings can help you appropriately check identification and refuse service or sales when necessary. Management will support you in checking identification and refusing service or sale. This policy and the trainings that support it are an important part of protecting yourself and our business. Both the employee and management can be held responsible and punished for illegal sales. You will not be penalized by management for refusing service or sales to a patron if you have followed all proper procedures and reasonably believe a person is underage or intoxicated in light of your alcohol and tobacco products sales training.

- During their first week of employment, all employees will be provided with a copy of the establishment policies and asked to sign an employee agreement.
- Employees are required to attend a server training for anyone serving alcohol, and/or sales training for anyone selling tobacco products, provided by this establishment at least once per year. Failure to attend these trainings will result in disciplinary action against the employee.
- It is everyone's responsibility to make sure that customers who buy alcohol or tobacco products are of age. We verify that all customers are at least 21 years old for sales of tobacco products and serving alcohol. Therefore, we thoroughly check the age identification of all people who appear younger than 30 years old.
- In Minnesota, acceptable forms of identification include:
  - Valid driver's license or photo identification card from any state or province of Canada;
  - A punched driver's license with current paperwork;
  - Tribal photo identification;
  - Valid United States passport;
  - Valid military photo identification card issued by the U.S. Department of Defense;
  - In the case of foreign nationals, passports with photo from a nation other than Canada are valid;Expired driver's licenses are **not** valid forms of identification.
- Adequately checking identification means:
  1. Comparing the photo on the identification with the customer;
  2. Checking the birth date;
  3. Examining the card for signs of falsification or tampering; and
  4. Checking the U.S. Driver License Booklet when unsure of the validity of a license.
- Managers will post signs and make materials available (example: US Driver License Booklet) to employees to help them follow the laws.
- We will discourage intoxication, and not serve any person who looks or acts intoxicated, even if they are taking a taxicab or have a "designated driver." This includes employees and regular customers.
- When a customer has been refused service or been denied a purchase because they are under the age 21 or appear intoxicated, all employees will withhold the alcohol product from the customer.

- Reasonable efforts will be made to prevent a patron who is obviously intoxicated from driving upon leaving our establishment. This may include calling a taxi or finding other transportation. If any employee feels any patron is unable to drive responsibly, they will notify management, who may call the police, if necessary.
- Violation of these policies by employees:
  - 1<sup>st</sup> Violation: Written warning and review of policy and training materials.
  - 2<sup>nd</sup> Violation: Probation and review of policy and training materials.
  - 3<sup>rd</sup> Violation: Suspension and review of policy and training materials.
  - 4<sup>th</sup> Violation: Termination
- Management will support every employee's decision to refuse a sale or terminate service to any customer.
- We will actively discourage loitering inside the store or on adjacent property immediately outside the store. This means we will tell loiterers to leave and we will keep signs posted. This will help prevent potential sales to underage persons.
- We will refuse to sell alcohol or tobacco to any person of legal age if we suspect they are going to furnish them to an underage person.

## How Compliance Checks Are Conducted

The sale of alcohol and tobacco products to underage persons is a concern of the citizens and law enforcement in Washington County. Because of these concerns, police departments in the county do not enforce alcohol and tobacco compliance based solely on complaints. All law enforcement in Washington County conducts at least one alcohol and one tobacco products compliance check each year. The purpose of these checks is to identify businesses and employees that are in compliance with existing federal, state and local laws and to encourage immediate corrective action and compliance by those who are not.

### Compliance Check Process

- A trained person under age 21 attempts to purchase alcohol or tobacco products while a law enforcement officer observes or waits outside the business.
- As part of their training, the underage person is advised to look their age, be honest about their age if asked, and use a valid ID.
- If the young person is able to purchase alcohol or tobacco products, the law enforcement officer issues a citation to the clerk or server and license holder/owner.
- County-wide compliance check results are reported to the Washington County Department of Public Health and Environment and entered into a database. Results are reported annually to law enforcement, cities and townships.

## Penalties For Underage Sale

### Sale Of Alcohol

- Seller or server will be charged with a gross misdemeanor criminal citation. This is punishable by imprisonment for no more than 1 year, a fine no more than \$3,000.00 or both.
- Criminal and civil actions against the owner or operator of a licensed establishment who allows the sale of alcoholic beverages to a person under the age of 21. These sanctions may include a criminal complaint and/or imposition of a civil fine as well as the suspension and/or revocation of your current liquor license.
- Civil lawsuits are also possible in cases where a person under the age of 21 is served and subsequently experience or cause harm, injury or death.

Check with your local law enforcement agency or city/township for administrative fines and penalty schedules for retailers found selling alcohol to a person under the age of 21.

Source: Minnesota Office of the Revisor of Statutes, statute number 340A.503, Persons Under21, Illegal Acts.

### Sale Of Tobacco Products

- Sales of tobacco products include all commercial tobacco products for which a tobacco retailer license is required under state and local laws. A retailer license is required for sales of cigarettes and all other tobacco products including cigars or cigarillos and smokeless tobacco or chew, electronic cigarettes or vapes (called "electronic delivery devices" under state and many local laws and including natural or synthetic nicotine and other e-liquids and component parts of e-cigarettes), tobacco-related devices (pipes, hookah, rolling papers, blunt wraps, etc.) and other nicotine or lobelia delivery products.
- Civil administrative actions or criminal misdemeanor actions can be brought against the owner or operator of a licensed establishment who allows the sale or furnishing (giving) of tobacco or other licensed products including tobacco-related devices, electronic delivery devices (electronic cigarettes, e-juice, component parts), or nicotine or lobelia delivery products to a person who is under the age of 21. Under state law, Minn. Stat. section 609.685, subd. 1a, any person 21 or over who sells, gives, or otherwise furnishes tobacco, tobacco-related devices (e.g., cigarette rolling papers, blunt wraps, pipes), or electronic delivery devices (e.g., e-cigarettes, component parts, e-juice) to a person under the age of 21 is guilty of a petty misdemeanor for a first offense. (A petty misdemeanor is not a crime and results in a fine of up to \$300.) A repeat offense within five years of a previous offense is a misdemeanor.
- Under [state law, Minn. Stat. 461.12](#), a licensee must be charged an administrative penalty of at least \$300 for a 1st violation; \$600 for a 2nd violation at the same location within 36 months after the 1st violation; and \$1,000, plus license suspension for no less than 7 days for a 3rd or any other violation at the same location within 36 months after the 1st violation.
- Sanctions may also include the suspension or revocation of your current tobacco license.
- Retailer fines and penalty schedules for selling tobacco, e-cigarettes, e-juices, or other licensed products to a person under the age of 21 may be different for each city. Check with your city

administration or tobacco licensing authority for complete details. Cities or townships within the County that enact their own ordinances may establish stronger (but not weaker) penalties for retailers (licensees) than those established under state law.

### **Electronic Cigarettes, E-Liquids and Child-Resistant Packaging**

Electronic cigarettes ("electronic delivery devices") are battery-powered devices, often resembling cigarettes, cigars, or pipes, designed to deliver nicotine or other substances, whether natural or synthetic, to users in the form of an inhaled aerosol or vapor. For the full definition of an electronic cigarette ("electronic delivery device") under Minnesota law, see [Minn. Stat. section 609.685](#), subd. 1 (c), "Electronic delivery device." This definition, and enforcement of the law, applies to any component part of a product, whether or not marketed or sold separately. Drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that the Food and Drug Administration has authorized for sale are excluded.

#### **[461.20 Sale of Electronic Delivery Device; Packaging](#)**

The sale of any liquid, whether or not such liquid contains natural or synthetic nicotine or another substance, that is intended for human consumption and use in an electronic delivery device, as defined in section [609.685](#), subdivision 1, that is not contained in packaging that is child-resistant, is prohibited. All licensees must ensure that any liquid intended for human consumption and use in an electronic delivery device is sold in child-resistant packaging.

#### **Source:**

Minnesota Statutes, Ch. 461 and section 609.685:

<https://www.revisor.mn.gov/statutes/cite/461/full>

<https://www.revisor.mn.gov/statutes/cite/609.685>

<https://www.publichealthlawcenter.org/topics/commercial-tobacco-control/minnesota-commercial-tobacco-control>

## Employee Training Tips for Sale of Alcohol or Tobacco Products

- Issue a written policy that explains to all managers and employees that your establishment will not sell alcohol or tobacco products to anyone who is under 21 years old or in violation of any other federal, state, or local law. Explain that your establishment has an obligation to obey the federal, state and local laws.
- Provide each employee with a summary of the laws regarding alcohol and tobacco product sales. Review the law and your establishment's policy with all employees.
- Require employees to sign an employee agreement (pages 10 & 11) stating that they understand the store's policy and the laws regarding alcohol and tobacco product sales to persons under the age of 21.
- Inform your employees that any illegal sale to persons under the age of 21 will result in disciplinary action and penalties.
- Tell the employees that they must request photo identification from anyone buying alcohol or tobacco products who is not obviously over 30 years of age. Make it clear that your policy is to refuse to sell without proof of age.
- Teach employees how to read birth dates to determine if a person is of legal age to purchase the product. Post a sticker or calendar on the cash register stating "State law prohibits the sale of alcohol or tobacco to anyone under the age of 21. If you were born after today's date in 20\_\_ you cannot buy alcohol or tobacco."
- Help employees practice checking photo IDs and refusing sales to those under the age 21.
- As the law requires, post signs visible to the public stating that it is illegal to sell alcohol or tobacco to anyone under the age of 21.
- Remind employees of the law and your store/company policy quarterly.

# Sample Agreement – Sale of Alcohol

## Employee Agreement for Legal Sale of Alcohol

I understand that federal, Minnesota and local laws prohibits the sale of alcoholic beverages to persons under the age of twenty-one (21) years of age and to obviously intoxicated individuals. Selling alcoholic beverages to a person under the age of 21 in Minnesota or to an intoxicated person may result in the suspension or loss of the establishment’s license to sell alcoholic beverages.

By signing this form, I agree to the following statements:

1. I understand that our store/restaurant/bar is dedicated to the legal sale of alcoholic beverages.
2. I have read and reviewed the policy and training materials distributed by my manager related to the sale of alcoholic beverages to underage persons and intoxicated persons and understand their requirements.
3. I understand that it is against the law to sell alcoholic beverages to any person under the age of 21.
4. I understand that I must ask for and receive a government-issued photo ID from everyone looking younger than 30. When a person gives me a form of government-issued photo identification, I must carefully check it to determine if they are 21 years of age or older. This information must be clearly stated on the license or other form of government-issued identification.
5. I understand that I must refuse to sell alcoholic beverages to anyone under the age of 21 or I may face progressive disciplinary actions. I understand that I could receive a written warning, probation, suspension, or lose my job for repeated sales.
6. I will discourage intoxication, and not serve any person who looks or acts intoxicated, even if they are taking a taxicab or have a designated driver. This includes employees and regular customers.

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Employee Signature

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Date

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Store Manager Signature

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Date

# Sample Agreement – Sale of Tobacco

## Employee Agreement for Legal Sale of Tobacco Products

I understand that federal, Minnesota and local laws prohibits the sale of tobacco including cigarettes, cigars, cigarillos, smokeless tobacco, and other licensed products, including e-cigarettes, e-juice and component parts of e-cigarettes, as well as tobacco-related devices like pipes, rolling papers and wraps, to anyone under the age of 21. Selling tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to a person under the age of 21 in Minnesota may result in a fine and the suspension or loss of the establishment’s license to sell tobacco products.

By signing this form, I agree to the following statements:

1. I understand that our store is dedicated to the legal sale of tobacco and all other licensed products.
2. I have read and reviewed the policy and training materials distributed by my manager related to the sale of tobacco and other licensed products and understand their requirements.
3. I understand that it is against the law to sell tobacco and other licensed products to any person under the age of 21.
4. I understand that I must ask for and receive a government-issued photo ID from everyone looking younger than 30. When a person gives me a form of government-issued photo identification, I must carefully check it to determine if they are 21 years of age or older. This information must be clearly stated on the license or other form of government-issued identification.
5. I understand that I must refuse to sell or give tobacco or other licensed products to anyone under the age of 21 or I may face progressive disciplinary actions. I understand that I could receive a written warning, probation, suspension, or lose my job for repeated sales.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Store Manager Signature

\_\_\_\_\_  
Date