

**Effective 7/1/2015**

**76-10-105.1 Requirement of direct, face-to-face sale of cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

- (1) As used in this section:
  - (a) "Cigarette" means the same as that term is defined in Section 59-14-102.
  - (b)
    - (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.
    - (ii) "Face-to-face exchange" does not include a sale through a:
      - (A) vending machine; or
      - (B) self-service display.
  - (c) "Retailer" means a person who:
    - (i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal consumption; or
    - (ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an electronic cigarette.
  - (d) "Self-service display" means a display of a cigarette, tobacco, or an electronic cigarette to which the public has access without the intervention of a retailer or retailer's employee.
  - (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.
  - (f) "Tobacco specialty shop" means a retailer with a physical location that derives at least 80% of its total sales from the sale of cigarettes, tobacco, or electronic cigarettes.
- (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an electronic cigarette only in a face-to-face exchange.
- (3) The face-to-face sale requirement in Subsection (2) does not apply to:
  - (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;
  - (b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:
    - (i) that is distinct and separate from the rest of the facility; and
    - (ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or
  - (c) a sale at a tobacco specialty shop.
- (4) An individual who is less than 19 years old may not enter or be present at a tobacco specialty shop unless the individual is:
  - (a) accompanied by a parent or legal guardian;
  - (b) present at the tobacco shop for a bona fide commercial purpose other than to purchase a cigarette, tobacco, or an electronic cigarette; or
  - (c) 18 years old or older and an active duty member of the United States Armed Forces, as demonstrated by a valid, government-issued military identification card.
- (5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the individual to purchase a cigarette, tobacco, or an electronic cigarette.
- (6) A violation of Subsection (2) or (4) is a:
  - (a) class C misdemeanor on the first offense;
  - (b) class B misdemeanor on the second offense; and
  - (c) class A misdemeanor on the third and all subsequent offenses.
- (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor under Section 76-10-104.
- (8)

- (a) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.
- (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

Amended by Chapter 66, 2015 General Session  
Amended by Chapter 132, 2015 General Session