

STRATEGIES TO PREVENT NON-COMPLIANCE WITH THE TOBACCO CONTROL ACT & TOBACCO CONTROL



COMMUNITY CARE FACILITIES LICENSING PROGRAM TOBACCO PREVENTION AND CONTROL PROGRAM

Tobacco laws restrict how tobacco and tobacco products can be sold, displayed and promoted. In British Columbia, the use, sale and display of tobacco products are regulated by the *Tobacco Control Act* and the Tobacco Control Regulation. The federal *Tobacco Act* governs the manufacture, sale, labeling and promotion of tobacco products in BC and across Canada.

Tobacco retailers have a responsibility to stay in compliance with tobacco laws.

Enforcement and Penalties for Non-Compliance

It is the responsibility of all retail managers/owners to ensure their employees are trained to sell tobacco in compliance with the law.

- Enforcement officers, employed by the provincial health authorities, enforce the provincial *Tobacco Control Act (TCA)* and Tobacco Control Regulation (TCR).
- Enforcement officers conduct routine inspections, provide education and monitor compliance with the signage and display/promotion provisions of the *TCA* and TCR.
- Tobacco retail outlets are subject to unannounced checks for compliance with other provisions of the *TCA* and TCR, such as checks to ensure tobacco is not being sold to a minor.
- Penalties for breaking the law may apply to both retail managers/owners and clerks.

In order to help prevent non-compliance, it is recommended that business owners develop and implement plans that may consist of written policies, practices and procedures around the sale, display and use of tobacco products. If you decide to implement or modify an existing plan, it is important to inform your staff of any changes that you will be making with respect to tobacco products. It is the business owner's responsibility to ensure that the plan is implemented and working in the business premise. In addition, be advised that having a plan does not indemnify retail managers/owners from future ticketing/prosecution/Administrative penalties should your business be found to have contravened the legislation.

Island Health does not approve or accept plans for addressing noncompliance. The role of Island Health Tobacco Prevention and Control staff is to monitor compliance to the legislation. The retail manager/owner is responsible for taking the necessary steps to ensure compliance to the *Tobacco Control Act* and Tobacco Control Regulation. Retailers are also responsible for revising their policies and procedures as necessary to achieve compliance.

Tobacco Prevention and Control staff may offer suggestions to the retail managers/owners on strategies to maintain compliance with the legislation. However, the retail managers/owners are responsible for the policies and procedures they implement to ensure compliance and prevent further contravention with the legislation.

When developing a plan, it is important for the Retail Manager/Owner to ask themselves the following questions:

- **Orientation of New Staff and Ongoing Education of Existing Staff**
 - What steps do you take to ensure that new and existing staff persons are aware of the law related to tobacco use and sales?
 - What information do you provide (including description of how they check ID, what happens when they refuse a sale, etc.) to your staff?

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- What format do you use to provide the information to staff (in writing, verbally, using a DVD, etc.)
 - Who provides the information to staff (i.e. another employee is responsible for staff training, the manager is responsible for staff training, employees read the education materials and company policies on their own)?
 - How do you provide the information to staff (i.e. verbally or in writing, or both, or staff are responsible for reading the materials on their own)?
 - At what point in their orientation are new staff persons allowed to sell tobacco products? How do you know that new staff persons are ready to sell tobacco products in compliance with the law?
 - How often do you review the education materials and tobacco control policies with existing staff? Or if staff are expected to review the materials and policies independently, how often are they expected to complete reviews?
 - What documentation will you keep regarding staff orientation and training?
- **Monitoring of Staff Compliance**
 - How do you check that staff understand and follow the law related to tobacco sales (such as test shoppers, quizzes, role playing, video cameras and review of tapes)?
 - How often do you monitor staff?
 - How will you document this monitoring?
- **Policies**
 - What are your policies regarding tobacco sales?
 - How are staff persons informed about these policies?
 - What documentation will you keep about staff being informed of policies?
- **Tools and Strategies**
 - What other tools do you use at your site to ensure that staff follow the law (including age prompt stickers, electronic age verification, signage, tobacco sales only from one till, etc.)

It is the business owner's responsibility to ensure that the plan is implemented and working in the business premise.

Employers and staff should review the "Tobacco Retailer Resource Kit" (available from our website: <http://www.viha.ca/mho/tobacco/>) for information describing their legal obligations when selling and displaying tobacco products. It is the responsibility of the retailer to ensure that they and their staff know and comply with the law:

- Tobacco cannot be sold to those under 19 years of age:
 - Retailers should refuse to sell tobacco if there is any doubt that the customer is at least 19 years of age. If a retailer is uncertain about the customer's age, they should ask for valid photo identification.
- Tobacco products cannot be displayed or visible to minors - those under the age of 19 - inside any store. In addition, they cannot be clearly visible to a person outside of the store.

What are the penalties and fines for not complying with the tobacco laws?

As a tobacco retailer, you could face administrative penalties, sales prohibitions, and fines if the tobacco display/advertising restrictions are not met. The amount and extent of these penalties have been set by regulation.

Websites that offer more information and resources:

<http://www.viha.ca/mho/tobacco/>
www.health.gov.bc.ca/tobacco.
www.gosmokefree.ca