

Age Restricted Products

Guide for Retailers



South Tyneside Council

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INTRODUCTION TO AGE-RESTRICTED PRODUCTS

What are age-restricted products?

Because of the harm they can cause, the supply of a wide range of products to underage people is illegal. These are called age-restricted products and the term 'underage sales' is commonly used to describe their illegal supply to young people.

This pack gives guidance on the law relating to the following age-restricted products:

- Alcohol
- Cigarettes and other tobacco products
- Fireworks & Sparklers
- Party Poppers
- Videos, DVDs and computer games
- Knives and other items with blades
- Glues and solvents
- Cigarette lighter refills and solvents
- Aerosol spray paint
- National Lottery draw tickets and Scratch cards

Who should read this guidance pack?

Anyone who sells the above products.

Who is liable?

As the owner of the business you are likely to commit a criminal offence where an illegal sale takes place, even if you did not conduct the transaction yourself.

Individual employees, including part-time staff, can be prosecuted for underage sales.

A similar offence occurs when statutory warning notices fail to be displayed.

If you make an underage sale you could end up in court possibly facing a fine of up to £5000 or even imprisonment. Significantly, there may be loss of any licence.

Trading Standards and Test Purchasing

Trading Standards carry out test purchases to check businesses are complying with the law. A test purchase is where a young person, usually aged no older than 16½ years of age, enters a shop and will attempt to buy an age restricted product such as alcohol or tobacco. The young person will look their age, will look and will act like any other customer.

Prior to a test purchase all businesses will receive advice from Trading Standards.

If a business illegally sells an age restricted product they are usually notified immediately by our officers, who will return to the shop and they will advise of the illegal sale.

Trading Standards will take appropriate enforcement action following the illegal sale of an age restricted product, this could be a warning, a statutory caution, a prosecution or in the case of alcohol, a licence review. Action may be taken against any employee if they sold the product, where the owner can demonstrate that the employee was trained and refusal logs were used and reviewed.

A major consideration in respect to what is appropriate enforcement action will be how closely a business owner follows the advice provided in this pack and/or whether advice has been provided and has not been followed.

A licence review may result in the following –

- Revocation of your licence.
- Suspension of your licence for up to 3 months.
- Further conditions being placed on your licence.
- Removal of the DPS.
- Change of licensing hours.

Our enforcement policy can be found at: www.southtyneside.info/article/18313/general-statement-of-enforcement-policy

What Could Go Wrong

When people are interviewed under caution following an underage sale there are common excuses:

The shop was very busy

I was distracted by someone at the

The child looked about the same age as my 18-year old

It was a new employee

I trained the employee but they let me down

The last one is the only one that might be acceptable: Even so Trading Standards will want to see proof that the person has been trained and proof that you are checking on things like reviewing the refusals log. You may also need to show that the assistant knew about your shop policy e.g. Challenge 21 or 25 and was not left to figure out the age on his or her own.

Do underage sales really matter?

Yes. Apart from the legal consequences for the retailer, underage sales can have a real effect on the health of the country's children and the well-being of the wider community.

Bear in mind the following;

Alcohol

Almost 90% of 15 year olds have tried alcohol, whilst a third drink once a week or more

Young people aged 16-24 are more likely than other age groups to consume more than twice the Department of Health's recommended sensible limits. 26% drank two or three times a week and the majority drank at weekends.

Tobacco

82% of smokers take up the habit as teenagers.

Currently there are approximately 256 deaths in South Tyneside are directly attributable to smoking.

Fireworks

In the last year statistics were recorded, 990 injuries were recorded involving fireworks.

Around half of all injuries are to children under the age of 17.

Party Poppers

Party poppers used inappropriately can cause damage or loss of hearing

DVDs and Computer Games

Kids who view violent acts are more likely to show aggressive behaviour.

Characters often depict risky behaviours, such as smoking and drinking.

Knives

A 2009 Trading Standards Institute survey found that a quarter of tested businesses would sell knives without age checks (Trading Standards Institute, 2009).

Glues and Solvents

1,700 people have died from 'solvent' abuse. 53% of deaths were between the ages of 14 and 18

Butane Lighter Refills

Butane misuse can kill instantly

Long term use can cause cancer.

Aerosol Spray Paints

It is estimated that it costs the UK 1 billion to remove graffiti.

National Lottery & Scratch cards

Gambling can lead to debt and to low level crime.

PRODUCT	MINIMUM AGE	CRIMINAL PENALTY
Alcohol	18 Anyone buying or trying to buy alcohol for someone under 18 also commits an offence	Fine – up to £5000 + costs Fine – up to £20,000 + costs for persistently selling Simple Caution / Criminal Record
Tobacco Products	18 This applies to cigarettes, loose tobacco, chewing tobacco and rolling papers	Fine - up to £2,500 + costs Selling single cigarettes, even to an adult. Fine – up to £1000 + costs for failing to display warning notice / Criminal Record Restriction order – person and/or premise specified
Fireworks & Sparklers	18 Firework packs must not be split	Fine – up to £5000 + costs You can also get up to 6 months in prison Criminal Record
Party Poppers	16 These include caps, novelty matches, party poppers serpents and throw downs	Fine – up to £5000 + costs You can also get up to 6 months in prison Criminal Record
DVD & Computer Games	12, 15, 18 A work classified as 'Restricted 18' can only be sold to someone over 18 through a licensed sex shop	Fine – up to £5000 + costs You can also get up to 6 months in prison Criminal Record
Knives	18 This includes any axe or any other item which has a blade or is sharply pointed and could cause an injury	Fine – up to £5000 + costs You can also get up to 6 months in prison Criminal Record
Glues and Solvents	18 These include glues, aerosols, cleaning fluids, paint stripper, nail polish remover and antifreeze. These CANNOT be sold if you think the person is going to abuse them in anyway	Fine – up to £5000 + costs You can also get up to 6 months in prison Criminal Record
Butane Lighter Refills	18	Fine – up to £5000 + costs You can also get up to 6 months in prison Criminal Record
Aerosol Spray Paints	16 The owner of the business as well as the seller may be liable	Fine – up to £2500 + costs Criminal Record
National Lottery & Scratch cards	16 It is also against the law for someone under 16 to sell National Lottery draw tickets and scratch cards	Fine – up to £5000 + costs Criminal Record

HOW CAN I PREVENT UNDERAGE SALES?

Do not assume the age of a young person

It can be difficult to guess how old a person is.

If you guess, you are likely to get it wrong and sell to an underage child.

It is also unreasonable to expect an employee to guess the age of a customer.

Can you guess the age of the following people?

It could cost you or your staff £5000 if you get it wrong.....

(Answers are at the back of this guide)



IF IN DOUBT - REFUSE THE SALE

Step 1- Operate a challenge 21 or 25 policy

We recommend that you ...

- Operate a policy of "No Proof of Age - No Sale" is sensible.
- Consider adopting a Challenge 21 scheme or Challenge25 scheme.
- Encourage staff to ask for proof of age for all customers who appear to be under the age of 21.

South Tyneside Council strongly recommends that all retailers of age restricted goods use one of these schemes. Many young persons who wish to purchase such items, particularly alcohol, will deliberately 'dress up' to appear older and traders must take all reasonable steps to avoid sales to such persons.

Asking for identification at an age limit that is higher than the legal age for the sale of the product, means that you are much less likely to make an illegal sale to someone who looks older than they are.

It is much easier to say "you don't look over 21 (or 25)" than it is to say "you don't look 18"

Challenge 21 or 25 works best if customers know about it. Posters should be displayed around the shop and till point so that the sales assistant can make reference to them whilst asking the customer for proof of age
Free posters and information available on the internet. Visit... www.challenge21.co.uk or www.challenge25.org

Using the age of 21 or 25 set as the level you ask for the identification will eliminate most illegal sales.

Step 2 - Training

The most important part in making sure that underage sales do not happen is to make sure that you and your employees are trained properly. Training should be given before sales assistants make any sales to the public. You should also train anyone who helps in the shop whether paid or unpaid and this includes family members.

Practical training on what ID is acceptable, how to check ID and how to refuse a sale.

How to deal with difficult customers

Know the age limits for the products you sell

What could happen if they sell a product illegally?

Recording refused sales of age restricted products in the Challenge Register

Training should be on going and updated on a regular basis.

You should check that your employee understands the training and monitor them to make sure that they follow your instruction. Some of your staff may lack confidence in asking for proof of age. You should ensure that these staff has the skills needed to refuse sales

There is a questionnaire included with this pack which you can ask employees to complete. If an employee cannot complete the questionnaire properly then they need more advice and guidance on underage sales.

Make sure your employees understand how difficult it is to actually judge young people's ages; and instruct them to use the Challenge 21 or 25 Policy

Keep records of training and instructions issued. Make sure they sign and date training records to say they have understood the training. This will allow you to keep a check on who has received training and prove it has been provided in the event of an illegal sale. A staff training register can be downloaded from the Trading Standards pages at <http://www.southtyneside.gov.uk/article/12970/Advice-for-traders> or contact Trading Standards on tradingstandards@southtyneside.gov.uk or call: 0191 4247887.

IF IN DOUBT - REFUSE THE SALE

Step 3 – Proof of age

If Challenge 21 or 25 and till prompts are used properly, they will lead to requests for proof of age.

The only acceptable forms of ID are;

- 10 year passport
- Photographic driving licence
- Ministry of Defence form 90 (defence identity card)
- photographic identity card bearing the national Proof of Age Standards Scheme (PASS) hologram
- national identity card issued by Norway, Iceland, Liechtenstein, Switzerland, or a member state of the European Union (other than the United Kingdom)
- biometric immigration document

Birth Certificates are not acceptable as they do not carry a photo, neither are Student Union cards.

Be careful with driving licences as they can be issued when a person is 17 years old.

Some customers don't have or like to carry their passport/driving licence in case they are lost or stolen. So

Remember PASS accredited proof of age cards are acceptable forms of ID and are supported by the Government and South Tyneside Council.

Real or Fake?

Fake proof of age and identity cards are freely available through the internet.

When a customer presents ID you should examine it by;

- Feeling the surface of any card, it should be completely smooth.
- Checking that the valid date is not expired.
- Comparing the likeness of the photo to the customer.
- Checking the card for the PASS hologram
- There should be no sign of alterations being made
- Checking the date of birth

Warn your employees and be sure that they understand that they cannot rely on other types of proof of age.

Include this warning in your training record that they sign.

Application forms for young people to take away and complete can be ordered from various PASS accredited sites on the internet. You may wish to keep a stock on your counter.

Around 1.5 million young people hold proof-of-age cards bearing the PASS hologram and numbers are increasing all the time.

For more information please visit the PASS website at

www.pass-scheme.org.uk/new-pass-card

Step 4 - Challenge Register

It is vital that you monitor that staff are following the training and instruction that you give. It is also important that your business is properly prepared to deal with those times when underage children are more likely to try and buy age-restricted products.

Instructing your staff to make a record of every time they refuse a sale of an age restricted product (and any refused by you) is important for the following reasons;

- It shows that you and your employees regularly check a person's age and refuse to sell to underage people.
- It shows that your employees are following the training they have been given and may identify whether further training is needed for those employees who are not refusing sales.
- It may highlight the times when most underage customers attempt to purchase age-restricted products so additional precautions can be taken. For example, making sure that you are present to support staff or not leaving an inexperienced member of staff to serve alone at those times.
- It will help employees identify if someone is attempting to buy age-restricted goods on a regular basis.

You should review refusals records regularly, sign and date the record to show that it is being monitored and record any action taken as a result of those reviews.

A Challenge Register can be requested from South Tyneside Trading Standards at: trading.standards@southtyneside.gov.uk or call Trading Standards on 0191 424 7887

IF IN DOUBT - REFUSE THE SALE

Step 5 - Till prompts

Reminders to staff and customers located at the till point are a good idea. These can alert you and your staff that a product is age restricted.

Sometimes it is easy to go on 'auto pilot' simply scanning items without realising what they are.

Using a 'till prompt' if you have an EPOS (Electronic Point of Sale) system in your shop will provide an alert to the operator as soon as an age restricted product is scanned at the till.

The operator should then consider the product and the customer's age.

An effective till prompt requires some positive action before the sale can be made. For example the operator may have to ask whether the customer looks over 21 or over 25. Then a yes or no button has to be pressed to continue.

If the no button is pressed then in order to proceed with the sale acceptable ID must be seen.

It is important to consider however that where most products in a shop are age restricted then a till prompt may have limited value.

If there is no till prompt then written notices/stickers at the till point showing age limits would also be a useful final reminder.

IF IN DOUBT - REFUSE THE SALE

Step 6 - Warning Notices

Certain products also have to have a warning notice displayed in the shop you must display a notice like this where the cigarettes are sold:
(Notice to be at least 297mm x 420mm (A3) with lettering at least 36mm high)

You may be fined up to £1000 for non **display**.

If you sell fireworks, a notice must be prominently displayed like this:
(Notice to be at least 297mm x 420mm (A3) with lettering at least 16mm high)

Also sparklers must be labelled 'Warning: not to be given to children under five years of age'.

You may want to consider displaying other notices conspicuously to avoid illegal sales of other products such as alcohol, butane gas lighters.

Posters can be downloaded from the Trading Standards pages at <http://www.southtyneside.gov.uk/article/12970/Advice-for-traders> or contact Trading Standards at trading.standards@southtyneside.gov.uk or call 0191 424 7887.

IT IS ILLEGAL TO SELL
TOBACCO
PRODUCTS TO
ANYONE **UNDER**
THE AGE OF **18**

IT IS ILLEGAL TO SELL
ADULT FIREWORKS AND
SPARKLERS
TO ANYONE **UNDER** THE AGE
OF **18** AND IT IS ILLEGAL FOR
ANYONE **UNDER**
THE AGE OF **18** TO POSSESS
ADULT FIREWORKS IN A
PUBLIC PLACE

IT IS ILLEGAL TO
SELL
Insert product name
TO ANYONE UNDER
THE AGE OF 18

Step 7 - CCTV

As well as helping to prevent and detect crime CCTV can be a useful tool in preventing underage sales. A camera outside and inside your shop may act as a deterrent to a customer being overly aggressive.

Footage of any images of attempted illegal age restricted purchases (whether underage or proxy) can be shared with Northumbria Police.

Best practice is to have a CCTV system with recording equipment maintained at your premises and operated with cameras in positions should be agreed with the police

All recordings used in conjunction with CCTV should:

- Be of evidential quality – this is important if the police wish to deal with any incident which your cameras have caught.
- Indicate the correct time and date – you must ensure that the time and date are correct as this could cause problems if you want to find an incident which has been recorded
- Usually retained for a period minimum number of days – we recommend at least 14 days as there may be minor incidents which have led up to the incident which would be lost should the recordings be deleted

If your CCTV is operated correctly it will allow you to check footage from a busy period to see if your staff ask for ID. You can also check footage against entries in the Challenge Register to see if they are accurate.

Remember to keep a record of any checks you have done using CCTV footage as well as any action taken.

HOW TO REFUSE A SALE

Sometimes refusing a sale will make the customer angry. Here are some tips to help you handle difficult refusals.

Ask For Proof of Age– This helps the situation as it is not a direct refusal. It says that you will make the sale if the customer can produce valid proof of age.

Only accept proof of age with a photo, and only then if you are happy it is correct. If the customer does not have any identification provide them with a Citizen Card application form. This shows you will serve the customer if they provide valid ID.

Refuse Politely – If necessary repeat your refusal clearly.

Keep Calm – Don't get into an argument and explain briefly why you cannot sell.

Show the customer any notices, posters and stickers (contained in the Age Matters pack) that indicate you will not serve alcohol (or other age restricted products) to children.

Try not to be distracted by other customers or their comments and call your supervisor or manager for support if necessary. Remember to fill in the Refusals Register for every sale you refuse.

Age Verification Policy

If you sell alcohol you are required under the Licensing Act 2003 to have in place a 'Premises Age Verification Policy' An 'age verification policy' is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises ('the customer') if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such an age as may be specified in the policy).

An Age Verification Policy accompanies this pack or can be downloaded from the Trading Standards pages at southtyneside.info/tradingstandards/underagesales/advicefortraders or contact Trading Standards at trading.standards@southtyneside.gov.uk or call 0191 424 7887.

PROXY PURCHASING

This is when a person over the legal age attempts to buy an age restricted product on behalf of an underage person. Usually a child will give an adult money to buy for example alcohol for them.

In the case of alcohol, both the adult buying the alcohol, as well as the person that sold the alcohol, can commit a criminal offence if they knew or suspected it was being bought on behalf of a child. Aside from a criminal record, they could receive a Penalty Notice for Disorder or a £5,000 fine.

How to spot proxy sales:

When groups of youth congregate outside approaching members of the public who enter the store.

If members of the public who might have been approached, ask for the same alcohol product, etc which you have just refused to sell to an underage person.

If the adult pays separately for the product and keeps the change separate.

If the age restricted product is kept separate from their other shopping.

If you know your local community and your customers, and the purchase of such an alcoholic product is totally out of character, remind them that it is an offence to "proxy" purchase.

If the adult re-enters the store just to buy alcohol after they have left.

You will find a poster within this pack that you can display warning of the dangers of proxy purchasing. It is important to record any attempted proxy purchases in your refusals book.

Remember you are perfectly within your rights to refuse such a sale although the customer is over the legal limit to buy the product

This leaflet is not an authoritative interpretation of the law and is intended only for guidance.

For further info - Contact Trading Standards on: 0191 424 7887

ANSWERS TO QUESTION GUESS THE AGE - FROM LEFT TO RIGHT: 19 14 16 20 15