

Tobacco Retail License

Retailers Manual



Rules and Responsibilities for Retailers Selling Tobacco Products in Benton County

(Updated April 27, 2023)

Introduction

In 2021, the Oregon state legislature passed a law requiring all tobacco retailers to hold a Tobacco Retail License (TRL). Corvallis has had a TRL requirement at the local level since 1997, with Benton County and Philomath adopting requirements soon after. In order to retain the local governance of the law, all jurisdictions within the county – including Adair Village, Corvallis, Monroe, Philomath, and unincorporated areas of Benton County – are now under a singular TRL program, administrated by Benton County Health Department.

Any business that wants to be authorized to sell tobacco, vape, and nicotine products in Benton County is required to get a tobacco retail license from the Benton County Health Department. The licensing requirement applies to all retailers, including but not limited to:

- convenience stores,
- bars,
- hotels,
- restaurants,
- gas stations, and
- music venues.

Tobacco retail licensing allows the County to track where tobacco is being sold, and ensure that retailers comply with federal, state, and local laws regulating the sale of tobacco, vaping, and nicotine products. This helps reduce youth access to tobacco in our community and makes stores healthier places for everyone to shop.

Purpose of this Manual

This manual was developed to:

1. Educate Tobacco Retailers, employees, and the public on the requirements and responsibilities of a Tobacco Retail License in Benton County.
2. Ensure Tobacco Retailers have training materials if they receive a Tobacco Retail License remediation plan.

Reading this information will take around 20-40 minutes.

DISCLAIMER: Rules and regulations contained in this manual are subject to change. We will work to keep this manual updated and communicate changes.

Reasons for License - Youth Prevention

The goal of the Tobacco Retail Licensing program is to increase education for Tobacco Retailers and employees to reduce youth access to tobacco products across Benton County.

Enforcement of Tobacco Retail licenses has been shown to significantly reduce rates of youth tobacco use where it has been applied (Public Health Law Center, 2017).

According to the Center for Disease and Control and Prevention (2016), 1 out of 13 youth will ultimately die prematurely from a smoking-related illness if current smoking rates continue. Youth and young adults who smoke are in serious danger and smoking can cause deadly health issues instantly and into adulthood. They are in danger of:


- nicotine addiction (exposure to nicotine can have lasting effects on adolescent brain development),
- reduced lung function,
- reduced lung growth, and
- early cardiovascular damage.

Nine of 10 adults who smoke report that they started smoking before turning 18 (HHS, 2012), and studies show that 9 out of 10 adults who smoke daily first try smoking by the age of 18 (CDC, 2012).

About your Tobacco Retail License

Any business that sells tobacco, nicotine, and vaping products in Benton County is required to purchase an annual license.



This license is called your Tobacco Retail License.

Must be posted in visible location.	
 Tobacco Retail License	Facility Number: 000000
	License Number: 000000-LIC
	Effective Date: July 1, 2022
	Expiration: June 30, 2023
	Fee Received: \$560.00
Fake Vape, LLC 123 NW 9th St. Corvallis, OR 97330	Suzanne Hoffman, Director Benton County Health Department

Requirements for Tobacco Retailers


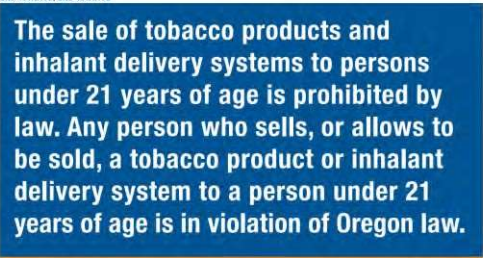


Rules for your Tobacco Retail License (TRL)

- A TRL cannot be transferred to another business.
- If you move your business to a new address within Benton County, you must apply for and obtain a new license before selling tobacco products at the new location.
 - If you move your business out of Benton County, check with the new, local county for licensing details.
- If a licensed business is sold or transferred (change of ownership), the new owner must obtain a new license for that location before selling tobacco products.
- A separate fee is paid for each business license.

✘ Not Allowed	✔ Allowed
	

Signs

Your store must display these two items:

Benton County Tobacco Retail License	Oregon State Notice Posting 333-015-0205										
<p>Must be posted in visible location.</p>  <p>Tobacco Retail License</p> <p>Fake Vape, LLC 123 NW 9th St. Corvallis, OR 97330</p> <p>Suzanne Hoffman, Director Benton County Health Department</p> <table border="1" data-bbox="527 394 781 510"> <tr> <td>Facility Number:</td> <td>000000</td> </tr> <tr> <td>License Number:</td> <td>000000-LIC</td> </tr> <tr> <td>Effective Date:</td> <td>July 1, 2022</td> </tr> <tr> <td>Expiration:</td> <td>June 30, 2023</td> </tr> <tr> <td>Fee Received:</td> <td>\$560.00</td> </tr> </table>	Facility Number:	000000	License Number:	000000-LIC	Effective Date:	July 1, 2022	Expiration:	June 30, 2023	Fee Received:	\$560.00	 <p>ORS 431A.175, ORS 431A.176</p> <p>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.</p>   <p>Want to Quit Smoking? 1.800.QUIT.NOW (1.800.784.8669) www.quitnow.net/oregon</p>
Facility Number:	000000										
License Number:	000000-LIC										
Effective Date:	July 1, 2022										
Expiration:	June 30, 2023										
Fee Received:	\$560.00										





You have the option to post your own sign if your sign has very similar language as the Oregon State Notice Posting (see examples below).



Where to Display Required Signs

Benton County will provide a paper license and an Oregon State Notice Posting that must be displayed at your location in a location visible to customers.

- Customers and employees should clearly be able to see the license and sign.
- An employee break area or back office is not an acceptable place to display the license and sign.

<p style="text-align: center;"> Not Allowed</p>	<p style="text-align: center;"> Allowed</p>
<p>The license and notice are posted in an employee break room, not visible to customers.</p> 	<p>The license and notice are posted within the store area, clearly visible to customers.</p> 

Tobacco Products that will be Regulated Under Your License

You are required to have a Tobacco Retail License if you sell any of the following Tobacco Products.

Chapter 17 of Benton County Code defines Tobacco Products:

- i. Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
- ii. Any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
- iii. Any component, part, or accessory of (i) or (ii), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.







“Tobacco Product” does not mean “drugs”, “devices”, or “combination products” authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.



Below are examples of each of these Tobacco Products and do not represent every type or brand or product of that category.

If your store sells any Tobacco Products, you are required to have a Tobacco Retail License. If you sell any Tobacco Products and you do not yet have a license, apply here:

<https://www.co.benton.or.us/health/page/tobacco-retail-license-program>

Product	Image
Cigarettes	
Cigarillos (“Swisher Sweets”)	

Product	Image
Cigars	
Chewing Tobacco	
Snus	
Shisha (“Hookah”) with Nicotine	
Pipe Tobacco	
Electronic Cigarettes and Vapes	

Product	Image
E-liquids (e-juice, vape juice) with Nicotine	
Synthetic Nicotine Products	

Rules for Behind the Counter

- “Behind the Counter” is where to display/store Tobacco Products in your store. For example:
 - Tobacco Products may not be placed/displayed on the counter where point-of-sale takes place, or
 - In any location which is in arms reach of a customer.
- Do not place Tobacco Products where customers can easily take them without help from a clerk or employee.
- 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.
- A staff or employee of a tobacco-retailing business must assist all tobacco sales.
 - This includes stores, bars, or restaurants that restrict access to anyone under 21 years old.
 - This also includes vending machines – no sales can be made without a staff or employee assisting.

Checking Identification (IDs)

You can only sell Tobacco Products to customers aged 21 and older.

Check photo ID of everyone who looks under age 30 who tries to buy Tobacco Products.

Valid Forms of ID are:

- Driver’s license or driving permit with picture from Oregon or another state.
- Identification Card with picture from Oregon or another state.
- Any other ID card with a birthdate and picture issued by a state or federal government agency.

Valid Forms of Federal ID are:

Military ID	Passport Card	Permanent Resident Card
 <p>United States Government JAN2009 Affiliation: Uniformed Services Agency/Department: Army Expires: 2009JAN18 Doe, John, G. Pay Grade: E05 Rank: SGT Geneva Conventions Identification Card</p>	 <p>UNITED STATES OF AMERICA * PASSPORT CARD * Passport Card No. C00003594 Nationality: USA Surname: TRAVELER Given Names: HAPPY Sex: M Date of Birth: 01 JAN 1981 Place of Birth: NEW YORK, USA Issued On: 15 MAY 08 Expires On: 15 MAY 18 UNITED STATES DEPARTMENT OF STATE</p>	 <p>UNITED STATES OF AMERICA PERMANENT RESIDENT Surname: SPECIMEN Given Name: TEST V MICS# 000-000-462 Category: IR1 Country of Birth: Democratic Republic of Congo Date of Birth: 17 AUG 1958 Sex: M Card Expires: 05/10/11 Resident Since: 01/01/15</p>

How to Read an Oregon ID

Tobacco products and e-cigarettes sales are prohibited in Oregon to anyone under the age of 21. Oregon sales clerks must check all persons under the age of 30 for valid ID before selling them tobacco products or e-cigarettes.

Forms of photo identification acceptable alone as proof of age:

1. The person's passport or passport card issued by the US or a foreign government.
2. The person's driver license issued by a US state.
3. An ID card issued by a US State.
4. An ID issued by a federally recognized Indian tribe.
5. A US military identification card.
6. Any other identification card issued by a state or territory of the United States that bears all the following: a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

How to check under 21 ID

Oregon Driver License or an Oregon Identification Card include the dates the customer will turn 21 years old and 18 years old inside a red box on the right side of the card.



Most customers carry an Oregon Driver License or an Oregon Identification Card. The Oregon Driver and Motor Vehicles (DMV) Service Branch issues both cards, which look similar.

Do not rush or allow yourself to be pressured when checking a customer's ID. Carefully check the ID to comply with the law. Always check the ID instead of asking for a customer's date of birth.

Checking IDs: Helpful Hints

Do not rush or allow yourself to be pressured when checking a customer’s ID. You need to carefully check to follow the law.

1. Ask the customer for an identification card.
2. Make sure that the identification card has not expired.
3. Make sure that the person on the card looks like the customer.
4. Make sure that the person on the card is 21 or over.
5. Ask the customer their date of birth.
6. Text should be easy to read.
7. Text should be placed properly.
8. Text should be all the same font.
9. Look for any signs of alteration or peeling lamination.

You can quickly check an Oregon Driver License or Oregon ID by looking at the location of the picture and information within the red border.

	
<p>21 and older Oregon Driver’s License If the picture is on the “left” of an Oregon ID, the customer is over 21 and can buy tobacco products.</p>	<p>Minor Oregon Driver’s License If the picture is on the right of an Oregon ID, the customer was under 21 years old when their license was issued. The customer’s birthday is in the red box around the picture with the date they turn 21 years old (top of box).</p>

How to Decline an Illegal Sale






If someone tries to buy Tobacco Products, does not have the proper ID, or is a minor, follow these steps:

1. Be calm.
2. Remove the product from the counter.
3. Be polite.
4. Refrain from accusations or confrontation.
5. Stick to the facts.
6. Resist customer pressure.
7. Seek management assistance when necessary.

Incentives to Buy/Offering Free Gifts with Purchase

- It is illegal to offer gifts or other items when a customer is buying a Tobacco Product.
- Shirts, pens, collectible cups, etc., cannot be given to customers because of a Tobacco Product purchase.
- Specific “Buy 1-Get 1 free” packages are ok to sell if in the original manufacturer's packaging.

Inspections

<p>Routine Inspection: Each Tobacco Retailer will be inspected at least one time every year during regular business hours to make sure there are no violations of the rules.</p>	
<p>Complaint Inspection: There may be additional inspections in response to complaints received against Tobacco Retailers to make sure there are no violations of the Rules.</p>	
<p>Surveillance Inspection for Suspension: Tobacco Retailers who are under surveillance will be inspected to make sure that they do not have Tobacco Products displayed, are not selling Tobacco Products, and have the license suspension sign displayed after having been found out of compliance and not following the remediation plan. Retailers who are no longer selling Tobacco Products will also be under surveillance.</p>	
<p>Recheck Inspections: Recheck inspections will happen if violation(s) are found during a routine or complaint inspection.</p>	
<p>Minimum Legal Sales Age Inspection: Tobacco Retailer's will be inspected each year during regular business hours to make sure there are no tobacco sales to customers under 21 years old.</p>	

List of Violations of Tobacco Retail License

	Violation	Rule
1.	Sales to minors	It is prohibited to sell Tobacco Products to customers under the age of 21.
2.	Operating without a License	A Benton County Tobacco Retail License is required to sell Tobacco Products.
3.	TRL not displayed	It is required that the Tobacco Retail License is displayed in a place visible to customers and the owner.
4.	Not in original packaging	Tobacco Products must be sold in original packaging including health warnings.
5.	Vending machine not in 21+ only	Vending machines are only permitted in places where customers under 21 are prohibited entry.
6.	Self-service observed	Self-service displays for Tobacco Products are prohibited, including in facilities where only persons 21 and older can enter. All sales of tobacco products must be assisted by a staff or employee and checking ID.
7.	Pack size less than 20	Cigarettes must be sold in packages of 20.
8.	Cigarette singles sold	No single cigarettes or smokeless tobacco pouches can be sold.
9.	Flavored cigarettes sold	It is prohibited to sell any flavored cigarettes except menthol.
10.	Gifts offered	No gifts or other items may be offered in exchange for purchasing a tobacco product.
11.	Free samples given	No free samples of tobacco products except for smokeless tobacco at places where only people 21 and older can enter.

	Violation	Rule
12.	Light, low, or mild products sold	It is prohibited to sell cigarettes labeled “light” “low tar” or “mild.”
13.	No State sign	It is required to post the State Notice sign that states that it is unlawful to sell tobacco or inhalant delivery systems to customers under 21.
14.	Incorrect Electronic smoking device packaging	Electronic smoking device must be packaged and labeled according to the rules.
15.	Tobacco Products displayed	No Tobacco Products may be displayed without a valid Tobacco Retail License.
16.	No suspension sign	During suspension, sign must be posted stating Tobacco Products cannot be sold.
17.	Failure to permit access	Tobacco Retailers must permit access for inspection or investigation.
18.	Refusal to comply	Tobacco Retailers must cooperate in remediation planning.
19.	Sales of Tobacco Products during suspension	Tobacco Retailers are prohibited from displaying or selling Tobacco Products during license suspension.

Penalties

If an inspector finds a retailer is out of compliance with any federal, state, or local tobacco retail laws, they will be subject to fines, penalties, or revocation of licensure.

Violation	Fines, penalties, or revocation of licensure
1st violation	<ul style="list-style-type: none"> • \$1,000 fine
2nd violation within a 60-month period of the 1st violation	<ul style="list-style-type: none"> • \$2,000 fine and license suspended for 45 days • The tobacco retailer may not sell tobacco products and must remove all tobacco products from all retail areas while the license is suspended
3rd violation within a 60-month period of the 1st violation	<ul style="list-style-type: none"> • \$3,500 fine and license revoked • The former licensee shall not be eligible to reapply for a license for 6 months from the date the licenses was revoked • The tobacco retailer may not sell tobacco products and must remove all tobacco products from all retail areas while the license is revoked
4th violation or any subsequent violation within a 60-month period of the 1st violation	<ul style="list-style-type: none"> • \$5,000 fine and license revoked

A retailer may be subject to multiple civil penalties at a single inspection if the County Health Department finds multiple violations.

In the case of an illegal sale of a tobacco product during a minimum sale age inspection, a retailer may be assessed a fine, license suspension or revocation without a remediation plan.

Any retailer that sells tobacco without a license shall be subject to a fine of \$1,000 per day for each day the violation occurs.

Tobacco Retail License Support

Tobacco Retailers must allow Benton County inspectors into their business to do inspections.

If you do not let the inspector perform the inspection you may be in violation of your license.

The inspector will identify whether you are following the Tobacco Retail License rules.

Benton County Health Department inspectors are here to help your business follow the rules of the Tobacco Retail License.

We also offer consultation services where our Tobacco Retail License Specialist will go around your store with you to see if you are in compliance or not in compliance.

For more information:

<https://www.co.benton.or.us/health/page/tobacco-retail-license-program>

Recap of Rules

1. You need a Tobacco Retail License if you own a place that sells tobacco and nicotine products.
2. Each license is for one location.
3. Each license is good for twelve months.
4. You must post the [two required signs](#) – Tobacco Retail License **and** Oregon State Notice Posting 333-015-0205.
5. Keep products behind the counter where they are only accessible to employees.
6. Check IDs and do not sell to individuals under 21 years old.
7. Make sure products are sold and labeled correctly.
8. Do not give out free items with purchases or offer free samples.

Resources

- [FDA \(Federal\) Retailer Guidance](#)
- [FDA \(Federal\) Tobacco Retailer Education](#)
- [How to Read an Oregon ID](#)
- [Benton County Tobacco Retail License Webpage](#)
- [Oregon Health Authority Laws on Underage Tobacco Sales](#)
- [Oregon Health Authority Required Sign](#)
- [Oregon Driver Licenses: Know the Differences](#)