



youth access

***to tobacco***

MS • AL • AR • LA • TN

2013 • mississippi tobacco data



	Mississippi	Alabama	Arkansas	Louisiana	Tennessee
<b>Cigarette Sales</b>					
Minimum Age (Years)	18 Years	19 Years	18 Years	18 Years	18 Years
Purchase Prohibited	Yes	Yes	Yes	Yes	Yes
Possession Prohibited	Yes	Yes	Yes	Yes	Yes
Use Prohibited	No Provision	Yes	Yes	No Provision	No Provision
<b>Cigarette Vending Machines</b>					
Restriction to Access	Yes	No Provision	Yes	Yes	Yes
Banned from Location	Yes	No Provision	No Provision	Yes	No Provision
Limited Placement	No Provision	No Provision	Yes	No Provision	Yes
Locking Device	No Provision	No Provision	No Provision	No Provision	Yes
Supervision	No Provision	No Provision	Yes	No Provision	Yes
<b>Legislation: Preemption on Youth Access</b>					
Sales to Youth	Yes	No Provision	No Provision	Yes	Yes
Distribution	Yes	No Provision	No Provision	Yes	Yes
Vending Machines	Yes	No Provision	No Provision	Yes	Yes
<b>Penalties for Sales to Minors</b>					
Minor	If used fake ID to purchase, Fee: \$25 - \$200 or at least 30 hours of community service, or both	Fee: \$10 - \$50	Yes	1st violation: fine not more than \$50, \$100 for the 2nd violation, \$250 for the 3rd violation and \$400 for any subsequent violations. A minor who possesses tobacco products shall be fined not more than \$50 for each violation.	Fine of not less than \$10 and not more than \$50. The juvenile court may also impose community service work not to exceed 50 hours or successful completion of a prescribed teen court program for a second or subsequent violation within a one-year period.
Employee	Fee: \$50 1st violation, \$75 2nd violation, \$150 for all subsequent violations	Fee: \$10 - \$50 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than 30 days	Fine of not more than \$100 per violation	1st violation: fine not more than \$50, 2nd violation: \$100, 3rd violation: \$250, and \$400 for any subsequent violations	Warning letter for 1st violation, fine not more than \$500 for 2nd violation, not more than \$1,000 for a 3rd violation and not more than \$1,500 for a 4th or subsequent violation within a five-year period.
Permit Holder	No retailer who instructs his employee as provided in this section shall be liable for any violations committed by such employees.	1st violation, administrative fine of up to \$200, or the permit holder may be offered an opportunity to provide training sessions administered by the Responsible Vendor Program in lieu of an administrative fine; 2nd violation within a two year period, fine of not more than \$400; 3rd violation within two years, fine of not more than \$750; and 4th and subsequent violation within two years, fine of up to \$1,000 and the permit may be suspended or revoked. The maximum length for suspension or revocation of a permit is one year.	1st violation within a 48-month period: fine not to exceed \$250; 2nd violation within a 48-month period: fine not to exceed \$500, and suspension of the permit or license to sell tobacco products for not more than two days; 3rd violation within a 48-month period: fine not to exceed \$1,000 and suspension of the permit or license to sell tobacco products for not more than seven days for a third violation in a 48-month period; 4th violation or subsequent violations within a 48-month period: fine not to exceed \$2,000 and suspension of the license or permit to sell tobacco products for a period not to exceed 14 days; and after 5 or more violations within a 48 month period, a license or permit may be revoked in addition to any civil penalties.	May be subject to suspension or revocation of permit and/or civil penalties of \$50 to \$500 for the 1st offense, \$250 to \$1,000 for the 2nd offense in two years and \$500 to \$2,500 for a 3rd offense within two years in addition to the penalties above.	Commissioner of Agriculture is authorized to assess the penalty against any person or persons determined by the commissioner to be responsible, in whole or in part, for contributing to or causing the violation to occur, including, but not limited to, the owner, manager or employee of a store at which tobacco products are sold at retail.

## EXCISE TAX

*(Miss. Code Ann. Section 27-69-13)*

**Cigarettes, 20 per pack:** 68 cents

**Cigarettes, non-settling manufacturers, 20 per pack:** 25 cents

**Cigars:** 15% of Mfg. list price

**Snuff, chewing tobacco:** 15% of Mfg. list price

**Smoking tobacco:** 15% of Mfg. list price

## STAMPS

*Miss. Code Ann. § 27-69-15 (2013) and Miss. Code Ann. § 27-69-27 (2013)*

**Retailers buying cigarettes:** Retailers who wish to buy cigarettes in the state may buy pre-stamped cigarettes from permit holding wholesalers. They may also buy unstamped cigarettes, but these cigarettes must be inspected to determine legality and then stamped by a permit holding wholesaler within forty-eight (48) hours of purchasing the cigarettes. Stamps shall not be affixed to any cigarettes except by a wholesale dealer having a permit, except as otherwise provided in this chapter (a permit holding distributor or manufacturer may also stamp cigarettes).

**Retailers buying cigars and other tobacco products:** Any person who receives cigars, smoking tobacco, chewing tobacco, snuff or any other tobacco products except cigarettes from anyone other than a wholesaler having a tobacco permit issued by this state and the excise tax on the tobacco received has not been paid, shall compute the excise tax due the State of Mississippi at the rate prescribed herein on forms furnished by the commissioner for that purpose. Such report shall be accompanied by the remittance for the tax due and shall be filed with the commissioner within forty-eight (48) hours after receipt of the tobacco by such person.

**Wholesalers:** Wholesalers without permit may buy unstamped cigarettes/tobacco products but must have them stamped within seventy-two (72) hours. In the case of permit holding wholesalers who conducts wholesale and retail business at one (1) place of business, stamps shall be affixed within forty-eight (48) hours after receipt of the cigarettes.

**Miss. Code Ann. § 27-69-17 (2013). When Distributors not required to affix stamps:** Any distributor engaged in manufacturing tobacco products in this state shall not be required to affix stamps to manufactured cigarette products before delivery to wholesalers qualified to affix stamps under the provisions of this chapter, but shall affix the required stamps to any taxable cigarettes delivered to retailers or consumers.

## PENALTIES FOR SALES TO MINORS

### • Mississippi

**Miss. Code Ann. § 97-32-5 (2013). Prohibition of the sale or transfer of tobacco products to persons under 18 years of age**

It is unlawful for any person or retailer to sell, barter, deliver or give tobacco products or rolling papers to any minor unless the individual under age 18 holds a retailer's permit to sell tobacco products. Any person who violates this section is liable for a fine of \$50 for the first violation, \$75 for

the second violation and \$150 for all subsequent violations. The person owning the applicable retailer permit shall be sent a warning letter for the first violation, and shall be required to enroll in and complete a 'Retailer Tobacco Education Program' for the second violation. For the third and subsequent violations within a year of the first two violations, any retailer's permit may be revoked or suspended for a period of at least one year after notice and opportunity for hearing. It is an affirmative defense that the person selling, bartering, delivering or giving tobacco products to a minor, had requested and examined a government issued photographic identification. The failure of a person selling tobacco to request and examine photographic identification shall form a conclusive basis for the seller's violation of this section.

***Miss. Code Ann. § 97-32-51 (2013). Distribution of alternative nicotine products to minors***

No person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's establishment, shall sell, offer for sale, give or furnish any alternative nicotine product, or any cartridge or component of an alternative nicotine product, to an individual under eighteen (18) years of age. A violation of this subsection is punishable as follows:

- (a) By a fine of Fifty Dollars (\$ 50.00) for a first offense;
- (b) By a fine of SeventyFive Dollars (\$ 75.00) for a second offense; and
- (c) By a fine of One Hundred Dollars (\$ 100.00) for a third or subsequent offense.

(3) Before selling, offering for sale, giving or furnishing an alternative nicotine product, or any cartridge or component of an alternative nicotine product to an individual, a person shall verify that the individual is at least eighteen (18) years of age by:

- (a) Examining from any individual that appears to be under twenty-seven (27) years of age a government-issued photographic identification that establishes the individual is at least eighteen (18) years of age; or
- (b) For sales made through the Internet or other remote sales methods, performing an age verification through an independent, thirdparty age verification service that compares information available from public records to the personal information entered by the individual during the ordering process that establishes the individual is eighteen (18) years of age or older.

***Miss. Code Ann. § 97-32-7 (2013). Retail sales clerks; notification and agreement; penalties for violations***

(1) Every person engaged in the business of selling tobacco products at retail shall notify each individual employed by that person as a retail sales clerk that state law:

- (a) Prohibits the sale or distribution of tobacco products, including samples, to any person under eighteen (18) years of age and the purchase or receipt of tobacco products by any person under eighteen (18) years of age, and (b) requires that proof of age be demanded from a prospective purchaser or recipient if the prospective purchaser or recipient is under the age of eighteen (18) years. Every person employed by a person engaged in the business of selling tobacco products at retail shall sign an agreement with his employer in substantially the following or similar form: "I understand that state and federal law prohibit the sale or distribution of tobacco products to persons under the age of eighteen (18) years and out-of-package sales, and requires that proof of age be demanded from a prospective purchaser or recipient under eighteen (18) years of age if the individual is not known to the seller, barterer, deliverer or giver of the tobacco product to be over the age of eighteen (18) years. I promise, as a condition of my



employment, to observe this law.”

(2) Any person violating the provisions of this section shall be penalized not less than Fifty Dollars (\$ 50.00) nor more than One Hundred Dollars (\$ 100.00).

(3) No retailer who instructs his employee as provided in this section shall be liable for any violations committed by such employees.

***Miss. Code Ann. § 97-32-9 (2013). Juvenile purchase, possession and consumption of tobacco***

No person under eighteen (18) years of age shall purchase any tobacco product.

(a) If a person under eighteen (18) years of age is found by a court to be in violation of any other statute and is also found to be in possession of a tobacco product, the court may order the minor to perform up to three (3) hours of community service, in addition to any other punishment imposed by the court.

(b) A violation under this section is not to be recorded on the criminal history of the minor and, upon proof of satisfaction of the court’s order, the record shall be expunged from any records other than youth court records.

***Miss. Code Ann. § 97-32-13 (2013). Juvenile misrepresentation of age***

Any person under the age of eighteen (18) years who falsely states he is eighteen (18) years of age or older, or presents any document that indicates he is eighteen (18) years of age or older, for the purpose of purchasing or possessing any tobacco or tobacco product shall be penalized not less than Twenty-five Dollars (\$ 25.00) nor more than Two Hundred Dollars (\$ 200.00) or required to complete at least thirty (30) days community service, or both.

● ***Alabama***

***ALA. CODE § 13A-12-3 (1975). Prohibition of the sale or transfer of tobacco products to persons under 18 years of age***

Any person who sells, barter, exchanges or gives to any minor any cigarettes, cigarette tobacco or cigarette paper, or any substitute for either of them shall, on conviction, be fined not less than \$10 or more than \$50 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than 30 days.

***ALA. CODE § 28-11-9 (1997). Distribution of alternative nicotine products to minors***

The Alabama Alcoholic Beverage Control Board upon finding that a permit holder or any partner, member, employee, officer, or director of the permit holder has violated any of the laws of this state relating to the manufacture, sale, possession, or transportation of tobacco or tobacco products may upon due notice and hearing, levy administrative fines or suspend or revoke the permit issued by the board, or a combination of all three. For a first violation, an administrative fine of up to \$200 will be levied, or the permit holder may be offered an opportunity to provide training sessions

administered by the Responsible Vendor Program in lieu of an administrative fine; for a second violation within a two year period, an administrative fine of not more than \$400; for a third violation within two years, an administrative fine of not more than \$750; and for a fourth and subsequent violation within two years, an administrative fine of up to \$1,000 and the permit may be suspended or revoked. The maximum length for suspension or revocation of a permit is one year.

***ALA. CODE § 28-11-13. Minors; unlawful and lawful actions.***

It is unlawful for any minor to purchase, use, possess, or transport tobacco or tobacco products within this state. It shall not be unlawful for a minor employee of a tobacco permit holder to handle, transport, or sell tobacco or tobacco products if the minor employee is acting within the line and scope of employment and the permit holder, or an employee of the permit holder who is 21 years of age or older, is present.

***ALA. CODE § 28-11-14. Minors; penalties.***

Any tobacco or tobacco product found in the possession of a minor is contraband and subject to seizure by law enforcement. Any minor violating Section 28-11-13 shall be issued a citation similar to a uniform non-traffic citation and shall be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50) for each violation. The minor shall not be required to pay any other court costs or fees. Any statute or law to the contrary notwithstanding, disposition of any violation shall be within the jurisdiction of the district or municipal court and not the juvenile court. Violations shall not be considered criminal offenses and shall be administratively adjudicated by the district or municipal court.

• ***Louisiana***

***LA REV. STAT. ANN. Â§ 14:91.8 (1997).***

It is unlawful for any manufacturer, distributor, retailer, or other person knowingly to sell or distribute any tobacco product to a person under 18. However, it shall not be unlawful for a person under the age of 18 to accept receipt of a tobacco product from an employer when required in the performance of such person's duties. A person who sells tobacco products to minors shall be fined not more than \$50 for the first violation, \$100 for the second violation, \$250 for the third violation and \$400 for any subsequent violations. Stronger local laws/ordinances concerning the above are not allowed.

***LA REV. STAT. ANN. Â§Â§ 26:909 & 26:918 (1997).***

Violation by a holder of a permit or certificate from the Commissioner of the Office of Alcohol and Tobacco Control may be subject to suspension or revocation of the required certificate or permit by the Commissioner of the Office of Alcohol and Tobacco Control and/or civil penalties of \$50 to \$500 for the first offense, \$250 to \$1,000 for the second offense in two years and \$500 to \$2,500 for a third offense within two years in addition to the penalties above.

***LA REV. STAT. ANN. Â§ 26:917 (1997).***

Sale of tobacco products to a minor by a retail dealer's agent, associate, employee, representative, or servant shall be considered an act of the retail dealer for purpose of suspension, revocation or assessment of civil penalties unless the employee attends a Commissioner of the Office of Alcohol and Tobacco Control approved training program and the employer does not directly or indirectly encourage the employee to violate the prohibited sales provision.

***LA REV. STAT. ANN. Â§ 14:91.8 (1997).***

It is unlawful for any person under the age of 18 to buy or possess any tobacco product. It is not unlawful for a minor to possess tobacco if accompanied by a parent, spouse, or legal guardian, in a private residence or during the scope of the minor's employment. A minor who buys tobacco products shall be fined not more than \$50 for the first violation, \$100 for the second violation, \$250 for the third violation and \$400 for any subsequent violations. A minor who possesses tobacco products shall be fined not more than \$50 for each violation. Stronger local laws/ordinances concerning the above are not allowed.

• ***Arkansas***

***ARK. CODE ANN. Â§ 5-27-227(a&i) (2009).***

It is unlawful for any person to give, barter or sell tobacco products or cigarette papers to a minor less than 18 years of age. A person who violates the above is subject to a fine of not more than \$100 per violation. An employee of an Arkansas retail cigarette and tobacco permit holder in violation is subject to a fine of not more than \$100. A retail permit holder or license holder is subject to penalties as specified in the paragraph below.

***ARK. CODE ANN. Â§ 26-57-256(d-k) (2009).***

The Arkansas Tobacco Control Board may assess penalties for selling tobacco products to minors or other youth access laws as follows: 1) after receipt of a notice from the Board or other enforcing agency as specified, a civil penalty not to exceed \$250 for a first violation within a 48-month period; 2) a civil penalty not to exceed \$500, and suspension of the permit or license to sell tobacco products for not more than two days for a second violation within a 48-month period; 3) a civil penalty not to exceed \$1,000 and suspension of the permit or license to sell tobacco products for not more than seven days for a third violation in a 48-month period; 4) a civil penalty not to exceed \$2,000 and suspension of the license or permit to sell tobacco products for a period not to exceed 14 days for a fourth or subsequent violations in a 48-month period; and after five or more violations within a 48-month period, a license or permit may be revoked in addition to any civil penalties. The court shall consider specific factors when reviewing a possible violation, including whether the business has adopted a written policy prohibiting the sale of tobacco products to minors and has taken other specified actions to reduce illegal tobacco sales. An affirmative defense is available for a retailer or employee of a retailer if they reasonably relied on proof of age when making the sale.

**ARK. CODE ANN. Â§Â§ 5-27-227(b&c) (2009) & 5-78-102 (2011).**

It is unlawful for a minor to use, possess, purchase or attempt to purchase tobacco in any form or cigarette papers. It is also unlawful to use falsified identification or someone else's identification for the purpose of obtaining or attempting to obtain tobacco products or cigarette papers. This does not apply if the minor is acting as an agent of a retail permit holder within the scope of employment. This also does not prohibit minors from participating in compliance checks as specified, provided parental consent is obtained. A tobacco product found in possession of a person under 18 may be confiscated by a certified law enforcement officer or a school official and immediately destroyed. A minor found in violation of any state law and also found to be in possession of a tobacco product may be ordered by the court to perform up to three hours of community service and to enroll in a tobacco education program, in addition to any other punishment.

• **Tennessee**

**TENN. CODE ANN. Â§Â§ 39-17-1504 (2011) & 39-17-1509 (1999).**

It is unlawful for any person to sell or distribute any tobacco product or e-cigarette to another person who is less than 18 or to purchase a tobacco product on behalf of such person. It is unlawful for any person to persuade, entice, send or assist a person who is less than 18 years of age to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco product. This shall not be deemed to preclude law enforcement efforts involving the use of individuals less than 18 years of age. A person who violates these provisions shall receive a warning letter for the first violation, a civil penalty of not more than \$500 for a second violation, not more than \$1,000 for a third violation and not more than \$1,500 for a fourth or subsequent violation within a five-year period. A person who demanded, was shown, and reasonably relied upon proof of age shall not be liable for a civil penalty for a violation. When assessing a civil penalty, the Commissioner of Agriculture is authorized to assess the penalty against any person or persons determined by the commissioner to be responsible, in whole or in part, for contributing to or causing the violation to occur, including, but not limited to, the owner, manager or employee of a store at which tobacco products are sold at retail. Before selling tobacco products, all employees are required to undergo training regarding state law restricting youth access to tobacco products and sign a statement to this effect. That statement can be used by the owner or manager as an affirmative defense against the civil penalty for a second violation, and may be used as a mitigating factor for subsequent violations.

**TENN. CODE ANN. Â§ 39-17-1505 (2001).**

It is unlawful for a person under 18 to possess a tobacco product, to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age that is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving any tobacco product. A violation is a civil offense with a penalty of not less than \$10 and not more than \$50. The juvenile court may also impose community service work not to exceed 50 hours or successful completion of a prescribed teen court program for a second or subsequent violation within a one-year period. A minor assisting a law enforcement officer in a compliance check is not subject to these penalties. It is not unlawful for a person under 18 years of age to handle or transport tobacco or tobacco products as a part of and in the course of such person's employment, provided that the person is under the supervision of another employee who is at least 21 years of age.



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