



NEWS ALERT DECEMBER 26, 2019 TOBACCO 21 NOW IN EFFECT, FDA SAYS

ALEXANDRIA, Va.-President Trump last week signed appropriations legislation which raised the federal minimum purchase age for all tobacco products from 18 to 21, among other provisions. The law wasn't expected to take effect until 2020, but the U.S. Food and Drug Administration (FDA) in a notice posted on its website says the law is in immediate effect, meaning retailers across the U.S. cannot sell any tobacco products to customers younger than age 21.

The law gives FDA 180 days to finalize the implementing tobacco 21 rule and requires that it take effect no later than 90 days after being finalized. While the law contemplates a regulation to provide retailers with clear direction on the new rules (including a requirement to verify the age of any purchaser under the age of 30), the law does not require a delay of the age 21 requirement.

FDA posted a notice on the website of its Center for Tobacco Products stating that it views the age 21 purchase age requirement as effective immediately-even though the agency will not write implementing regulations for months. The notice can be found [here](#) and states:

"Note: On December 20, 2019, the President signed legislation to amend the Federal Food, Drug, and Cosmetic Act, and raise the federal minimum age of sale of tobacco products from 18 to 21 years. It is now illegal for a retailer to sell any tobacco product-including cigarettes, cigars and e-cigarettes-to anyone under 21. FDA will provide additional details on this issue as they become available."

This means that, according to FDA, all tobacco products including cigarettes, cigars, smokeless tobacco, e-cigarettes and more cannot be sold to anyone younger than 21. While there are unanswered questions about when FDA plans to enforce this requirement and whether the agency can legally enforce it before updating its regulations, retailers should be aware that FDA views any sale to a person under 21 as a violation of the new law.

NACS advances the role of convenience stores as positive economic, social and philanthropic contributors to the communities they serve. The U.S. convenience store industry, with more than 153,000 stores selling fuel, food and merchandise, serves more than 165 million customers daily-half of the U.S. population-and has sales that are 11% of total U.S. retail and foodservice sales. NACS has 1,900 retailer and 1,800 supplier members from more than 50 countries.

SINCERELY,

A handwritten signature in black ink, appearing to read 'Ned Bowman', is positioned above the printed name.

**NED BOWMAN FPMA ,
EXECUTIVE DIRECTOR**