

Laws and Penalties for Cigarette and Other Tobacco Product Violations in New York City

What You Need to Know

What are the requirements for tobacco retailers?

Tobacco laws, including Local Law 97 or “Sensible Tobacco Enforcement,” established definitions and requirements for tobacco retailers.”

Requirements

Signage Requirements

What signs are required?

The law requires retailers who sell cigarettes, other tobacco products, electronic cigarettes, shisha, pipes, rolling papers or smoking paraphernalia to post two signs in highly visible places:

1. **Age Restriction Sign:** A current age restriction sign, stating the additional products that cannot be sold to people younger than 21 years old.
2. **Tax Stamp Sign:** A sign stating that all cigarettes sold in New York City must be in packages bearing a valid New York City and State tax stamp.

What is the penalty for failing to post these signs?

Retailers who fail to post the required signs will be subject to a fine of up to \$500 for each violation.

When did the sign requirements take effect?

1. The current age restriction sign went into effect on April 14, 2018.
2. The tax stamp sign requirement went into effect on March 19, 2014.

Retail Dealer Definition

What is the definition?

The definition of tobacco retail dealer is any person who sells cigarettes or tobacco products. A tobacco retail dealer must have a valid New York City tobacco retail dealer license, have a valid New York State Certificate of Registration to sell cigarettes or tobacco products, and pay required taxes on cigarettes and other tobacco products they have.

Who is not covered by the retail dealer definition?

The retail dealer definition does not apply to any person delivering cigarettes or other tobacco products in the regular course of business for a manufacturer, agent or licensed wholesale or retail dealer.

Laws and Penalties for Cigarette and Other Tobacco Product Violations in New York City

What You Need to Know

What are the penalties for acting as a retail dealer without a license?

The penalties for operating as an unlicensed retail dealer are: up to \$2,000 for a first violation, and \$2,000 for subsequent violations with possibility of having the business sealed upon two unlicensed violations in three years. Engaging in the sale of cigarettes or other tobacco products without a license is a misdemeanor. It is also a misdemeanor if you purchase cigarettes or other tobacco products from any person other than a manufacturer or licensed wholesale dealer.

When did this definition of retail dealer take effect?

Feb. 24, 2018.

Cigarette Tax Evasion

How does this law apply to tax evasion?

Tobacco retail dealers may not:

- Sell cigarettes or other tobacco products to an unlicensed dealer or a dealer whose license has been suspended or revoked
- Purchase cigarettes or other tobacco products from any person other than a manufacturer or licensed wholesale dealer
- Sell, offer, possess or transport altered or counterfeit cigarette tax stamps, imprints or impressions
- Hide or conceal unstamped or unlawfully stamped cigarette packages; loose cigarettes not contained in a pack; or unattached, altered or counterfeit tax stamps

What are the penalties for violations?

- Up to \$2,000 for a first violation
- Up to \$5,000 for a second (different day) violation and each subsequent violation within three years
- Revocation of license for second or subsequent (different day) violation within three years
- Sealing of premises for three violations within three years.
- Retail dealers who violate this law will also be subject to preexisting civil cigarette tax penalties of up to:
 - \$100 for each 200 cigarettes (in excess of 1,000 cigarettes) in unstamped or unlawfully stamped packages in the possession of or under the control of that retailer.
 - \$200 for each 200 cigarettes (in excess of 1,000 cigarettes) in unstamped or unlawfully stamped packages knowingly in the possession of or knowingly under the control of that retailer.
 - \$200 for each 10 affixed or unaffixed false, counterfeit tax stamps, imprints or impressions, in excess of 100.

When did the law regarding tax evasion take effect?

Jan. 18, 2014.

Laws and Penalties for Cigarette and Other Tobacco Product Violations in New York City

What You Need to Know

Enforcement Authority

Sealing Persistent Violators

What does it mean to “seal” a store?

Sealing is the forced closure of an establishment by padlocking or otherwise preventing access to the premises.

When can a retail store be sealed?

This law permits sealing a store that has repeatedly violated certain tobacco laws:

- A retailer or wholesaler that operates without a license more than **two times** within a **three-year** period.
- A retailer or wholesaler that violates the following laws **three times** within a **three-year** period:
 - Sale of cigarettes or other tobacco products to patrons under the age of 21
 - Evasion of New York City cigarette or other tobacco product taxes
 - Sale of loose cigarettes or little cigars
(Cigarettes and little cigars must be sold in packs of at least 20.)
 - Allowing an employee younger than 18 years old to sell, dispense or handle tobacco products without supervision by a store owner or employee who is at least 18 years old
 - Sale of flavored tobacco products
 - Sale of tobacco and non-tobacco smoking products to a minor

Will I be notified before my business is sealed?

Yes. After an administrative tribunal finds that a store should be sealed, an order to seal the store will be posted on the establishment at least 10 days before it is sealed.

How can my establishment be unsealed?

An establishment may be unsealed after the sealing period ordered by the commissioner (a maximum of 60 days) has ended, and all outstanding fines and costs have been paid.

When did this law take effect?

Jan. 18, 2014.

Seizure of Illegal Tobacco Products

When can cigarettes or other tobacco products be seized?

Law enforcement personnel from the New York City Department of Finance, including sheriff's officers, can seize any flavored tobacco products offered for sale (except in tobacco bars) or

Laws and Penalties for Cigarette and Other Tobacco Product Violations in New York City

What You Need to Know

any cigarettes possessed or offered for sale by unlicensed retailers or wholesalers. Finance law enforcement personnel had already been authorized to seize tobacco products for which the required taxes were not paid.

Can inspectors seize flavored tobacco products?

Yes. The sale of flavored tobacco products, other than menthol, mint or wintergreen is prohibited in New York City, except in tobacco bars.

When did the rules regarding seizure of tobacco products take effect?

Nov. 19, 2013.

License Revocation and Suspension

When can a license be revoked or suspended?

A tobacco retail dealer's license must be revoked when a store does any of the following **two times** or more — on different days — within a **three-year** period:

- Selling cigarettes, other tobacco products or electronic cigarettes to individuals under 21 years old.
- Selling non-tobacco shisha, pipes, rolling papers or smoking paraphernalia to individuals under 21 years old.
- Selling loose cigarettes.
- Selling tobacco products (such as cigars, cigarillos, snus or loose tobacco) for less than the minimum required price.
- Selling little cigars in packages of fewer than 20.
- Permitting an individual under 18 years old to handle or sell tobacco without being supervised by an individual who is at least 18 years old and on the premises.
- Selling, possessing or hiding counterfeit tax stamps or cigarette packs without a valid New York City and State tax stamp.

A tobacco retail dealer's license must be suspended when a store sells or offers flavored tobacco products **three times** or more within **three years**.

A tobacco retail dealer's license may also be suspended for the failure to pay any civil penalty related to the violation of cigarette or tobacco laws.

When did the rules regarding revocation and suspension take effect?

Jan. 18, 2014.

Laws and Penalties for Cigarette and Other Tobacco Product Violations in New York City

What You Need to Know

Increased Fines

What are the fines for violations of these laws?

The table below explains the fines and penalties for various violations.

Fine Structure for New York City Tobacco Retailers

Violation	Fines and Penalties
<p>Acting as a tobacco retail dealer without a license</p>	<ul style="list-style-type: none"> • \$2,000 for first violation • \$2,000 for second (different day) violation and each subsequent violation • Sealing of premises for two violations within three years
<p>Sale, possession or concealment of untaxed cigarettes or other tobacco products, or counterfeit stamps</p>	<ul style="list-style-type: none"> • Up to \$2,000 for first violation • Up to \$5,000 for second (different day) violation and each subsequent violation within three years • Mandatory revocation of license for second or subsequent (different day) violation within three years • Sealing of premises for three violations within three years <p>Plus the following civil tobacco product tax penalties with respect to the possession:</p> <ul style="list-style-type: none"> • Up to \$100 for each 200 cigarettes in excess of 1,000 cigarettes in unstamped or unlawfully stamped packages in the possession or under the control of a retail dealer • Up to \$200 for each 200 cigarettes in excess of 1,000 cigarettes in unstamped or unlawfully stamped packages in the knowing possession or under the knowing control of a retail dealer • Up to \$200 for each 10 affixed or unaffixed false, altered or counterfeit tax stamps, imprints or impressions in excess of 100 in the possession or under the control of a retail dealer

Laws and Penalties for Cigarette and Other Tobacco Product Violations in New York City

What You Need to Know

Fine Structure for New York City Tobacco Retailers

Violation	Fines and Penalties
Sale of non-tobacco smoking products to minors	<ul style="list-style-type: none">• \$1,000 for first violation• \$2,000 for second violation within three years• Mandatory revocation of license for second or subsequent (different day) violation within three years
Sale of, or possession with intent to sell, flavored tobacco products	<ul style="list-style-type: none">• Up to \$1,000 for first violation• Up to \$2,000 for second violation within three years• Up to \$5,000 for third and subsequent violations within three years• Mandatory suspension of license for up to one year for third violation on different day and all subsequent violations on different days within three years• Sealing of premises for three violations within three years

How can I read this fact sheet in other languages or see the actual law?

Visit nyc.gov/health and search "tobacco laws," or call 311.

What if I have questions or need more information?

Call 311 and ask for information about Sensible Tobacco Enforcement.