West Virginia State Code §16-9A, Tobacco Usage Restrictions, was amended in 2014.

16-9A-2. Definitions; sale or gift of cigarette, cigarette paper, pipe, cigar, snuff, chewing tobacco, pipe tobacco, roll-your own tobacco, tobacco products, tobacco derived and alternative nicotine product or vapor products to persons under eighteen; penalties for first and subsequent offense; consideration of prohibited act as grounds for dismissal; impact on eligibility for unemployment benefits.

(a) For purposes of this article, the term:

(1) "Tobacco product" and "tobacco-derived product" means any product, containing, made or derived from tobacco, or containing nicotine derived from tobacco, that is intended for human consumption, whether smoked, breathed, chewed, absorbed, dissolved, inhaled, vaporized, snorted, sniffed or ingested by any other means, including but not limited to cigarettes, cigars, cigarillos, little cigars, pipe tobacco, snuff, snus, chewing tobacco or other common tobacco-containing products. A "tobacco-derived product" includes electronic cigarettes or similar devices, alternative nicotine products and vapor products. "Tobacco product" or "tobacco-derived product" does not include any product that is regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

(2) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. "Alternative nicotine product" does not include any tobacco product, vapor product or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

(3) "Vapor product" means any non-combustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of shape and size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device, and any vapor cartridge or "other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. "Vapor product" does not include any product that is regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

(b) No person, firm, corporation or business entity may sell, give or furnish, or cause to be sold, given or furnished, to any person under the age of 18 years:

(1) Any pipe, cigarette paper or any other paper prepared, manufactured or made for the purpose of smoking any tobacco or tobacco product;

(2) Any cigar, cigarette, snuff, chewing tobacco or tobacco product, in any form; or

(3) Any tobacco-derived product, alternative nicotine product or vapor product.

(c) Any firm or corporation that violates any of the provisions of subsection (b) of this section and any individual who violates any of the provisions of subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined $50 for the first offense. Upon any subsequent violation at the same location or operating unit, the firm, corporation or individual shall be fined as follows: At least $250 but not more than $500 for the second offense, if it occurs within two years of the first conviction; at least $500 but not more than $750 for the third offense, if it occurs within two years of the first conviction; and at least $1,000 but not more than $5,000 for any subsequent offenses, if the subsequent offense occurs within five years of the first conviction.

(d) Any individual who knowingly and intentionally sells, gives or furnishes or causes to be sold, given or furnished to any person under the age of 18 years any cigar, cigarette, snuff, chewing tobacco, tobacco product or tobacco-derived product, in any form, is guilty of a misdemeanor and, upon conviction thereof, for the first offense shall be fined not more than $100; upon conviction thereof for a second or subsequent offense, is guilty of a misdemeanor and shall be fined not less than $100 nor more than $500.

(e) Any employer who discovers that his or her employee has sold or furnished tobacco products or tobacco-derived products to minors may dismiss such employee for cause. Any such discharge shall be considered as "gross misconduct" for the purposes of determining the discharged employee's eligibility for unemployment benefits in accordance with the provisions of section three, article six, chapter twenty-one-a of this code, if the employer has provided the employee with prior written notice in the workplace that such act or acts may result in their termination from employment.

WEST VIRGINIA
Department of
Health & Human Resources

BUREAU FOR BEHAVIORAL
HEALTH AND HEALTH FACILITIES

350 Capitol Street, Room 350
Charleston, WV 25301
Phone: 304-356-4811
Fax: 304-558-1008

See Red?

Retailer Education Initiative

West Virginia Department of Health and Human Resources
Bureau for Behavioral Health and Health Facilities

The Bureau for Behavioral Health and Health Facilities, Division on Alcoholism and Drug Abuse, is committed to protecting young people living in West Virginia.

The U.S. Food and Drug Administration (FDA) requires that retailers verify the age of purchasers of cigarettes or smokeless tobacco who are under the age of 27 by means of photographic identification that contains the bearer's date of birth.

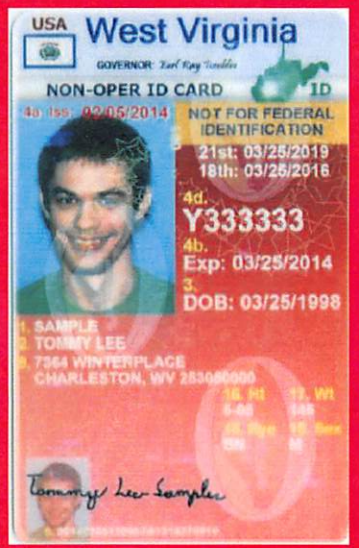
Always check the 18th birth date in the upper right-hand corner of the ID. If today's date is before the birthdate listed on the license, the customer is not old enough to buy tobacco products.

Employees who sell or furnish tobacco products to minor youth may be dismissed on the grounds of gross misconduct in accordance with WV State Code Chapter 16, Article 9A-2, if the employer has provided the employees with prior written notice in the workplace that such act or acts may result in their termination from employment.

Firms, corporations or individuals who violate the provisions of §16-9A-2 will be guilty of a misdemeanor and fined.

Both of the IDs pictured below are valid forms of identification.

WV Driver's License - Under 18



Non-Operator ID - Under 18

It is <u>against the law</u> to sell tobacco products to anyone under the age of 18.

Tobacco products include:

- Cigarettes
- Cigarette paper
- Pipes
- Cigars
- Snuff
- Snus
- Chewing tobacco
- Any product containing tobacco
- Alternative nicotine products
- Vapor products

The **See Red?** Retailer Education Initiative is funded by the Federal Substance Abuse Prevention Block Grant and is administered through the WV Department of Health and Human Resources, Bureau for Behavioral Health and Health Facilities.