

Trading Standards Service
(03302) 226327 (Direct)

www.westsussex.gov.uk/tradingstandards

Trading Standards
Parkside
Chart Way
Horsham
West Sussex
RH12 1XH



Pricewatch Ltd T/A Power
Old Mill Drive
Storrington
Pulborough
West Sussex
RH20 4NF

8th April 2022

Dear

Our Ref: 205378

Licensing Act 2003
Nicotine Inhaling Products (Age of Sale & Proxy Purchasing) Regulations 2015
Childrens and Families Act 2014
Consumer Rights Act 2015
Tobacco and Related Products Regulations 2016
Tobacco Products & Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020

I'm writing to you following my visit on the 8th April 2022 regarding a complaint that has been received by West Sussex Trading Standards, alleging Pricewatch Ltd T/A Power, Old Mill Drive, Storrington, Pulborough, West Sussex, RH20 4NF has sold an age restricted product to a child under the age of 18.

Under Section 146 of the Licensing Act 2003 it is a criminal offence to sell alcohol to a person who is under the age of 18 years old.

Section 7 Children and Young Persons Act 1933 makes it an offence to sell any tobacco product or cigarette papers to a person under 18.

Regulation 3 of the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 prohibits the sale of nicotine inhaling products to persons under the age of 18. Section 92(2) of the Childrens and Families Act 2014 makes it a criminal offence for a person to sell a nicotine inhaling product to a person under the age of 18.

As well as prosecution, the Acts allow for an application to be made to the licensing authority for an alcohol licence to be reviewed if it can be shown age restricted products are being sold to children. Such a review could lead to your licence being suspended or revoked ¹.

You don't necessarily have to sell alcohol to a child to lose your licence, the sale of other age restricted products could also result in prosecution and can also lead to your alcohol licence being suspended or revoked if you or your business sell to an underage person.

¹ *West Sussex Trading Standards has a zero tolerance to the sale of alcohol to children. Unless there are exceptional circumstances, where there is sufficient evidence to show an underage sale of alcohol has taken place, we will seek a review of the premises alcohol licence with the aim of having the licence suspended or revoked. The seller and business will also be subject to enforcement action in line with our published enforcement policy.*
www.westsussex.gov.uk/business-and-consumers/trading-standards-advice-for-businesses/

In order for you and your staff to be compliant with the law, you should always ask young people to produce proof of their age. For example, a driving licence photocard or passport. If a person cannot prove they are over 18, the sale should be refused.

In addition, there are also a number of best practice checks that you and your staff can implement to help prevent the sale of any age restricted products.

'Challenge 25' system:

If a person attempts to purchase an age restricted product and they appear to be under the age of 25, you should ask them to produce proof of their age. If they're unable to prove their age, a sale should then be refused.

Staff training:

You should ensure your staff are fully trained to ensure they're aware which products are age restricted, what the age restriction is, and the action they should take if they believe a person is underage when they attempt to purchase such products.

It is important you can prove your staff have understood what is required of them by the law. This can be done by keeping a record of the training and asking members of staff to sign to say that they understand it.

These records should then be checked and signed on a regular basis by the manager or owner of the business.

Maintain a refusals log:

All refusals should be recorded (date, time, incident, product and description of the potential buyer). Maintaining a refusals log will help to demonstrate you and your staff actively refuse sales and have an effective system in place. Refusal logs should be checked by the manager or owner to ensure all members of staff are using them.

Till prompts:

If your system allows it may be possible to use your till to remind staff of age restrictions via a reminder prompt when the barcode of an age restricted product is scanned.

Alternatively, by way of a staff reminder, stickers could be used to cover certain product barcodes.

Signage:

Displaying posters showing age limits for certain products and a statement regarding the refusal of such sales if the person appears to be underage. This may help deter potential purchasers and act as a reminder to staff.

CCTV:

A CCTV system may help act as a deterrent and reduce underage sales. It will also help you to monitor 'blind spots' within your store if it's not possible to change the layout or relocate age restricted products behind, or closer to, the counter.

Please note the above advice is best practice and is not a legal requirement. However, the legislation states if you are charged with an offence of selling an age restricted product to a person under the age of 18, it is a defence if you're able to prove you took all reasonable steps to determine the purchaser's age and that you reasonably believed that the purchaser was not under the age of 18.

Therefore, by carrying out the above best practice checks, it will help show you and your staff are able to satisfy this legal defence and it will help reduce the sale of age restricted products to persons under the age of 18.

Further advice and guidance on age restricted products can be found on the Business Companion website: www.businesscompanion.info/

If you have any queries or require further information, please don't hesitate to contact me.

Yours Sincerely,

Trainee Trading Standards Officer
Trading Standards Service
