

“Ch-ch-ch-ch-changes”

David Bowie

# Federal Minimum Legal Sales Age to 21



Passed December 20<sup>th</sup> and became effective immediately.



It is a violation of federal law to sell tobacco or nicotine products to anyone under the age of 21.



Federal law does not apply to possession, use and purchase.



No “grandfathering”. Law applies immediately to anyone under 21.



FDA is responsible for enforcement.



No exemption for military personnel under 21 years of age.



No preemption *except* local law may not allow phasing in by age or exemption for under age military personnel.

# Federal Minimum Legal Sales Age to 21 – What You Should Know

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The Colorado Liquor Enforcement Division in the Department of Revenue are notifying retailers about changing their signage.

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Continued need for local laws and local enforcement because:

1. No indication that existing low number of compliance checks will increase.
2. Penalties are not changing and they are minimal in existing law.

# For more information

- <https://www.fda.gov/about-fda/office-medical-products-and-tobacco/center-tobacco-products>
- <https://www.colorado.gov/revenue>
- [AskCTP@fda.hhs.gov](mailto:AskCTP@fda.hhs.gov)

# Legislation:

- <https://docs.house.gov/billsthisweek/20191216/BILLS-116HR1865SA-RCP116-44.PDF>.

# Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market Without Premarket Authorization

- Guidance from the FDA on how they intend to prioritize enforcement efforts of certain tobacco products that do not have premarket authorization.
- <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/enforcement-priorities-electronic-nicotine-delivery-system-ends-and-other-deemed-products-market>

# FDA Enforcement Priorities

- For ENDS products marketed without FDA authorization, the FDA will prioritize enforcement as follows:
  - Any flavored, cartridge-based ENDS product (other than tobacco or menthol flavored);
  - All other ENDS products for which the manufacturer has failed to take adequate measures to prevent minors' access; and
  - Any ENDS product that is targeted to minors.

# FDA Enforcement Priorities

- For all other products (cartridge-based or otherwise), including menthol-, tobacco-, and non-flavored ENDS products, the FDA will also prioritize enforcement where the manufacturer fails to take adequate measures to prevent youth access.
- After May 12, 2020, FDA intends to prioritize enforcement of any ESD product that is offered for sale and for which the manufacturer has not submitted a premarket application.

# Colorado House Bill 1001

- [http://www.leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a\\_1001\\_01.pdf](http://www.leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1001_01.pdf)
- Codifies T21 in state law
- Removes penalties on minors
- Establishes a statewide tobacco retail licensure system that still enables local governments to design their own systems of licensure so long as it meets the minimum standards set by the state.



Questions?