



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
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December 11, 2019

Dear Public Health Colleagues:

On Wednesday, November 27, 2019, Governor Baker signed An Act Modernizing Tobacco Control into law. This legislation substantially restricts the sale of e-cigarette and nicotine vaping products (referred to in the law collectively as “electronic nicotine delivery systems”) and flavored tobacco products.

Certain sections of the new legislation became effective immediately upon signing. The Massachusetts Department of Public Health (DPH) has promulgated an emergency regulation, 105 CMR 665: Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems, to implement these sections. The emergency regulation is effective as of December 11, 2019 and the Department of Public Health and Boards of Health have the authority to enforce the emergency regulation. As a result, there are important new requirements for retail establishments that sell tobacco. These requirements differ depending on what kind of retail establishment you work with and are summarized below. The full text of the regulation is available at: mass.gov/NewTobaccoLaw.

Pursuant to 105 CMR 665:

Non-age-restricted establishments (such as convenience and liquor stores):

- Cannot sell any tobacco products, including cigarettes and e-cigarettes to anyone under the minimum legal sales age.
- Cannot sell any flavored electronic nicotine delivery systems such as flavored e-cigarettes and flavored vaping products.
- Cannot sell electronic nicotine delivery systems with nicotine content greater than 35 milligrams per milliliter.
- Cannot advertise tobacco products that they cannot sell, use fraudulent or misleading statements in advertising, or display advertisements with celebrities, cartoons, or similar endorsements.
- Can sell non-flavored electronic nicotine delivery systems with nicotine content 35 milligrams or less per milliliter.
 - Must maintain records obtained by the manufacturer that validate the nicotine content of electronic nicotine delivery systems available for sale on the premises.
 - This documentation may be provided to the retailer by a distributor, but must have originally come from the manufacturer.
- Must keep all tobacco products, including cigarettes and e-cigarettes for sale behind the counter where sales are made, out of reach of consumers and not on the counter.

- Must display all of the following signs in plain view by a person standing at the cash register (establishments must use the signs developed and provided by DPH available at mass.gov/NewTobaccoLaw):
 - The text of Massachusetts General Law Chapter 270, Sections 6 and 6A
 - A statement that the sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age is prohibited
 - Notice that the sale of flavored electronic nicotine delivery systems is prohibited
 - A warning about the health impacts of vaping
 - Information on tobacco cessation services

Retail Tobacco Stores (retail establishments whose primary purpose is the sale of tobacco products and paraphernalia, and who restrict the entry for people under the age of 21. These include tobacconists, smoke shops, and vape shops):

- Must have a municipal permit for sale or distribution of tobacco products, unless in operation before December 11, 2019 in a municipality that has not previously required a permit for operation.
- Cannot sell any tobacco products, including cigarettes and e-cigarettes to anyone under the minimum legal sales age.
- Cannot sell any flavored electronic nicotine delivery system, such as flavored e-cigarettes and flavored vaping products.
- Cannot advertise tobacco products that they cannot sell, use fraudulent or misleading statements in advertising, or display advertisements with celebrities, cartoons or similar endorsements.
- Must display the following signs in plain view of a person standing at the cash register (all signs are developed by the Department of Public Health and are available at mass.gov/NewTobaccoLaw):
 - The text of Massachusetts General Law Chapter 270, Sections 6 and 6A
 - A statement that the sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age is prohibited
 - Notice that the sale of flavored electronic nicotine delivery systems is prohibited
 - A warning about the health impacts of vaping
 - Information on tobacco cessation services
- Must display the following signs on the exterior of the entrance door (establishments must use the signs developed and provided by DPH available at mass.gov/NewTobaccoLaw):
 - A warning that smoking and vaping may be present on the premises
 - Information concerning the health risks of second hand smoke and vaping
 - A statement that no person under the age of 21 is allowed on the premises at any time

Smoking Bars: (a retail establishment that exclusively occupies an enclosed indoor space, limits entry to persons over the age of 21, and primarily sells tobacco products for onsite consumption.):

- Must have a municipal permit for sale or distribution of tobacco products, unless in operation before December 11, 2019 in a municipality that has not previously required a permit for operation.
- Cannot advertise tobacco products that they cannot sell, use fraudulent or misleading statements in advertising, or display advertisements with celebrities, cartoons or similar endorsements.

- Can sell flavored electronic nicotine delivery systems such as flavored e-cigarettes and flavored vaping products for on-site consumption only.
- Must display the following signs in plain view of a person standing at the cash register (all signs are developed by the Department of Public Health and are available at mass.gov/NewTobaccoLaw):
 - The text of Massachusetts General Law Chapter 270, Sections 6 and 6A
 - A statement that the sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age is prohibited
 - A warning about the health impacts of vaping
 - Information on tobacco cessation services
- Must display the following signs on the exterior of the entrance door (establishments must use the signs developed and provided by DPH available at mass.gov/NewTobaccoLaw):
 - A warning that smoking and vaping may be present on the premises
 - Information concerning the health risks of second hand smoke and vaping
 - A statement that no person under the age of 21 is allowed on the premises at any time

Other sections of the new legislation, An Act Modernizing Tobacco Control, go into effect on June 1, 2020. DPH has summarized those sections that pertain to DPH. Please note that there are additional sections of An Act Modernizing Tobacco Control, including sections pertaining to the regulation of insurance and taxation. Those sections are not summarized here.

Beginning on June 1, 2020:

Non-age-restricted establishments:

- Cannot sell any tobacco products that have a characterizing flavor (e.g. menthol cigarettes and flavored cigars and chewing tobacco) or tobacco product flavor enhancer.

Retail Tobacco Stores:

- Cannot sell any tobacco products that have a characterizing flavor (e.g. menthol cigarettes and flavored cigars and chewing tobacco) or tobacco product flavor enhancer.

Smoking Bars:

- Can sell tobacco products that have a characterizing flavor (e.g. menthol cigarettes and flavored cigars and chewing tobacco) or tobacco product flavor enhancer for consumption on-site.

The following resources are available to assist you in educating your retailers and helping them to comply with the new legislation and DPH regulation:

- Standard Retailer Inspection form
- Chart of required signage and what can be sold by retailer
- Link to the [Massachusetts Health Promotion Clearinghouse](#)

The Massachusetts Tobacco Cessation and Prevention Program will be conducting a webinar to further assist you on December 12, 2019 at 3:00 pm.

Where and What Tobacco Products Can Be Sold in Massachusetts
 Published by the Massachusetts of Department Health December 11, 2019

Product	Non-Age restricted retail establishments (e.g. Convenience Stores/Gas Stations, liquor stores)	Adult-Only Tobacco Retail Stores (21+)	Smoking Bars (21+)
Cigarettes <ul style="list-style-type: none"> including menthol 	√*	√*	√
Cigars <ul style="list-style-type: none"> including flavors, unless city/town has a flavored product restriction in place 	√*	√*	√
Other tobacco products (excluding e-cigarettes) <ul style="list-style-type: none"> including flavors, unless city/town has a flavored product restriction in place 	√*	√*	√
UNFLAVORED e-cigarettes with nicotine content 35 mg/ml or less	√	√	√
UNFLAVORED e-cigarettes with nicotine content over 35 mg/ML		√	√
FLAVORED e-cigarettes with any strength nicotine content			√

*Beginning June 1, 2020, flavored cigarettes, cigars and other tobacco products may only be purchased in smoking bars

Signs Required in Massachusetts Tobacco Retail Establishments by 105 CMR 665
Published by the Massachusetts Department of Health December 11, 2019

All signs are available for download from the Massachusetts Health Promotion Clearinghouse. New signs required by the Act Modernizing Tobacco Control will be designed and printed in the near future. Signs noted with an asterisk (*) are already required by state law and are available to order on the Massachusetts Health Promotion Clearinghouse website.

Sign	Convenience Stores/Gas Stations With a Retail Tobacco License	Adult-Only Tobacco Retail Store (21+)	Smoking Bars (21+)
Minimum Legal Sales Age*	✓	✓	✓
State Law (MGL ch 270, sections 6 and 6A)	✓	✓	✓
Referral Information for Smoking Cessation Resources*	✓	✓	✓
Health Warning for E-cigarettes	✓	✓	✓
Sale of Flavored E-Cigarettes is Prohibited	✓	✓	
Must be 21+ to Enter		✓	✓
Exterior notice of smoking/vaping inside		✓	✓

Massachusetts Law Regarding the Sale of Tobacco

MGL, ch. 270, section 6: Sale or provision of tobacco product to person under 21 years of age

Section 6.

- (a) As used in this section and sections 6A and 7, the following words shall have the following meanings unless the context clearly requires otherwise:

“Manufacturer”, a person that manufactures or produces a tobacco product.

“Person”, an individual, firm, fiduciary, partnership, corporation, trust or association, however formed, or a club, trustee, agency or receiver.

“Retail establishment”, a physical place of business or a section of a physical place of business wherein a tobacco product is offered for sale to consumers.

“Retailer”, a person that operates a retail establishment.

“Tobacco product”, a product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization; provided, however, that “tobacco product” shall also include any component, part or accessory of a tobacco product; and provided further, that “tobacco product” shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product and is marketed and sold exclusively for the approved purpose.

- (b) No person shall sell or provide a tobacco product to a person who is under 21 years of age.
- (c) No manufacturer or retailer shall distribute or cause to be distributed a free sample of a tobacco product in a retail or other commercial establishment; provided, however, that this subsection shall not apply to retail tobacco stores and smoking bars as defined in section 22.
- (d) A person who violates this section shall be punished by a fine of **\$1,000** for the first offense, **\$2,000** for a second offense and **\$5,000** for a third or subsequent offense.
- (e) The department of public health may promulgate regulations to implement this section.

MGL, ch. 270, section 6A: Sale of tobacco rolling papers to person under 21 years of age

Section 6A.

A person who sells tobacco rolling papers to a person under the age of 21 shall be punished by a fine of **\$25** for the first offense, **\$50** for the second offense and **\$100** for a third or subsequent offense.





WARNING

The Centers for Disease Control, the U.S. Food and Drug Administration, state and local health departments, and other clinical and public health partners are investigating a national outbreak of e-cigarette, or vaping, product use associated lung injury (EVALI).

The Department of Public Health recommends that people refrain from the use of all e-cigarette, or vaping, products. E-cigarettes contain nicotine, an addictive drug.

E-cigarette aerosol can contain cancer-causing chemicals and other substances that harm the body.



WARNING

**The use of e-cigarettes may cause
E-Cigarette/Vaping Associated Lung
Injury (EVALI).**

**E-cigarettes contain nicotine,
an addictive drug.**

**E-cigarette aerosol can contain
cancer-causing chemicals and other
substances that harm the body.**

mass.gov/newtobaccolaw



Massachusetts Department
of Public Health

BH2694

The sale of
FLAVORED
e-cigarettes
is prohibited in this
establishment at all times.

**For questions or
to report a violation, call**

1-800-992-1895

Law citation: GL c. 270 §28(b)





WARNING

Secondhand smoke or aerosol from e-cigarettes may be present in this establishment.

Secondhand smoke and secondhand aerosol from e-cigarettes contain chemicals that are hazardous to your health.



ADULT ONLY RETAIL TOBACCO ESTABLISHMENT or SMOKING BAR

**Persons under the age of 21
are not permitted
to enter these premises at any time.**

