



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

Product	Non-Age restricted retail establishments (e.g. Convenience Stores/Gas Stations, liquor stores)	Adult-Only Tobacco Retail Store (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		✓	✓

Store Inspection Form

Inspector Name: _____

Store Name: _____ Address: _____ Date: ____ / ____ / ____

AM

City: _____ MA, Zip: _____ Time: ____ : ____ PM

1. Can you visit the store?
- Yes
 No, store closed at time of visit
 No, under 18 not allowed
 No, unsafe
- No, store does not exist or is permanently closed
 No, temporary/short-term or seasonal closure
 No, members only
 No, other reason not listed

2. Purpose of Visit:
- Routine inspection visit
 Suspension of permit
- Complaint received
 Retailer requested education
- Failed compliance check follow-up
 Other: _____

3. Was the inspection completed? Yes No **If No**, please select the reason?
- Do not sell tobacco
 Other: _____
- Too busy

4. Choose one best store type:
- Convenience store with or without gas
 Grocery Store
 Hookah lounge/Smoking bar
- Drug store or pharmacy
 Mass merchandiser
 E-cigarette/Vape shop
- Beer, wine, liquor store
 Tobacco shop
 Bar or restaurant
 Other: _____

SIGNAGE

	Yes	No
5. Is the local board of health license posted?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the state tax license posted?	<input type="checkbox"/>	<input type="checkbox"/>
7. Is required state law signage (MGL ch 270, 6 and 6A) posted?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is a "no-smoking" sign(s) posted?	<input type="checkbox"/>	<input type="checkbox"/>
9. Is roll-your-own tobacco sold?	<input type="checkbox"/>	<input type="checkbox"/>
10. Is a health warning posted by roll-your-own tobacco?	<input type="checkbox"/>	<input type="checkbox"/>
11. Is a minimum legal sale age sign posted?	<input type="checkbox"/>	<input type="checkbox"/>
12. Is a cessation sign(s) posted?	<input type="checkbox"/>	<input type="checkbox"/>
13. Is a vaping health warning sign(s) posted?	<input type="checkbox"/>	<input type="checkbox"/>
14. Is a cigar health warning sign(s) posted?	<input type="checkbox"/>	<input type="checkbox"/>
15. Is a "sale of flavored e-cigarettes is prohibited" sign posted?	<input type="checkbox"/>	<input type="checkbox"/>

Adult-Only Retailers and Smoking Bars (21+)

16. Is a "Must be 21+ to Enter" sign posted?	<input type="checkbox"/>	<input type="checkbox"/>
17. Is there an exterior sign that smoking/vaping allowed inside?	<input type="checkbox"/>	<input type="checkbox"/>
18. Is there an interior sign that smoking/vaping allowed inside?	<input type="checkbox"/>	<input type="checkbox"/>

LOCATION COMPLIANCE		
	Yes	No
19. Is any tobacco in a self-service location?	<input type="checkbox"/>	<input type="checkbox"/>
20. Do all self-service locations meet legal standards?	<input type="checkbox"/>	<input type="checkbox"/>
21. Are all tobacco products sold behind the counter?	<input type="checkbox"/>	<input type="checkbox"/>
22. Are any tobacco vending machines present?	<input type="checkbox"/>	<input type="checkbox"/>
23. Do tobacco vending machines meet all regulation standards?	<input type="checkbox"/>	<input type="checkbox"/>
24. Are any tobacco vending machines in a non-adult-only establishment?	<input type="checkbox"/>	<input type="checkbox"/>
25. Are any humidors present?	<input type="checkbox"/>	<input type="checkbox"/>
26. Are all humidors locked?	<input type="checkbox"/>	<input type="checkbox"/>
PRODUCTS & COMPLIANCE		
	Yes	No
27. Are any of the following products sold here?		
Cigarettes		
A. Non-menthol cigarettes	<input type="checkbox"/>	<input type="checkbox"/>
B. Menthol cigarettes	<input type="checkbox"/>	<input type="checkbox"/>
C. Flavored cigarettes	<input type="checkbox"/>	<input type="checkbox"/>
D. Cigarettes with 'low' or 'mild' descriptors	<input type="checkbox"/>	<input type="checkbox"/>
F. Cigarettes sold in packs of 20 ONLY (no loosies)	<input type="checkbox"/>	<input type="checkbox"/>
Cigarillos, Little Cigars, or Blunts		
G. Tobacco cigarillos, little cigars, or blunts	<input type="checkbox"/>	<input type="checkbox"/>
H. Menthol cigarillos, little cigars, or blunts	<input type="checkbox"/>	<input type="checkbox"/>
I. Flavored cigarillos, little cigars, or blunts	<input type="checkbox"/>	<input type="checkbox"/>
Large Cigars		
J. Tobacco premium large cigars	<input type="checkbox"/>	<input type="checkbox"/>
K. Menthol premium large cigars	<input type="checkbox"/>	<input type="checkbox"/>
L. Flavored premium large cigars	<input type="checkbox"/>	<input type="checkbox"/>
Chew, Snuff, Dip, Snus		
M. Tobacco chew, snuff, dip, snus	<input type="checkbox"/>	<input type="checkbox"/>
N. Menthol chew, snuff, dip, snus	<input type="checkbox"/>	<input type="checkbox"/>
O. Flavored chew, snuff, dip, snus	<input type="checkbox"/>	<input type="checkbox"/>
Vape Products		
P. Tobacco e-cigarettes	<input type="checkbox"/>	<input type="checkbox"/>
Q. Menthol e-cigarettes	<input type="checkbox"/>	<input type="checkbox"/>
R. Flavored e-cigarettes	<input type="checkbox"/>	<input type="checkbox"/>
S. Tobacco e-liquids	<input type="checkbox"/>	<input type="checkbox"/>
T. Menthol e-liquids	<input type="checkbox"/>	<input type="checkbox"/>
U. Flavored e-liquids	<input type="checkbox"/>	<input type="checkbox"/>

VIOLATIONS

28. Were any violations found?

- Yes
- No

29. What action was taken?

- Educational warning
- \$1,000 fine \$2,000 fine
- \$5,000 fine Other fine: _____
- Refer to other agency

MERCHANT EDUCATION

30. Employee/merchant name: _____

31. Employee/merchant title:

- Owner Manager
- Supervisor Clerk

32. Which of the following topics were discussed with the merchant? **(CHECK ALL THAT APPLY)**

- | | |
|--|--|
| <input type="checkbox"/> Checked permit | <input type="checkbox"/> Reviewed regulations/tobacco sales laws |
| <input type="checkbox"/> Retailers' responsibilities | <input type="checkbox"/> Proper identification |
| <input type="checkbox"/> Compliance checks (minors may look older) | <input type="checkbox"/> Penalties |
| <input type="checkbox"/> Trainings | <input type="checkbox"/> Required signage placement |
| <input type="checkbox"/> Smoke-free workplace law | <input type="checkbox"/> Retailer kit materials |

33. Which of the following materials were given? **(CHECK ALL THAT APPLY)**

- | | |
|--|--|
| <input type="checkbox"/> Copy of regulations | <input type="checkbox"/> State signage (MGL ch 270, G and 6A) |
| <input type="checkbox"/> Local signage | <input type="checkbox"/> "No smoking" sign(s) |
| <input type="checkbox"/> Minimum legal sale age sign | <input type="checkbox"/> Cessation sign(s) |
| <input type="checkbox"/> Vaping health warning sign(s) | <input type="checkbox"/> Cigar health warning sign(s) |
| <input type="checkbox"/> "Must be 21+ to enter" sign | <input type="checkbox"/> Smoking/vaping allowed inside sign(s) |
| <input type="checkbox"/> "Sale of flavored e-cigarettes prohibited" sign | <input type="checkbox"/> Retailer kit/training materials |
| <input type="checkbox"/> Sample employee agreements | |

34. Enter field notes:
