

## **REQUIRED CONTENT OF A MANUFACTURER'S LETTER**

The Massachusetts Department of Public Health has issued guidelines that manufacturers should follow when developing their letters that either (1) attest that each specific product is not flavored and/or (2) attest that each specific vape product has a nicotine content of 35 mg/ml or less.

Here is a checklist incorporating the DPH guidelines:

1. The letter must be from the product manufacturer, but can be obtained from the wholesaler/distributor;
2. The letter must certify that the product listed within the letter or attached to the letter are neither flavored nor have a characterizing flavor as defined by 105 CMR 665.005;
3. The letter must contain an attestation clause indicating that the "letter is true and accurate";
4. The letter must state that the "manufacturer will immediately provide an updated letter to correct any inaccuracy";
5. The letter must state that the person signing the letter "is authorized on behalf of the manufacturer to sign the letter";
6. The letter must include the signature of the manufacturer's corporate officer or an owner.
7. For Electronic Nicotine Delivery Systems, retailers must also have a manufacturer's letter certifying that the products do not have a nicotine content greater than 35 milligrams per milliliter. The content calculation must be in "milligrams per milliliter." If the nicotine content is documented in a separate letter, the same guidelines must be followed within that documentation.

**Smoking Bars:** Manufacturer letters are not required for MA Department of Revenue-approved smoking bars for either nicotine content or flavor determination.

**Adult-Only Retail Tobacco Stores:** Retailers that do not allow anyone under the age of 21 to enter the premises are only required to provide manufacturer letters that attest the products for sale are not flavored. Manufacturer letters documenting nicotine content are not required for adult-only retail tobacco stores.

**Enforcement:**

- If the product is known to you and you have already seen it on a manufacturer's letter, there is no need to ask for the letter;
- If the product is new to the market, or new to you, the retailer must produce the manufacturer's letter upon request;
- If there is no manufacturer's letter available, instruct the retailer to remove the product from the retail space. It is your choice to have the retailer keep the product in a back room or remove the product from the store completely. The retailer may return the product to the sales floor only when they have obtained a valid manufacturer's letter. It is the enforcement agent's decision whether to issue a penalty for a disputed flavored product.

**Distributors:** Retailers may want to ask for this letter from the distributor who delivers the tobacco products to them. A complete list of all tobacco products distributors is available at <https://www.mass.gov/info-details/dor-cigarette-tobacco-and-vaping-excise-tax>