

**Massachusetts Department of Public Health (DPH)
Tobacco Retailer Guidance**



Guidance for Non-Age-Restricted Retail Establishments

The Massachusetts Department of Public Health (DPH) has promulgated an emergency regulation, 105 CMR 665, to implement certain sections of a new state law: An Act Modernizing Tobacco Control. This regulation took effect on December 11, 2019. As a result, there are important new requirements for retail establishments that sell tobacco products, including e-cigarettes. These requirements differ depending on the type of retail establishment, so please read the statute, the regulation, and this information carefully.

Under this regulation, a **non-age-restricted retail establishment** is one that holds a Massachusetts Department of Revenue license for the sale of tobacco products, but does not restrict entry to people under the age of 21. These include, but are not limited to, convenience stores, gas stations, liquor stores, bodegas, supermarkets and other similar businesses.

Non-age-restricted retail establishments:

- 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 www.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

This information is provided to assist individuals in complying with a state regulation related to the operation of a non-age restricted retail tobacco establishments. This is a summary, only, and not the full text of the regulation.

Guidance for Retail Tobacco Stores

The Massachusetts Department of Public Health (DPH) has promulgated an emergency regulation, 105 CMR 665, to implement certain sections of a new state law: An Act Modernizing Tobacco Control. This regulation took effect on December 11, 2019. As a result, there are important new requirements for retail establishments that sell tobacco products, including e-cigarettes. These requirements differ depending on what kind of retail establishment you work with, so please read the statute, the regulation, and this information carefully.

Under this regulation, Retail Tobacco Stores are 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.

Additional information regarding the taxation elements of the new law will be forthcoming from the Department of Revenue.

Retail Tobacco Stores:

- 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 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 www.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 www.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

This information is provided to assist individuals in complying with a state regulation related to the operation of a retail tobacco store. This is a summary, only, and not the full text of the regulation.

Guidance for Smoking Bars

The Massachusetts Department of Public Health has promulgated an emergency regulation, 105 CMR 665, to implement certain sections of a new state law: An Act Modernizing Tobacco Control. This regulation took effect on December 11, 2019. As a result, there are important new requirements for retail establishments that sell tobacco products, including e-cigarettes. These requirements differ depending on what kind of retail establishment you work with, so please read the statute, the regulation, and this information carefully.

Under this regulation, **Smoking Bar** is an 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.

Smoking Bars:

- 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 www.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 www.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

This information is provided to assist individuals in complying with a state regulation related to the operation of a smoking bar. This is a summary, only, and not the full text of the regulation.