



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

TO: Tobacco Product Retailers

FROM: Massachusetts Tobacco Cessation and Prevention Program

DATE: January 4, 2021

RE: Notice of guidance for the documentation of nicotine content in electronic delivery systems

Prior to the sale of any electronic nicotine delivery system (ENDS), a retailer must first obtain a letter from the manufacturer verifying its products comply with 105 CMR 655.010. The letter is intended to verify the product's nicotine content does not exceed 35 milligrams per milliliter. This letter is not required in smoking bars or adult-only tobacco retailer establishments where no one under the age of 21 is allowed to enter the premises as defined by 105 CMR 655.005. The following is required for the letter:

- The letter must be from the product manufacturer, and must list all of the manufacturer's brands, sub-brands, and brand sizes you offer for sale at your store.
- The letter must attest that each brand, sub-brand, and brand size contained in the letter does not have a nicotine content of greater than 35 milligrams per milliliter.

Please note that a retailer may not offer for sale any brand, sub-brand, or brand size not so listed in the manufacturer's letter.

- The letter must be signed by one of the manufacturer's corporate officers or one of its managing owners.
- The person who signs the letter must state:
 - the "letter is true and accurate;"
 - he/she "is authorized on behalf of the manufacturer to sign the letter;" and
 - "the manufacturer will immediately provide an updated letter to correct any inaccuracy."

- An updated letter is required for any new brands, sub-brands, and brand sizes for any products that a retailer intends to offer for sale.
- A retailer must keep the letter at the retail location for inspection upon request by an agent or representative of a municipal board of health or the Massachusetts Department of Public Health. The letter is required even if the nicotine content is listed on the packaging.

This Notice is guidance to assist retailers in compliance with 105 CMR 655.010 (C). This Notice does not provide a complete description of a retailer's responsibilities under 105 CMR 655 or other laws applicable to the sale of tobacco products.