



# The Commonwealth of Massachusetts

## Office of the Attorney General

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### SUMMARY OF AMENDED CIGARETTE, CIGAR, SMOKELESS TOBACCO, AND ELECTRONIC SMOKING DEVICE REGULATIONS

This document summarizes updated regulations (940 CMR 21.00 and 22.00) promulgated by the Attorney General's Office relative to the sale of cigarettes, cigars, smokeless tobacco, and electronic smoking devices (including e-cigarettes).

**Unless otherwise noted, these regulations are effective as of September 25, 2015.**

#### WHAT PRODUCTS DO THESE REGULATIONS COVER?

These regulations cover all traditional and combustible tobacco products, including cigarettes, cigars, and smokeless tobacco. Additionally, these regulations for the first time cover electronic smoking devices, which includes any product that can deliver nicotine to users through the inhalation of vapor (such as e-cigarettes), and the component parts of such products (including liquids and gels, irrespective of whether such liquids and gels contain nicotine). These regulations do not cover FDA-approved smoking cessation devices.

#### WHAT KINDS OF BUSINESSES DO THESE REGULATIONS COVER?

These regulations apply to all parties that manufacture, package, import, distribute, or sell within Massachusetts those products described above.

#### WHAT IS THE MINIMUM PURCHASE AGE UNDER THESE REGULATIONS?

All businesses that sell those products described above, including e-cigarettes, must verify that the purchaser **is at least 18 years old**. However, if the business is located in a municipality that has adopted a higher minimum sales age, the seller or distributor must verify that higher age. No verification is required for any person who appears to be 27 years of age or older.

#### WHAT STEPS MUST BUSINESSES TAKE UNDER THESE REGULATIONS?

Covered businesses **must** sell all covered products in the following manner:

- **Placement/display:** all products must be placed out of the reach of all customers, and in a location only accessible by retail personnel.
- **Face-to-face sales:** all products must be sold through a face-to-face exchange between the retailer and customer, without the assistance of a vending machine or any other device. Sales from certain vending machines are allowed if located in an adult-only retail facility that is licensed to sell alcohol. Certain, limited exceptions to the face-to-face rule exist, including for mail-order and internet sales.
- **Nicotine liquid/gel packaging:** special packaging requirements apply to nicotine liquid and gel substances. Beginning March 15, 2016, all such substances must be sold in child-resistant packaging.
- **Prevention measures:** retailers must implement all prevention measures reasonably necessary to prevent the sale of covered products to those below the minimum sales age. Further guidance regarding compliance can be found at 940 CMR 21.03 (a)-(b).

#### WHAT PRACTICES DO THESE REGULATIONS PROHIBIT?

Covered businesses **may not** do any of the following:

- **Sampling/free distribution:** provide samples, promotional give-aways, or any free distribution of any covered product, including e-cigarettes, e-liquids, and gels. This prohibition applies to liquids and gels intended to be used as part of an e-cigarette or vaping system regardless of whether it contains nicotine.
- **Promotional items:** provide free promotional items in exchange for the purchase of any covered product, including e-cigarettes.
- **Repackaging:** distribute or sell any product in a quantity that is smaller than the smallest package distributed by the manufacturer for individual consumer use.
- **Self-service displays:** sell products from self-service displays (unless located in an adult-only retail facility).

#### HOW DO THE REGULATIONS TREAT FOR MAIL ORDER OR INTERNET SALES?

Mail order sales are not prohibited, but certain age-verification methods must be used. Please review 940 CMR 21.04(4)(a) for specific requirements for mail order or internet sales.