



**CITY OF WORCESTER, MASSACHUSETTS**  
Department of Health & Human Services  
Division of Public Health



**Public Health**  
Prevent. Promote. Protect.

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Health & Human Services  
Commissioner

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Director

December 16, 2019

Dear Tobacco Retailer:

On December 11, 2019, the state's Public Health Council approved new regulations, *105 CMR 665*, that restrict the sale of nicotine vaping and flavored vaping and tobacco products. This action follows the Legislature passing and Governor Charlie Baker signing into law *An Act Modernizing Tobacco Control*, which regulates access to tobacco and electronic nicotine delivery systems, including vapes. **With the actions taken December 11th, the Governor's temporary statewide ban on the sale of tobacco and vape products in place since September is no longer in effect.**

Effective immediately, the new law places the following restrictions:

1. The sale and consumption of all flavored nicotine vaping products may only occur within licensed smoking bars.
2. Retail stores licensed to sell tobacco products, such as convenience stores, gas stations, and other retail outlets, are restricted to the sale of non-flavored nicotine vaping products with a nicotine content of 35 milligrams per milliliter or less.
3. The sale of non-flavored nicotine vaping products (with a nicotine content over 35 milligrams per milliliter) is restricted to licensed, adult-only retail tobacco stores and smoking bars.

Beginning **June 1, 2020**, the sale of flavored combustible cigarettes and other tobacco products, including menthol cigarettes and flavored chewing tobacco, will be restricted to licensed smoking bars where they may be sold only for on-site consumption. Also taking effect on June 1st is the addition of a 75 percent excise tax on the wholesale price of nicotine vaping products, in addition to the state's 6.75 percent sales tax.

Under these new regulations, the requirements for different types of retail establishment vary, so please read this information carefully.



**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:**

- Must have a municipal permit for sale or distribution of tobacco products.
- 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 required signs developed and provided by DPH in plain view by a person standing at the cash register (please refer to signs requirement chart for guidance)

**Retail Tobacco Stores (Adult Only 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.

**Retail tobacco establishments:**

- Must have a municipal permit for sale or distribution of tobacco products.
- 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 required signs developed and provided by DPH in plain view by a person standing at the cash register (please refer to signs requirement chart for guidance)
- Must display the following signs developed and provided by DPH on the exterior of the entrance door:

- 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** are retail establishments that exclusively occupy an enclosed indoor space, limit entry to persons over the age of 21, and primarily sell tobacco products for onsite consumption. In order to become a smoking bar, an establishment must get a license from the Massachusetts Department of Revenue and meet all of the state and local definition and exemption criteria.

**Smoking Bars:**

- Must have a municipal permit for sale or distribution of tobacco products.
- Must have a smoking bar license from the Massachusetts Department of Revenue
- 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 all of the required signs developed and provided by DPH in plain view by a person standing at the cash register (please refer to signs requirement chart for guidance)
- Must display the following signs developed and provided by DPH on the exterior of the entrance door:
  - 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

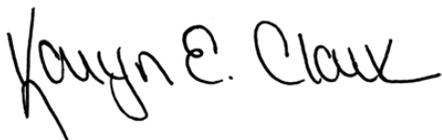
Included with this letter are the following materials for further guidance:

- Chart outlining where and what tobacco products can be sold in Massachusetts
- Chart outlining what signs are required in each type of tobacco retail establishment
- New signs developed and provided by DPH
  - Also available for download at <https://www.mass.gov/lists/signs-required-in-massachusetts-tobacco-retail-establishments>

If you have questions, please visit: <http://www.mass.gov/newtobaccolaw> or call WDPH at 508-799-8531.

Thank you for your anticipated cooperation.

Sincerely,



Karyn E. Clark  
Director

**Where and What Tobacco Products Can Be Sold in Massachusetts**

*Published by the Massachusetts of Department 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"> <li>including menthol</li> </ul>	√*	√*	√
Cigars <ul style="list-style-type: none"> <li>including flavors, unless city/town has a flavored product restriction in place</li> </ul>	√*	√*	√
Other tobacco products (excluding e-cigarettes) <ul style="list-style-type: none"> <li>including flavors, unless city/town has a flavored product restriction in place</li> </ul>	√*	√*	√
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 of Department 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.

<b>Sign</b>	<b>Convenience Stores/Gas Stations With a Retail Tobacco License</b>	<b>Adult-Only Tobacco Retail Store (21+)</b>	<b>Smoking Bars (21+)</b>
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		√	√