

2014 Legislative Spotlight: Electronic Cigarettes

Retail Regulations

On May 21, 2014, Governor Mark Dayton signed into law new regulations to address the sale and use of “electronic delivery devices” – more commonly known as electronic cigarettes or e-cigarettes – in Minnesota. Included within this [new legislation](#) are provisions that will impact the retail environment.

License Required

Minnesota law previously required a local retail license (obtained from a city, county, or town) to sell tobacco or tobacco-related devices. A retail license will now be required to sell any:

- **Tobacco** - Cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco.
- **Tobacco-Related Devices** - Cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products.
- **Electronic Delivery Devices** - Any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. An “electronic delivery device” includes any component part of a product, whether or not marketed or sold separately.
- **Nicotine or Lobelia Delivery Products** - Any product containing or delivering nicotine or lobelia intended for human consumption (or any part of such a product) that is not tobacco or an electronic delivery device.

A license is not required to sell products that have been approved by the U.S. Food and Drug Administration (FDA) for sale as a tobacco-cessation product, a tobacco-dependence product, or for other medical purposes.

Other Regulations

In addition to requiring a local license, other regulations were amended to apply to the sale of electronic cigarettes:

- **Administrative Penalties**

Licensees and/or employees who sell electronic cigarettes to minors or commit other violations are subject to mandatory fines and license suspensions for repeat violations.

- **Criminal Penalties**

Possible criminal penalties for individuals who illegally sell or furnish electronic cigarettes to minors and for minors who purchase, attempt to purchase, or use electronic delivery devices.

- **Compliance Checks**

At least one unannounced compliance check a year must be conducted at locations where electronic cigarettes are sold.

- **Open Displays**

Electronic cigarettes may not be sold in “open displays.” These products must be stored behind the counter or must otherwise be inaccessible without the assistance of the vendor. An exception exists for “adult-only facilities” - retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related devices and prohibit individuals 18 or younger from entering.

- **Vending Machines**

Electronic cigarettes may not be sold out of vending machines, unless minors are prohibited from entering the licensed location at all times.

Ineligible Locations: Kiosks and Moveable Places of Business

Already a common regulation in many city or county retail tobacco licensing ordinances, the new legislation prohibits the sale of electronic cigarettes from moveable places of business. A “moveable place of business” is any retail business whose physical location is not permanent and includes (but is not limited to) kiosks, motorized or nonmotorized vehicles, or other transportable structures. This restriction is effective:

- August 1, 2014, for contracts entered into after May 1, 2014; or
- January 1, 2015, for contracts in effect on May 1, 2014.

Child Resistant Packaging

Beginning January 1, 2015, any liquid (more commonly known as “juice” or “e-juice”) that is to be used in electronic delivery devices must be sold in child resistant packaging. This packaging requirement applies whether the liquid contains nicotine or not.

Local Authority

Local governments retain the specific authority to adopt more restrictive regulations relating to the sale of electronic cigarettes and other licensed products.

Effective Date

Except where specifically provided, these retail regulations are effective **July 1, 2014**.

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