



U.S. Sales Restrictions on Flavored Tobacco Products

Below are examples from select U.S. jurisdictions that restrict the sale of flavored tobacco products. The chart includes excerpts from, and links to, the legislation, as well as information on any legal challenges. In some instances, the restrictions include electronic cigarettes and similar devices and the restricted flavors include menthol. A state or local government considering whether to adapt any language from the following policies should take care to ensure that the language is appropriate, practical, and legal for its jurisdiction. Please note that the Tobacco Control Legal Consortium does not endorse or recommend any of the following policies. We have included these examples simply to illustrate how various jurisdictions regulate the sale of flavored tobacco products and related electronic nicotine delivery devices.

Jurisdiction	Flavor prohibited?	Menthol prohibited?	E-cigs included?	Exemption for certain retailers?	Case law
CALIFORNIA					
Berkeley, CA	Yes—within buffer zone “Effective January 1, 2017, no person shall sell, give away, barter, exchange, or otherwise deal in flavored tobacco products within six hundred (600) feet of any	Yes “‘Characterizing flavor’ means a distinguishable taste or aroma, other than the taste or aroma of tobacco, that is imparted either prior to or during consumption of a tobacco product, including but not limited	Yes “‘Tobacco product’ means: 1. any substance containing, made of, or derived from tobacco or nicotine including but not limited to cigarettes, cigars, cigarillos, pipe tobacco, snuff, chewing tobacco, dipping tobacco,	No	No

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	<p>school as measured by a straight line from the nearest point of the property line of the parcel on which the school is located to the nearest point of the property line of the parcel on which the business is located.”</p> <p>BERKELEY, CAL. CODE § 9.80.035(C) (2016) (emphasis added).</p>	<p>to tastes or aromas of menthol. . . .”</p> <p>BERKELEY, CAL. CODE § 9.80.020(A) (2016) (emphasis added).</p> <p>"Flavored tobacco product" means any tobacco product containing, made of, or derived from tobacco or nicotine that contains a constituent that imparts a characterizing flavor.</p> <p>BERKELEY, CAL. CODE § 9.80.020(F) (2016) (emphasis added).</p>	<p>bidis, and shisha;</p> <p>2. any e-liquid;</p> <p>3. any electronic nicotine delivery system; and</p> <p>4. any tobacco paraphernalia.”</p> <p>BERKELEY, CAL. CODE § 9.80.020(K) (2016).</p>		
<p>El Cerrito, CA</p> <p>Note: Existing retailers in good standing have until January 1, 2018 to come into compliance</p>	<p>Yes</p> <p>“No tobacco retailer, nor any of the retailer's agents or employees, shall sell or offer for sale, or possess with intent to sell or offer for sale, any imitation tobacco products or flavored tobacco product.”</p>	<p>Yes</p> <p>“Characterizing flavor” means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product, including . . . menthol, mint, wintergreen, herb, or spice.</p>	<p>Yes</p> <p>“Flavored tobacco product” means any tobacco product (other than cigarettes as defined by the U.S. Food and Drug Administration) that contains a constituent that imparts a characterizing flavor. This includes . . . electronic</p>	<p>No</p> <p>No tobacco retailer, nor any of the retailer's agents or employees, shall sell or offer for sale, or possess with intent to sell or offer for sale, any imitation tobacco products or flavored tobacco product.</p>	<p>No</p>

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	EL CERRITO, CAL., CODE § 6.100.160 (2016).	EL CERRITO, CAL., CODE § 6.100.020 (2016) (emphasis added).	<p>smoking devices containing nicotine.</p> EL CERRITO, CAL., CODE § 6.100.020 (2016) (emphasis added).	EL CERRITO, CAL., CODE § 6.100.020 (2016). "Tobacco retailer" or "retailer" means any person that sells tobacco, tobacco products, electronic smoking devices, smoking paraphernalia. . . . This definition is without regard to the quantity of tobacco, tobacco products or smoking paraphernalia sold, offers for sale, exchanged, or offered for exchange. EL CERRITO, CAL., CODE § 6.100.020 (2016) (emphasis added).	
Hayward, CA	<p>Yes—within buffer zone</p> <p>“With the exception of Tobacco Retailers whose business included the sale of flavored tobacco</p>	<p>Yes</p> <p>“‘Characterizing Flavor’ means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted by a tobacco product or any</p>	<p>Yes</p> <p>“‘Tobacco product’ includes, but is not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus, or electronic smoking</p>	<p>Yes</p> <p>Exception for “Tobacco Retailers whose business included the sale of flavored tobacco products prior to the</p>	<p>No</p>

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	<p>products prior to the effective date of this Article, it shall be a violation of these regulations for any Tobacco Retailer or any of the Tobacco Retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product within a 500 foot radius of any private or public kindergarten, elementary, middle, junior high, or high school. The burden of proof to establish that sales of flavored tobacco products preceded the effective date of these regulations shall be on the Tobacco Retailer.”</p> <p>HAYWARD, CAL. CODE § 10-1.2783(c) (2016) (emphasis added).</p>	<p>byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to . . . menthol. . . .”</p> <p>HAYWARD, CAL. CODE § 10-1.2782(b) (2016) (emphasis added).</p> <p>““Flavored Tobacco Product’ means any tobacco product (other than cigarettes as defined by federal law) that contains a constituent that imparts a characterizing flavor.”</p> <p>HAYWARD, CAL. CODE § 10-1.2782(f) (2016).</p>	<p>devices (with or without nicotine).”</p> <p>HAYWARD, CAL. CODE § 10-1.2782(t) (2016) (emphasis added).</p>	<p>effective date of [the flavored tobacco regulation]”</p> <p>HAYWARD, CAL. CODE § 10-1.2783(c) (2016) (emphasis added).</p>	

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Manhattan Beach, CA	<p>Yes</p> <p>“No retailer shall sell a tobacco product, or any product used in an electronic smoking device containing, as a constituent or additive, an artificial or natural flavor or an herb or spice (with the exception of mint, menthol, spearmint or wintergreen), including but not limited to strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or smoke produced by the tobacco product.”</p> <p>MANHATTAN BEACH, CAL., CODE § 4.118.030(H)(2016).</p>	<p>No</p> <p>“No retailer shall sell a tobacco product, or any product used in an electronic smoking device, containing, as a constituent or additive, an artificial or natural flavor or an herb or spice (with the exception of mint, menthol, spearmint or wintergreen) . . . that is a characterizing flavor of the tobacco product or smoke produced by the tobacco product.”</p> <p>MANHATTAN BEACH, CAL., CODE § 4.118.030(H)(2016) (emphasis added).</p>	<p>Yes</p> <p>“No retailer shall sell a tobacco product, or any product used in an electronic smoking device, containing, as a constituent or additive, an artificial or natural flavor or an herb or spice . . . that is a characterizing flavor of the tobacco product or smoke produced by the tobacco product.”</p> <p>MANHATTAN BEACH, CAL., CODE § 4.118.030(H)(2016) (emphasis added).</p>	<p>Yes</p> <p>“The prohibition in the preceding sentence shall not apply to a retailer that permits only patrons eighteen (18) years of age or older to enter the location where the tobacco product is sold.”</p> <p>MANHATTAN BEACH, CAL., CODE § 4.118.030(H)(2016) (emphasis added).</p>	No
Santa Clara County, CA	<p>Yes</p> <p>“<i>Flavored tobacco products.</i> (1) Except as permitted in paragraph (3) of this subsection (i), no</p>	<p>Yes</p> <p>“<i>Flavored tobacco products.</i> Except as permitted in paragraph (3) of this subsection (i), no retailer shall sell a</p>	<p>Yes</p> <p>The ordinance applies to flavored tobacco products, including e-cigarettes, e-juice and other components and parts.</p>	<p>Yes</p> <p><i>Paragraph 3 of subsection (1) of Sec. A18-369 provides:</i></p> <p>Paragraph (1) of this</p>	No
Adopted October 18, 2016.					

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<p>Takes effect July 1, 2017.</p>	<p>retailer shall sell a tobacco product containing, as a constituent or additive, an artificial or natural flavor or aroma (other than tobacco) or an herb or spice, including strawberry, grape . . . that is a characterizing flavor or aroma of the tobacco product, smoke or vapor produced by the tobacco product.</p> <p>(2) A tobacco product shall be subject to a rebuttable presumption that the product is prohibited by paragraph (i) . . . if:</p> <p>(i) the product’s manufacturer (or an associated person) . . . makes or disseminates public statements or claims . . . that the product has or produces a</p>	<p>tobacco product containing, as a constituent or additive, an artificial or natural flavor (other than tobacco) or an herb or spice . . . that is a characterizing flavor of the tobacco product, smoke or vapor produced by the tobacco product.”</p> <p>SANTA CLARA COUNTY, CAL., CODE § A18-369(i) (2016).</p>	<p>Tobacco products are defined as (1) “Any product subject to Subchapter IX (21 U.S.C. § 387 et seq. (“Subchapter IX”) of the Federal Food, Drug, and Cosmetic Act. . . . (tobacco products subject to Subchapter IX).” Products subject to Subchapter IX include, but are not limited to, e-liquids containing tobacco or nicotine or are derived from tobacco or nicotine, vials containing e-liquids, and atomizers. (2) Any product for use in an electronic nicotine delivery system, whether or not it contains tobacco or nicotine or is derived from tobacco or nicotine.</p> <p>SANTA CLARA COUNTY, CAL., CODE § A18-368(e) (2016) (Definitions).</p>	<p>subsection (i) shall not apply to any retailer that meets all of the following criteria: (i) Primarily sells tobacco products; (ii) Generates more than 60 percent of its gross revenue annually from the sale of tobacco products; (iii) Does not permit any person under 21 . . . to be present or enter the premises . . . unless accompanied by . . . parent or legal guardian . . . ; (iv) Does not sell alcoholic beverages or food for consumption on the premises; and (v) Posts a sign . . . that . . . informs the public that persons under 21 . . . are prohibited from entering. . . .</p> <p>SANTA CLARA COUNTY, CAL., CODE § A18-369(i)</p>	

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	<p>characterizing flavor or aroma, other than tobacco; or (ii) the product’s label, labeling, or packaging includes a statement or claim . . . that the product has or produces a characterizing flavor or aroma, other than tobacco.”</p> <p>(3) See “exemption for certain retailers” column.</p> <p>SANTA CLARA COUNTY, CAL., CODE § A18-369(i) (2016).</p>			<p>(3)(2016).</p> <p>Sec. A18-368(f) defines <i>Retailer</i> means any person who sells, exchanges, or offers to sell or exchange, for any form of consideration, tobacco products and/or electronic smoking devices.</p> <p>SANTA CLARA COUNTY, CAL., CODE § A18-368(g) (2016) (emphasis added).</p>	
<p>Yolo County, CA</p> <p>Adopted October 25, 2016</p> <p>Effective May 1, 2017.</p>	<p>Yes</p> <p>“[I]t shall be a violation of this Chapter for any licensee or any of the licensee’s agents or employees to sell, offer for sale, or exchange for any form of consideration:</p>	<p>Yes</p> <p>“‘Flavored Tobacco Product’ means any Tobacco Product that contains a constituent that imparts a characterizing flavor to the tobacco product or smoke produced by the tobacco product, either</p>	<p>Yes</p> <p>“‘Tobacco Product’ means . . . (3) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, pipe, or hookah;</p>	<p>No</p> <p>“[I]t shall be a violation of this Chapter for any licensee or any of the licensee’s agents or employees to sell, offer for sale, or exchange for any form of consideration:</p>	<p>No</p>

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	(1) Any Flavored Tobacco Product” YOLO COUNTY, CAL., ORD. NO. 1474 (2016) (to be codified at YOLO COUNTY, CAL., CODE § 6-15.10(e)).	by the addition of artificial or natural flavors or an herb or space, including menthol ” YOLO COUNTY, CAL., ORD. NO. 1474 (2016) (emphasis added) (to be codified at YOLO COUNTY, CAL., CODE § 6-15.02(f)).	YOLO COUNTY, CAL., ORD. NO. 1474 (2016) (emphasis added) (to be codified at YOLO COUNTY, CAL., CODE § 6-15.02(m)).	(2) Any Flavored Tobacco Product” YOLO COUNTY, CAL., ORD. NO. 1474 (2016) (to be codified at YOLO COUNTY, CAL., CODE § 6-15.10(e)).	
ILLINOIS					
Chicago, IL	Yes—within buffer zone “No person shall sell, give away, barter, exchange, or otherwise deal in flavored tobacco products, samples of such products, or accessories for such products at any location that has a property line within 500 feet of the property line of any public, private, or parochial elementary, middle, or secondary school located in the	Yes “‘Flavored tobacco product’ means any tobacco product that contains a constituent that imparts a characterizing flavor. . . . ‘[C]haracterizing flavor’ means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product, including, but not limited to, tastes or aromas of menthol , mint, wintergreen,	Yes “‘Tobacco product’ means any product in leaf, flake, plug, liquid , or any other form, containing nicotine derived from tobacco, which product is intended to enable human consumption of the tobacco or nicotine, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means.” CHICAGO, ILL., CODE § 4-64-091 (2016) (emphasis added).	Yes “No person shall sell, give away, barter, exchange, or otherwise deal in flavored tobacco products, samples of such products, or accessories for such products at any location that has a property line within 500 feet of the property line of any public, private, or parochial elementary, middle, or secondary school located in the City of Chicago. This	Yes Gas station association and Quick Pick Food Mart challenged law, arguing it was preempted by the Family Smoking Prevention Tobacco Control Act (FSPTCA). <i>Indeps. Gas & Serv. Stations Associations, Inc. v. City of Chicago</i> , 112 F. Supp. 3d 749, 751 (N.D. Ill. 2015). But the FSPTCA deals with how tobacco products are

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	<p>City of Chicago.”</p> <p>CHICAGO, ILL., CODE § 4-64-180(b) (2016) (emphasis added).</p>	<p>chocolate, vanilla, honey, cocoa, any candy, any dessert, any alcoholic beverage, any fruit, any herb, and any spice. . . .”</p> <p>CHICAGO, ILL., CODE § 4-64-098 (2016) (emphasis added).</p>		<p>subsection does not apply to retail tobacco stores. For purposes of this subsection, “retail tobacco store” has the meaning ascribed to the term in Section 7-32-010.”</p> <p>CHICAGO, ILL., CODE § 4-64-180(b) (2016) (emphasis added).</p> <p>“Retail tobacco store” means a retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, cigarettes, cigarillos, cigars, pipes, other smoking devices and accessories, hookahs and related products, and/or electronic cigarettes and related products, and in which the sale of other products is merely incidental. “Retail tobacco store” does</p>	<p>manufactured, and the law only deals with the final product and whether it has a flavor. <i>Id.</i> at 754. The Court found <i>Smokeless Tobacco</i> persuasive: “Even if the ordinance has “some effect on manufacturers’ production decisions,” it is not a command to implement particular manufacturing standards and, accordingly, is exempt from the FSPTCA’s preemption clause.” <i>Indeps. Gas & Serv. Stations Associations, Inc. v. City of Chicago</i>, 112 F. Supp. 3d 749, 754 (N.D. Ill. 2015) (quoting <i>U.S. Smokeless Tobacco Mfg. Co. LLC v. City of N.Y.</i>, 708 F.3d 428, 434 (2d Cir. 2013)).</p>

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				not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license. CHICAGO, ILL., CODE § 7-32-010 (2016).	In the same case, the law also survived vagueness and vested rights challenges. <i>Id.</i> at 756, 758.
MASSACHUSETTS					
Boston, MA	<p>Yes</p> <p>“No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale any flavored tobacco product to a consumer. This provision shall not apply to a retail tobacco store or smoking bar as defined by this regulation.”</p> <p>Boston Public Health Commission, Youth Access Regulation § 3</p>	<p>No</p> <p>“Characterizing Flavor – A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen. . . .”</p> <p>Boston Public Health Commission, Youth Access Regulation § 2 (4) (2016) (emphasis added).</p> <p>“Flavored Tobacco Product – Any tobacco product or any component part thereof that contains a</p>	<p>Yes</p> <p>“Nicotine Delivery Product – “Nicotine delivery products include . . . e-cigarettes. . . .”</p> <p>Boston Public Health Commission, Youth Access Regulation § 3 (14) (2016) (emphasis added).</p> <p>“Tobacco Product – A cigarette, cigar, chewing tobacco, pipe tobacco, bidi, snuff, other tobacco or nicotine delivery product in any form.”</p> <p>Id. § 3 (20).</p>	<p>Yes</p> <p>“No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale any flavored tobacco product to a consumer. This provision shall not apply to a retail tobacco store or smoking bar as defined by this regulation.”</p>	<p>No</p>

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	(E)(1) (2016).	constituent that imparts a characterizing flavor.” Boston Public Health Commission, Youth Access Regulation § 2 (13) (2016) (emphasis added).	“ Flavored Tobacco Product – “Any tobacco product or any component part thereof that contains a constituent that imparts a characterizing flavor.” Id. § 3 (13) (emphasis added).	Boston Public Health Commission, Youth Access Regulation § 3 (E)(1) (2016) (emphasis added).	
Cambridge, MA	Yes No retailer, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale any flavored tobacco to a consumer. This provision shall not apply to a retail tobacco store. CAMBRIDGE, MASS., CODE § 8.28.030 (2016).	No “Characterizing Flavor. A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol , mint or wintergreen, imparted either prior to or during consumption of a tobacco product. . . .” CAMBRIDGE, MASS., CODE § 8.28.020 (2016) (emphasis added).	Yes “Nicotine Delivery Product. Any manufactured article or product made wholly or in part of a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption. . . . Nicotine delivery products include, but are not limited to, e-cigarettes. ” CAMBRIDGE, MASS., CODE § 8.28.020 (2016) (emphasis added). “Tobacco Product. Cigarettes, cigars, chewing tobacco, pipe tobacco,	Yes No retailer, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale any flavored tobacco to a consumer. This provision shall not apply to a retail tobacco store. CAMBRIDGE, MASS., CODE § 8.28.030 (2016) (emphasis added).	No

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			<p>nicotine delivery product, snuff or tobacco in any of its forms.”</p> <p><i>Id.</i> (emphasis added)</p> <p>“Flavored Tobacco Product. Any tobacco product or component part thereof that contains a constituent that imparts a characterizing flavor.”</p> <p><i>Id.</i> (emphasis added)</p>		
NEW YORK					
New York City, NY	<p>Yes</p> <p>“It shall be unlawful for any person to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product except in a tobacco bar.”</p> <p>NEW YORK, N.Y., ADMIN. CODE § 17-715(a) (2016).</p>	<p>No</p> <p>“‘Characterizing flavor’ means a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted either prior to or during consumption of a tobacco product or component part thereof. . .”</p> <p>NEW YORK, N.Y., ADMIN. CODE § 17-713(b) (2016) (emphasis added).</p>	<p>No</p> <p>“Tobacco product” means any product which contains tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, tobacco-containing shisha,</p>	<p>Yes</p> <p>It shall be unlawful for any person to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product except in a tobacco bar.</p> <p>NEW YORK, N.Y., ADMIN. CODE § 17-715(a) (2016) (emphasis added).</p>	<p>Yes</p> <p>Manufacturers and distributors brought challenge alleging that the Family Smoking Prevention Tobacco Control Act (FSPTCA) preempted NYC’s flavor restrictions. <i>U.S. Smokeless Tobacco Mfg. Co. LLC v. City of N.Y.</i>, 708 F.3d 428, 430 (2d Cir. 2013). The court held that it didn’t. <i>Id.</i> at 436</p>

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		<p>“Flavored tobacco product” means any tobacco product or any component part thereof that contains a constituent that imparts a characterizing flavor.”</p> <p>NEW YORK, N.Y., ADMIN. CODE § 17-713(e) (2016).</p>	<p>or dissolvable tobacco product.</p> <p>NEW YORK, N.Y., ADMIN. CODE § 17-713(j) (2016).</p>	<p>Only the following entities may sell or offer for sale flavored tobacco products:</p> <p>(1) Tobacco bars; and (2) Tobacco wholesalers, but only where the sale or offer of sale is made to a tobacco bar or to an entity located outside the City of New York.</p> <p>NEW YORK, N.Y., R. § 28-02(a) (2016) (emphasis added).</p>	<p>([W]e conclude that Administrative Code § 17–715 is a regulation of sale and not a veiled attempt to regulate the manufacture of tobacco products.) This is because the FSPTCA deals with product manufacturing standards—the flavor restrictions only care about whether the final product has flavoring (not how the favor got there). <i>Id.</i> at 434.</p>
MINNESOTA					
Minneapolis, MN	<p>Yes</p> <p>“No person shall sell, offer for sale, give away, barter, exchange, or otherwise deal in flavored tobacco products or samples of such products.”</p>	<p>No</p> <p>“<i>Flavored tobacco product</i> means any tobacco product or component part thereof that contains a constituent that imparts a characterizing flavor, unless it imparts only the taste or aroma of</p>	<p>Yes</p> <p>“<i>Tobacco products</i> means tobacco as defined in this section and any electronic delivery device as defined in Minn. Statute Section 609.685.”</p> <p>MINNEAPOLIS, MINN., CODE § 281.15 (2016) (emphasis</p>	<p>Yes</p> <p>“No person shall sell, offer for sale, give away, barter, exchange, or otherwise deal in flavored tobacco products or samples of such products. This subsection does not</p>	<p>No</p>

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	MINNEAPOLIS, MINN., CODE § 281.45(f) (2016).	<p>menthol, mint or wintergreen.”</p> <p>MINNEAPOLIS, MINN., CODE § 281.15 (2016) (emphasis added).</p>	added).	<p>apply to tobacco products shops or to a licensed tobacco dealer that otherwise meets the definition of and requirements applicable to a tobacco products shop. . . .”</p> <p>MINNEAPOLIS, MINN., CODE § 281.45(f) (2016).</p>	
St. Paul, MN	<p>Yes</p> <p>“No person shall sell, offer for sale, or otherwise distribute any flavored products.”</p> <p>ST. PAUL, MINN., CODE § 324.0 7(f) (2016).</p>	<p>No</p> <p>“Flavored product means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, menthol, mint, or wintergreen. . .”</p> <p>ST. PAUL, MINN., CODE § 324.03(3) (2016) (emphasis added).</p>	<p>Yes</p> <p>“Electronic delivery device means 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.”</p> <p>ST. PAUL, MINN., CODE § 324.03(2) (2016).</p>	<p>Yes</p> <p>“No person shall offer for sale tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products in any open displays which are accessible to the public without the intervention of a store employee. This restriction shall not apply to retail stores which derive at least ninety (90) percent of</p>	No

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			<p><i>“Flavored product means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, menthol, mint, or wintergreen. . .”</i></p> <p>ST. PAUL, MINN., CODE § 324.03(3) (emphasis added) (2016).</p>	<p>their revenue from tobacco and tobacco-related devices, and where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter, at any time.”</p> <p>ST. PAUL, MINN., CODE § 324.07(f) (2016) (emphasis added).</p>	
Shoreview, MN	<p>Yes</p> <p>“No person shall sell, offer for sale, or otherwise distribute any flavored products.”</p> <p>SHOREVIEW, MINN., ORDINANCE NO. 946 (codified at SHOREVIEW, MINN., CODE § 706.065 (2017)).</p>	<p>No</p> <p>“<u>Flavored Product</u>: Any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, menthol, mint, or wintergreen, that is distinguishable by an ordinary customer either</p>	<p>Yes</p> <p>“<u>Flavored Product</u>: Any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, menthol, mint, or wintergreen, that is distinguishable by an ordinary customer either prior to or during the</p>	<p>Yes</p> <p>“No person shall sell, offer for sale, or otherwise distribute any flavored products. This restriction does not apply to retail establishments that:</p> <p>(1) Prohibit minors from entering at all times; and (2) Derive at least (90) percent of their</p>	<p>No</p>

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		<p>prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery device including, but not limited to, any taste or smell relating to chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice.”</p> <p>SHOREVIEW, MINN., ORDINANCE NO. 946 (codified at SHOREVIEW, MINN., CODE § 706.020(c) (2017)) (emphasis added).</p>	<p>consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery device including, but not limited to, any taste or smell relating to chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice.”</p> <p>SHOREVIEW, MINN., ORDINANCE NO. 946 (codified at SHOREVIEW, MINN., CODE § 706.020(c) (2017)) (emphasis added).</p>	<p>revenues from the sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products.”</p> <p>SHOREVIEW, MINN., ORDINANCE NO. 946 (codified at SHOREVIEW, MINN., CODE § 706.065 (2017)) (emphasis added).</p>	
RHODE ISLAND					
Providence, RI	<p>Yes</p> <p>“It shall be unlawful for any person to sell or offer for sale any flavored tobacco product to a consumer, except in a smoking bar.”</p> <p>PROVIDENCE, R.I., CODE §</p>	<p>No</p> <p>“<i>Characterizing flavor</i> means a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted either prior to or during consumption</p>	<p>Yes</p> <p>“<i>Tobacco products</i> shall mean any substance containing tobacco leaf, including, but not limited to, cigarettes, . . . and electronic cigarette cartridges; provided, however, that tobacco products shall not include</p>	<p>Yes</p> <p>“It shall be unlawful for any person to sell or offer for sale any flavored tobacco product to a consumer, except in a smoking bar.”</p> <p>PROVIDENCE, R.I., CODE §</p>	<p>Yes</p> <p>In regards to flavoring, the ordinance survived First Amendment and preemption challenges.</p> <p><i>See Nat'l Ass'n of Tobacco Outlets, Inc.</i></p>

Jurisdiction	Flavor prohibited?	Menthol prohibited?	E-cigs included?	Exemption for certain retailers?	Case law
	14-309 (2016).	<p>of a tobacco product..."</p> <p>PROVIDENCE, R.I., CODE § 14-308 (2016) (emphasis added).</p> <p>"Flavored tobacco product means any tobacco product or any component part thereof that contains a constituent that imparts a characterizing flavor."</p> <p>PROVIDENCE, R.I., CODE § 14-308 (2016) (emphasis added).</p>	<p>any product that has been approved by the United States Food and Drug Administration for use as a medical treatment to reduce and eliminate nicotine or tobacco dependence."</p> <p>PROVIDENCE, R.I., CODE § 14-300 (2016) (emphasis added).</p>	14-309 (2016) (emphasis added).	<i>v. City of Providence</i> , No. CA 12-96-ML, 2012 WL 6128707, at *9, *13 (D.R.I. Dec. 10, 2012), <i>aff'd sub nom. Nat'l Ass'n of Tobacco Outlets, Inc. v. City of Providence, R.I.</i> , 731 F.3d 71 (1st Cir. 2013).

Useful list of MA jurisdictions:

<https://static1.squarespace.com/static/528681f8e4b021ccf6d3c997/t/56f2e619e32140c1d6462533/1458759193986/Muni+list+Flavored+OTP+Restriction+%28%29.pdf>

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