

January 17, 2020

Dear Tobacco Retailer:

As you are aware, there is new legislation and regulations regarding tobacco sales in the state of Massachusetts. As your local permitting authority, we want to make sure that all Wayland Tobacco Retailers are aware and understand these new regulations. It is **very** important that you take the time to review this information thoroughly (including the new fine structure) and inform/educate your staff. We will be following up in the near future and I will be visiting each tobacco retailer to ensure your business is in compliance. The new state fining structure is extreme and I want to alert you that being in compliance will be very important.

#### **New Law on Tobacco Control**

On Wednesday, November 27, 2019, Governor Baker signed An Act Modernizing Tobacco Control into law. This legislation substantially restricts the sale of e-cigarette and nicotine vaping products (referred to in the law as “electronic nicotine delivery systems”) and flavored tobacco products.

#### **New Regulations**

Certain sections of the new legislation became effective immediately and the Massachusetts Department of Public Health (DPH) has promulgated an emergency regulation, **105 CMR 665: Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems**, to implement these sections. The emergency regulation is effective as of December 11, 2019 and the Department of Public Health and Boards of Health have the authority to enforce the emergency regulation. As a result, there are important new requirements for retail establishments that sell tobacco. These requirements differ depending on the type of retail establishment. I have outlined specific areas that are important for Wayland Tobacco Retailers. The full text of the regulation is available at: [mass.gov/NewTobaccoLaw](https://www.mass.gov/NewTobaccoLaw), which I would recommend that you look up online and print.

#### **Areas of the new state regulation important to Wayland Tobacco Retailers**

##### **Convenience and liquor stores/Non-age-restricted establishments:**

- **Cannot** sell any tobacco products, including cigarettes and e-cigarettes to anyone under the minimum legal sales age (you must be 21 to buy cigarettes and e-cigarettes). Please note age 21 was already in our local regulation.
- **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.

**(Required signage)**

- Must display all of the following signs in plain view by a person standing at the cash register (establishments must use the signs developed and provided by DPH available at [mass.gov/NewTobaccoLaw](http://mass.gov/NewTobaccoLaw)):
  - The text of Massachusetts General Law Chapter 270, Sections 6 and 6A
  - A statement that the sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age (21) is prohibited
  - Notice that the sale of flavored electronic nicotine delivery systems is prohibited
  - A warning about the health impacts of vaping
  - Information on tobacco cessation services

**Flavored electronic nicotine delivery systems such as flavored e-cigarettes and flavored vaping products cannot be sold at stores in Wayland that currently hold tobacco permits. These products can only be sold at Smoking Bars for on-site consumption only.**

Other sections of the new legislation, An Act Modernizing Tobacco Control, go into effect on June 1, 2020. Please note that there are additional sections of An Act Modernizing Tobacco Control, including sections pertaining to the regulation of insurance and taxation. Those sections are not summarized here.

### **Beginning on June 1, 2020:**

#### **Non-age-restricted establishments (Wayland Tobacco Retailers):**

- Cannot sell any tobacco products that have a characterizing flavor (e.g. menthol cigarettes and flavored cigars and chewing tobacco) or tobacco product flavor enhancer.

### **Higher State Law Fines:**

The new mandated fining scheme is \$1,000 for a first offense, \$2,000 for a second offense and \$5,000 for a third or subsequent offense within a 36-month period. These new fines apply to violations regarding sales to persons under the minimum legal sales age (21), sales of flavored tobacco products, and may apply to other violations. It is routine for the Massachusetts Department of Public Health to enact regulations to facilitate enforcement of new laws. The state's Public Health Council has enacted an emergency regulation. This regulation does not, and will not, alter the state law's fining scheme.

Please do not hesitate to contact my office with any questions; email: [health@wayland.ma.us](mailto:health@wayland.ma.us), or telephone 508-358-3617. We will be sure to continue to contact you with any new information that that we receive from the state.

Sincerely,

*Julia Junghanns*

Julia Junghanns, R.S., C.H.O.  
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