



Guidance for Vapor Product Manufacturers, Wholesalers, Distributors, and Retailers Regarding New Flavored Vapor Product Restrictions

New restrictions on sales of flavored vapor products became effective on May 18, 2020. This document is intended to provide a guide to comply with the new law.

What has changed?

Public Health Law (PHL) § 1399 prohibits the sale of vapor products to individuals under twenty-one years of age. The law defines vapor products as any noncombustible liquid or gel, regardless of the presence of nicotine, that is manufactured into a finished product for use in an electronic cigarette, including any device that contains such noncombustible liquid or gel.

Effective May 18, 2020, the prohibitions imposed by PHL Article 13-F were amended to also prohibit the sale of flavored vapor products. The law defines “flavored” as any vapor product, intended or reasonably expected to be used with or for the consumption of nicotine, with a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption.

Why was the law changed?

The availability of flavors is largely responsible for the dramatic increase in the use of vapor products by youth and is a principal reason that youth initiate and maintain e-cigarette use. The intent of this amendment is to stem this increase and prevent a potentially life-long addiction to nicotine in young people and other vulnerable populations.

What sales are prohibited by these changes?

Effective May 18, 2020, the sale of flavored vapor products intended or reasonably expected to be used with or for the consumption of nicotine is **prohibited**.

This prohibition includes the sale of nicotine-free flavored vapor products available in a manner where it can be added to and used with vapor products that contain nicotine (e.g., bottles and refillable vape devices that contain nicotine-free flavored vapor products) when expressly sold with the intention for the two products to be mixed together.

The sale of non-nicotine flavored vapor products not intended or reasonably expected to be used with or for the consumption of nicotine continues to be **permitted**.

The sale of vapor products intended or reasonably expected to be used with or for the consumption of nicotine, with a distinguishable taste or aroma of tobacco, also continues to be **permitted**.

More information:

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