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To: Maine Medical Use of Cannabis Program registrants and Adult Use Cannabis Program licensees
From: Director Erik Gundersen, Office of Cannabis Policy
Date: October 7, 2022
Subject: Frequently asked questions regarding the sale of “tobacco products” by registrants and licensees

Background

The following guidance is issued by the Office of Cannabis Policy (OCP) to Maine Medical Use of Cannabis Program registrants and Adult Use Cannabis Program licensees regarding the sale of “tobacco products” by registrants and licensees. OCP is issuing this guidance to address frequently asked questions from OCP’s program participants regarding what kinds of products and activities require a retail tobacco license, and what activities are prohibited under a retail tobacco license.

The following information should not be construed as legal advice and program participants should consult their own counsel for questions regarding the applicability of this guidance to their specific operations.

Frequently Asked Questions

What is a Tobacco Product?

Under Maine Law, a tobacco product is not only a product that is made from or derived from tobacco. A tobacco product is also any product that contains nicotine, that is meant to be smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, and **any component or accessory used in the consumption of a tobacco product**. Tobacco products include, but are not limited to, cigarettes (including pre-rolled cannabis cigarettes, sometimes referred to as “pre-rolls” or “joints”), cigars, hookah, pipe tobacco, chewing tobacco, snuff, snus, **electronic smoking devices, filters, rolling papers, pipes and liquids used in electronic smoking devices, whether or not they contain nicotine.**

Do I need a Retail Tobacco License?

A medical registrant or adult use licensee must obtain a retail tobacco license in order to sell or give away tobacco products including electronic smoking devices, rolling papers, pre-rolled

cannabis cigarettes, pipes and/or liquids used in electronic smoking devices, whether or not they contain nicotine. Sales of tobacco products by a retailer without a retail tobacco license may result in criminal charges, imprisonment, and fines in excess of \$1,000 per violation.

Why might I not be able to obtain a Retail Tobacco License?

In order to obtain a retail tobacco license, a medical registrant or adult use licensee must maintain a physical storefront. If a registrant or licensee does not have a storefront, they will not be issued a retail tobacco license, and any sales of tobacco products by that registrant or licensee may result in criminal charges, imprisonment, and fines in excess of \$1,000 per violation.

What are the age requirements for sale of Tobacco Products?

A registrant or licensee with a retail tobacco license may not sell, furnish, give away or offer to sell, furnish or give away a tobacco product to any person who is younger than 21 years old. This includes **electronic smoking devices, filters, rolling papers, pre-rolled cannabis cigarettes, pipes and liquids used in electronic smoking devices, whether or not they contain nicotine.** Tobacco products may not be sold to any person under 30 years old unless the seller first verifies that person's age by means of reliable photographic identification containing the person's date of birth.

A notice must be posted by the registrant or licensee explaining that sales of tobacco products to people who are younger than 21 years old are prohibited. Notices must be displayed clearly in the retail store.

Free Signage available: <https://www.maine preventionstore.com>

Are there requirements for the display of Tobacco Products?

Tobacco products must be displayed or offered for sale in a manner that does not allow the customer direct access to the tobacco products. Tobacco Products must be placed behind the sale counter or in a locked display case, where only the age appropriate sales clerk can obtain the tobacco product.

Can I sell Tobacco Products Online or By Delivery?

With the exception of premium cigars, tobacco products may only be **sold in a direct, face-to-face exchange in which the customer may be clearly identified. It is illegal to sell or deliver tobacco products to Maine consumers online or over the phone.** For direct, face-to-face sales, employees who sell tobacco products must be at least 17 years of age. An employee who is between the age of 17 and 21 years of age may sell tobacco products only in the presence of a supervising employee who is 21 years of age or older.

Conclusion

Program participants that sell tobacco products are reminded that they must obtain a retail tobacco sales license from the Department of Health and Human Services (DHHS) in order to sell tobacco products as defined in 22 MRS §1551(3). Registrants and licensees are also reminded that the delivery of tobacco products is prohibited by laws governing their retail

tobacco sales license. Registrants or licensees with questions regarding the requirements or prohibitions of retail tobacco sales licenses should contact DHHS' Health Inspection Program at 207-287-5691, lisa.silva@maine.gov or contact the Tobacco Enforcement Coordinator, Office of the Attorney General at 207-626-8574, devon.l.cummings@maine.gov.