



STATE OF DELAWARE
Department of Safety & Homeland Security
DIVISION OF ALCOHOL & TOBACCO ENFORCEMENT
34 STARLIFTER AVENUE
DOVER, DE 19901

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May 7, 2019

RE: NEW DELAWARE TOBACCO LAWS

Dear Retailer,

Governor Carney recently signed new legislation into law that increases the minimum age to 21 years for the purchase of tobacco products and tobacco substitutes along with other new restrictions.

The new laws will take effect on July 16, 2019.

Below is a brief summary of changes to Delaware's tobacco laws for retailers. To review full details of the legislation, please visit <http://legis.delaware.gov/BillDetail?LegislationId=47236>.

Topic	Summary of Major Changes
Sale or Distribution of Tobacco Products or Tobacco Substitute	<ul style="list-style-type: none">• Prohibits sales of tobacco products or tobacco substitutes to individuals who are under 21 years of age.• Repeals the ability of a parent or guardian to purchase tobacco products or tobacco substitutes for a minor.
Proof of Age	<ul style="list-style-type: none">• A change to the legal definition of "proof of age" requires that identification used to verify age must be issued by a government agency.
Requirement to Request ID from Purchaser	<ul style="list-style-type: none">• Retailers are now required by law to request identification from anyone under age 30 that is attempting to purchase tobacco products or tobacco substitutes.
Definition of Tobacco Products	<ul style="list-style-type: none">• The definition of "tobacco product" is any product that is made from or derived from tobacco or that contains nicotine, including: cigarettes, cigars, pipe tobacco, hookah tobacco, chewing tobacco, snuff, snus, or smokeless tobacco and is intended for human consumption by any means including smoking, heating, chewing, absorbing, dissolving, inhaling or ingesting. Tobacco product also means any component or accessory used in the consumption of a tobacco product, including filters, rolling papers, and pipes.

<p>Definition of Tobacco Substitute</p>	<ul style="list-style-type: none"> • The definition of “tobacco substitute” is an electronic smoking device employing a mechanical heating element, battery, or circuit to produce aerosol or vapor for inhalation into the body of an individual. Tobacco substitute includes liquid that <u>does or does not</u> contain nicotine.
<p>Notice/Decals</p>	<ul style="list-style-type: none"> • New underage sale decals reflecting the change to 21 years of age will be provided to you in the near future. By law these decals must be conspicuously posted at the point of sale for tobacco products and tobacco substitutes. Failure to post these new decals will result in the imposition of fines.
<p>Penalties For Selling or Distributing Tobacco Products and/or Tobacco Substitutes.</p>	<ul style="list-style-type: none"> • A person who sells a tobacco product or substitute to an individual who is <u>under 18 years of age</u> is guilty of a violation and is subject to a fine as follows: <ul style="list-style-type: none"> ○ \$250 for the 1st offense ○ \$500 for the 2nd offense ○ \$1,000 for the 3rd offense and all subsequent offenses. • A person who sells a tobacco product or substitute to an individual who is <u>at least 18 years of age but less than 21 years of age</u> is subject to a civil penalty as follows: <ul style="list-style-type: none"> ○ \$250 for the 1st offense ○ \$500 for the 2nd offense ○ \$1,000 for the 3rd offense and all subsequent offenses. • A person who violates § 1116, § 1118, § 1119, or § 1120 of Title 11, Chapter 5 is subject to a civil penalty for selling or distributing any of the following: <ul style="list-style-type: none"> ○ A tobacco substitute that does not contain nicotine. ○ A component or accessory used in the consumption of a tobacco product, including filters, rolling papers, and pipes.
<p>Vapor Establishments</p>	<ul style="list-style-type: none"> • Prohibits individuals under 21 years of age from entering vapor establishments. • Employees under 21 years of age, currently working for a vapor establishment, may continue working for said establishment if the employer provides the following information to the Division of Alcohol and Tobacco Enforcement: <ul style="list-style-type: none"> ○ Employee(s) Name ○ Employee(s) Date of Birth ○ Employer Name ○ Proof that the employee(s) was employed by the vapor establishment on July 16, 2019 by providing any of the following: <ul style="list-style-type: none"> ○ A paystub; An IRS W-2 tax form; A State UC-8A Quarterly Report; Other documentation of monetary pay to an employee by an employer in return for work performed.

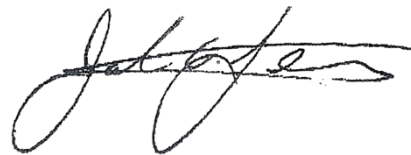
	<ul style="list-style-type: none"> The information required above must be received by the Division of Alcohol and Tobacco Enforcement no later than August 15, 2019. Please <u>do not provide</u> employee social security numbers when mailing or faxing documents to the Division.
Affirmative Defense	<ul style="list-style-type: none"> Revises the framework by which an employer may use an affirmative defense for the improper sale of tobacco products or tobacco substitutes to only one time every 36 months.

Tobacco and Vapor retailers are responsible for knowing and complying with all federal and state laws regarding the sale and distribution of tobacco products and tobacco substitutes.

Officers with the Division will be visiting all tobacco and vapor retailers to deliver copies of the new tobacco laws, related education material, and to answer any questions that you may have about the new laws. In the meantime, please refer to our website www.date.delaware.gov for updates and new Retailer Resources that may become available before the new laws go into effect.

If you have any questions regarding the contents of this letter, please feel free to contact our Tobacco Program Coordinator, Loretta Simpson at (302) 741-2715 or by email at loretta.simpson@delaware.gov.

Sincerely,



Chief John A. Yeomans