

Massachusetts Finalizes Rules Governing Vaping Industry, Limiting Flavored Vapes to Smoking Bars

By Katie Lannan of **State House News Service**

After a momentous 2019 from a policy perspective, regulations restricting the sale of vaping products in Massachusetts were unanimously approved by the state Public Health Council on Wednesday.

The regulations restrict the sale of flavored e-cigarettes to smoking bars and establish identification requirements for stores to verify the age of tobacco buyers. They also restrict the sale of vape products with more than 35 milligrams of nicotine per milliliter to retail tobacco stores and smoking bars.

The council approved an earlier version of the regulations in December on an emergency basis, allowing the sales of unflavored vaping products to resume after a temporary ban on all e-cigarette sales that the Baker administration had instituted amid a national outbreak of vaping-associated lung illnesses.

The regulations reflect a November 2019 law that banned retail sales of all flavored tobacco products – including flavored e-cigarettes and traditional menthol cigarettes – except for those sold for on-site consumption at smoking bars.

They lay out a fine structure for violations, from \$1,000 for a first offense up to \$5,000 for a third offense, and allow for suspension of a retailer's ability to sell tobacco products for second and subsequent offenses.

“Through the 2019 law and our regulatory process, we will drastically reduce the availability of flavored tobacco products and vape products for sale by local retailers to reduce exposure, access and use of these dangerous products, especially by our youth,” Public Health Commissioner Dr. Monica Bharel said.

Since the adoption of the emergency regulations, the Department of Public Health has held a January hearing and received feedback from six people or organizations during a public comment period. Most of the comments were supportive, and they informed “technical” and “clarifying” changes incorporated into the final regulations, said Lea Susan Ojamaa of the department’s Bureau of Community Health and Prevention.

The regulatory language was also updated to reflect a new federal law raising the tobacco-buying age from 18 to 21, a change Massachusetts had approved at the state level in 2018.

Some portions of the tobacco control law – including a 75 percent excise tax on vaping products – take effect in June, and Ojamaa said bureau staff will return to the council before then to address those provisions.

Separately on Wednesday, Attorney General Maura Healey announced a lawsuit against the e-cigarette company JUUL Labs Inc., alleging it illegally marketing its products to underage buyers.