



Implementation of ESSB 6328/Vapor Products

Frequently Asked Questions – May 2016

1. What does the bill do?

The new law accomplishes the following:

- Establishes important youth access protections to reduce illegal youth access to vapor products.
- Provides enforcement and penalties for those who do not comply
- Regulates Internet and distribution markets.
- Provides common-sense consumer protections, such as warnings and nicotine content disclosure.
- Establishes fines and fees for vapor products, and doubles fines and fees for tobacco products – the first increase in twenty-three years -- to pay for enforcement, prevention and education.

The law does not do the following:

- Prohibit tastings and samplings
- Regulate or place restrictions on flavors
- Ban Internet sales to adults
- Impose a tax on vapor products

2. What products are affected by the bill?

A vapor product is defined as a noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance.

Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an e-cigarette, e-cigar, e-cigarillo, e-pipe, or similar product or device.

Vapor product does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products (reference definition in RCW 69.50.101).

3. If vapor products don't contain nicotine, are they regulated under the new state vapor products law?

Yes. The new law states "may contain...". Other fluids that can be vaporized in e-cigarettes, e-hookah, or similar vaporizing devices are vapor products.



4. What are the restrictions for use of vapor products?

- It is illegal for anyone under the age of 18 to purchase, attempt to purchase, possess, or obtain vapor products. A person under 18 possessing vapor products may face an infraction penalty.
- Indoor Locations: The law introduces location restrictions on use of vapor products within the following indoor places:
 - Child care facilities
 - Schools
 - Within five hundred feet of schools
 - School buses
 - Elevators

Local governments are granted the authority to enact ordinances regulating indoor vapor product use in other public places provided such ordinances are otherwise consistent with the provisions of the new law.

- The use of vapor products is prohibited in the following outdoor areas:
 - Outdoor areas of property upon which a child care facility is located and which are under the control of the child care facility.
 - Real property upon which a school is located and which is under the control of the school, and
 - Playgrounds.

Local governments may regulate the outdoor use of vapor products in public places where children congregate, including, but not limited to, schools, playgrounds, and public parks.

5. What is the effective date of the new state session law?

The new law has several effective dates as follows:

- a) Effective date of June 28, 2016, applies to items such as the ban on open displays, tasting restrictions, and restrictions on use of coupons, as well as requirements for child-resistant packaging and labeling.
- b) Effective date for applications for vapor product licenses is 30 days after the LCB confirms the availability of the application form. LCB anticipates confirming the application form on July 1, 2016. Thirty days later, August 1st, the license applications will be made available and statutes relating to licenses, fees and penalties will go into effect.



6. Do I have to get a license?

Vapor product retailers, distributors and delivery sellers must obtain a license from the LCB in order to conduct business in Washington. The penalty for failing to comply with the licensing requirement is a Class C Felony.

August 1, 2016, is the target date for the release of the paper and on-line application for vapor products licenses through the Department of Revenue’s Business Licensing System. The licensing fee for retailers of cigarettes and other tobacco products (OTP) is also scheduled to increase August 1, 2016.

7. What are the license fees?

Fees are set for all vapor product licenses, raised for certain tobacco retailers, and set for retailers with both vapor product and tobacco licenses.

Retail-Level - License Type	New Fee	Prior to ESSB 6328
Cigarette	\$ 175.00	\$ 93.00
OTP	\$ 175.00	\$ 93.00
Vapor Products*	\$ 175.00	N/A
Cigarette & Other Tobacco Products (OTP)	\$ 175.00	\$ 93.00
Other - License Type for combo fee	Fee	OLD Fee
Cigarette plus a retail vapor products	\$ 250.00	N/A
OTP plus a retail vapor products	\$ 250.00	N/A
Cigarette & OTP & retail vapor products	\$ 250.00	N/A
Other - License Type - not in the combo	Fee	OLD Fee
Vapor Product Distributor	\$ 150.00	N/A
VP Distributor for each Additional Location	\$ 100.00	N/A
Vapor Product Delivery Sale	\$ 250.00	N/A

*A \$175 fee must be paid for each retail vapor product location.

The option of a “combo price” is available when both a Vapor Retailer and a Cigarette Retailer or OTP Retailer is being applied for at the same time and for the same location.

For an existing Cigarette Retailer or OTP Retailer that adds a Vapor Retailer license for an existing licensed location, the “combo” price does not apply until the retailer renews the licenses together.



It is also important to note that if a Vapor Retailer chooses at a later date to add a Cigarette or OTP retailer license, the “combo” price does not apply.

Licenses must be renewed annually. Licenses must be exhibited in the retailer's place of business. The Board is given authorities to enforce vapor product retailer licenses.

8. What is the license application process?

Applicants must submit an online application, along with a personal criminal history statement, through the Department of Revenue’s Business License System.

The application is processed by the LCB Criminal History and Records (CHRI) Unit. The unit conducts a background check on applicant(s). Upon completion and approval, the license is issued and displays on a master business license along with any other state business license the applicant holds.

9. Where can I get additional information or resources?

Please visit these websites:

DOH – at www.doh.wa.gov

LCB – at www.lcb.wa.gov and/or sign up on LCB Tobacco ListServ.

DOR – at www.bls.dor.wa.gov

FDA for federal regulations – www.fda.gov

10. What are the penalties for minors-in-possession or purchasing vapor products?

Under 18 – It is illegal for minors to possess, purchase or attempt to purchase, or obtain or attempt to obtain vapor products. Minors may be cited with a civil infraction for these actions.

Over 18 – Adults may be cited with a gross misdemeanor for furnishing vapor products to minors. Administrative fines may also apply (up to \$200).

Youth Access Violations: Monetary penalties are subject to graduated increases for repeat violations of regulatory provisions within any three-year period.

11. What are the administrative penalties for a retailer who sells to a minor?

The business owner may be cited with administrative fines up to \$3,000.

The clerk may be cited with administrative fines up to \$200.