



# Washington State Liquor and Cannabis Board

## TOBACCO AND VAPOR RETAILERS FREQUENTLY ASKED QUESTIONS (FAQ) ABOUT NEW STATE TOBACCO AND VAPOR LAWS

### BE INFORMED

[Engrossed House Bill 1074](#) was signed into law in 2019, raising the minimum sales age of tobacco and vapor products to 21 years of age. The law goes into effect on January 1, 2020, and applies to all tobacco and vapor products. When selling tobacco and vapor products, stores need to follow many of the same rules they have been following for selling cigarettes, tobacco, and vapor products.

#### **Q 1: Where can I find additional information about the new Washington tobacco and vapor product laws?**

A. Additional information about the Washington tobacco and vapor laws can be found at the following links:

- Minimum age of sale for tobacco and vapor products: [lcb.wa.gov/tobacco-vapor-21](http://lcb.wa.gov/tobacco-vapor-21)
- [Department of Health Tobacco and Vapor Product Prevention and Control Program](#)
- [Tobacco and vapor retail license fees](#)
- [New vapor product taxation](#) that applied to vapor licensees as of October 1, 2019.

#### **Q 2: For the purpose of retail sales, how are “tobacco product” and “vapor product” defined?**

A. "Tobacco product" means a product that contains tobacco and is intended for human use, including any product defined in RCW [82.24.010\(2\)](#) or [82.26.010\(\(\(1\)\)\)](#) (21), except that for the purposes of RCW 70.155.140 only, "tobacco product" does not include cigars defined in RCW [82.26.010](#) as to which one thousand units weigh more than three pounds. "Vapor products" are defined as a noncombustible product that may contain nicotine and that employs a heating element, power source, 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 products include 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. All vapor products are included, whether or not they contain nicotine. It does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products ([RCW 70.345](#)).

#### **Q 3: Why is raising the minimum sale age for tobacco and vapor products from 18 to 21 important?**

A. Increasing the age of sale to 21 will help to prevent young people from ever starting to smoke or vape. It will also reduce the number of deaths, diseases, and health care costs caused by tobacco and vapor product use ([Public Health Implications for Raising the Minimum Age of Legal Access to Tobacco Products](#) - Institute of Medicine, 2015).

**Q 4: Has this kind of law been implemented elsewhere?**

A. Yes. To date, eighteen states – Arkansas, California, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Jersey, New York, Ohio, Oregon, Texas, Utah, Vermont, Virginia and Washington – have raised the tobacco and vapor age to 21, along with Washington, D.C. and at least 480 localities ([Campaign for Tobacco-Free Kids](#), August 2019).

**MINIMUM SALE AGE FOR TOBACCO AND VAPOR PRODUCTS**

**Q 5: What is the new minimum sales age for tobacco and vapor products and its effective date?**

A. Starting January 1, 2020, Washington state law prohibits the sale of tobacco and vapor products (including electronic smoking devices and e-liquids whether or not they contain nicotine or tobacco) to individuals younger than 21 years of age ([RCW 26.28.080](#)). Note that the statutes addressing *possession, purchase or use* of tobacco and vapor products have not changed ([RCW 70.155.080](#)).

**Q 6: Will current 18-20 year-olds be permitted to continue purchasing tobacco products even though they are not 21? Are they “grandfathered” in?**

A: No, starting January 1, 2020, retailers are prohibited from selling tobacco and vapor products to individuals who are under 21 years of age.

**Q 7: Are tobacco cessation products included in the definition of “tobacco products” and “vapor products”?**

A. No. “Tobacco product” or “vapor product” does not include a product that has been approved by the United States Food and Drug Administration (FDA) for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

**Q 8: Is there an exemption for military personnel younger than 21 years of age?**

A. As of January 1, 2020, it will be illegal to sell tobacco and vapor products to those under 21 years of age in the state of Washington, though possession of such products is not illegal. Military personnel, including National Guard and Reserves, should consult their chain of command for clarification about regulations on base.

**Q 9: Does the tobacco and vapor 21 law apply to tribal lands?**

A. It depends. The tobacco and vapor 21 legislation authorizes the governor to seek government-to-government consultations with federally recognized Indian tribes regarding raising the minimum legal age of sale for tobacco products in tobacco compacts. The authority to negotiate tobacco compacts is delegated to the Department of Revenue and the Liquor and Cannabis Board is consulted during the negotiations. As of summer 2019, these consultations have not yet begun, but the Office of the Governor must report on the status of these consultations to the legislature by December 1, 2020. Separate from these government-to-government consultations, tribes may also individually adopt ordinances or codes increasing the age of sale for tobacco and vapor products from 18 to 21.

**Q 10: Does the State of Washington’s minimum tobacco and vapor sale age of 21 apply to local jurisdictions that have an ordinance stating the minimum age of sale for tobacco and vapor products is 18 years of age?**

A. Yes. The State of Washington’s minimum tobacco and vapor sale age of 21 law supersedes any local ordinance that is inconsistent with it ([RCW 70.155.130](#)).

**Q 11: Are tobacco and vapor retailers that currently restrict their premises to those over age 18 required to raise the age of entry to 21?**

A. Yes, entry to those tobacco and vapor retailers that allow sampling, tasting, or have self-service displays will be limited to those age 21 or older as of January 1, 2020. Those under age 18 can enter a tobacco or vapor retailer that does not allow sampling, tasting, or self-service on the premises ([RCW 70.345.100](#) and [70.345.080](#)).

#### **MINIMUM AGE OF CLERK**

**Q 12: Are clerks younger than 21 years of age permitted to sell tobacco and vapor products?**

A. Washington state law does not specify an age requirement for clerks to sell tobacco and vapor products. As of September 30, 2019, rules state that any employee can sell and handle tobacco products when there is a supervising employee who is eighteen years of age or older on the retail premises WAC 314-10-040. Note that rules may be changed pursuant to rule-making procedures established in the Administrative Procedure Act ([RCW 34.05](#)).

#### **AGE OF SALE WARNING SIGNS**

**Q 13: Are retailers required to post new yellow age-of-sale signs, which indicate the minimum sale age for tobacco and vapor products?**

A. Yes. As of January 1, 2020, all tobacco and vapor retailers will be required to post updated yellow age-of-sale signs that reflect changes in the minimum age of tobacco and vapor sale ([RCW 70.345.070](#)). The Liquor and Cannabis Board will be mailing signs to retailers in September 2019 to post in the months leading up to the law change.

**Q 14: Where can retailers obtain yellow age-of-sale signs that are compliant with state law? When will these signs be available?**

A. Age-of-sale signs may be downloaded from the [Liquor and Cannabis Board website](#) in the fall of 2019. Signs in English will be mailed to retailers at that time as well. Signs eventually will be available in seven languages: English, Chinese (Cantonese/traditional and Mandarin/simplified), Korean, Russian, Somali, Spanish, Ukrainian, and Vietnamese. Liquor and Cannabis Board Enforcement officers can be contacted for signs in any of these languages, or they can be downloaded from the website.

#### **CHECKING IDENTIFICATION**

**Q 15: What is a valid ID?**

A. An ID issued by a federal, state, or tribal government, or an agency thereof, such as a motor vehicle operator's license, which contains the name, date of birth, signature and photograph of the person and must not be expired\* and are limited to those listed below ([RCW 70.345.120](#) and [RCW 70.155](#)):

1. Driver’s License, Instruction Permit, or I.D. Card issued by any U.S. State, U.S. Territory and District of Columbia.
2. Driver’s License, Instruction Permit, or I.D. Card issued by any Canadian Province
3. Valid Washington State Temporary Driver’s License

4. U.S. Armed Forces I.D. Card (Encrypted signature acceptable)
5. Merchant Marine I.D. Card issued by the U.S. Coast Guard
6. Official Passport, Passport Card, NEXUS Card
7. Washington State Tribal Enrollment Card (\*No expiration date required)

**SELF-SERVICE DISPLAYS**

**Q 16: May retailers have self-service displays for electronic smoking devices?**

A. If a vapor product licensee allows self-service displays for vapor products, the premises must be restricted from anyone under the age of 21. A self-service display is any display that allows customers to access items without help from the retailer ([RCW 70.345.080](#)).

**Q 17: May retailers have self-service displays for cigars?**

A. Yes. Self-service display of the following tobacco products is permitted: pipe tobacco, snuff, and cigars, *not* cigarettes. There is an additional exception allowing a walk in cigar humidor (RCW ).

**ENFORCEMENT AND VIOLATIONS**

**Q 18: Who enforces the minimum age of sale law?**

A. The Washington State Liquor and Cannabis Board and local law enforcement agencies are authorized to enforce the minimum age of tobacco and vapor sales ([RCW 70.345.160](#) and [RCW 71.55.080](#)).

**Q 19: Will compliance checks occur to determine whether retailers are selling tobacco and vapor products to individuals younger than 21 years of age?**

A. Yes. State and local enforcement agencies are authorized to conduct random, on-site compliance checks at retail sites and to use persons younger than 21 years of age to conduct these enforcement activities ([RCW 70.345.160](#)).

**Q 20: What are the fines and penalties for selling tobacco and vapor products to persons younger than 21 years of age?**

A. It a gross misdemeanor to sell or give (or permit the sale or gift of) tobacco and vapor products to any person under age 21. The clerk or person who does so is subject to criminal charges, fines, or both ([RCW 26.28.080](#) and [RCW 70.345](#)).

All tobacco, cigarette, and/or vapor product sales to a minor are counted together, not separately ( <a href="#">RCW 70.345.180</a> ).	
Effective date	January 1, 2020
First violation	\$200
Second violation	\$600 (for second violation in any 3-year period)
Third violation	\$2000 6-month suspension of license (for third violation in any 3-year period)
Fourth violation	\$3000 12-month suspension of license (for fourth violation in any 3-year period)
Fifth violation	5-year revocation of license with no possibility of reinstatement (for fifth violation in any 3-year period)

## **SHISHA/HOOKAH**

### **Q 21: Does Washington's minimum sale age requirement apply to the sale of shisha?**

**A.** Yes. Products that contain, or are made or derived from, tobacco or nicotine (e.g., cigarettes, cigars, shisha) are tobacco products that cannot be sold to anyone under 21 years of age. In addition, products used for electronic smoking devices (e.g., e-liquids) are vapor products even if the product does not contain tobacco or nicotine. However, herbal or other plant products intended for hookah smoking, and which do not contain, and are not made or derived from, tobacco or nicotine (e.g., herbal shisha that do not contain tobacco or nicotine), are not tobacco products.

## **OTHER QUESTIONS**

### **Q 22: Are online vapor product purchases being monitored to ensure that those under 21 and not just 18 to purchase from online stores?**

**A:** Yes. The Washington State Liquor and Cannabis Board conducts active enforcement and monitors online retailers to confirm that retailers are verifying buyer's age. The WSLCB may also receive complaints alleging sales via the internet or mail to those under age 21, which will be followed up with an investigation ([RCW 70.345.090](#)).

### **Q 23: Where can retailers go for answers to other questions about the new Washington tobacco and vapor laws?**

**A.** The following state agencies can assist you with other questions:

- Washington State Department of Health [Tobacco and Vapor Product Prevention and Control Program online](#) to find educational materials about the new tobacco and vapor laws or via phone at 1-800-525-0127.
- [Washington State Liquor and Cannabis Board](#) to download signage about the new tobacco and vapor laws.
- Washington State Liquor and Cannabis Board at [erin.hewitt@lcb.wa.gov](mailto:erin.hewitt@lcb.wa.gov) or via telephone at 360-664-1773 regarding questions and information about retail enforcement and compliance.
- Washington State Department of Revenue at 360-705-6705 or Washington State Liquor and Cannabis Board at [erin.hewitt@lcb.wa.gov](mailto:erin.hewitt@lcb.wa.gov) for information on new vapor product taxation that applied to vapor retailers as of October 1, 2019.
- Washington State Department of Revenue [Business Licensing Service online](#) or via telephone at 360-705-6741 regarding questions and information about tobacco and vapor product retail licensing and fees.
- The Washington State [Quitline](#) at 1-800-QUIT NOW (1-800-784-8669) for free tools to help quit smoking or vaping. Or text QUIT to 47848, or access a free smartphone app at [www.doh.wa.gov/quit](http://www.doh.wa.gov/quit).