

Crete, Andrea

From: Ken Elstein <kenelstein@gmail.com>
Sent: Friday, November 1, 2024 5:30 PM
To: mark@pha.org
Cc: Kate Silbaugh; Anthony Ishak; khoag@belchertownps.org; Crete, Andrea
Subject: Re: Fw: Belchertown TFG comments (10/31 draft attached)

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Mark,

Thanks. It seems that if USPS, UPS, and FedEx do not deliver tobacco (right?), then there are limited ways to get it by "mail". I suppose an Amazon-like entity could have their own trucks, but that becomes even more complicated. It seems like a small loophole that is not a big worry at the moment.

I had also seen that the cigarettes needed the tax sticker.

Thank you again.

On Fri, Nov 1, 2024 at 12:25 PM Mark Gottlieb <mark@phaonline.org> wrote:

Hi Ken -

I would summarize the Nicotine Free Generation policy succinctly as:

NFG authorizes retailers to sell tobacco products to anyone who is 21 years of age or older on the effective date. For everyone below age 21 on that effective date, no retail sales of tobacco products are permitted.

In terms of online sales of tobacco products, there are a bunch of different laws, both state and federal, that apply.

- No sales of flavored tobacco products are permitted at retail or online. (Chapter 133 of the Acts of 2019).
- Mail-order or internet sales of electronic smoking devices prohibited unless retailer requires age-verification and signature by person of legal sales age upon receipt. (940 Mass. Code Regs. 21.04(1)(c), (4)(a) (2024)) **I would argue that this would apply to local jurisdictions with NFG in place.**
- Per the federal Jenkins Act, internet cigarette retailers who sell cigarettes to Massachusetts customers are required to:

Register with the Massachusetts Department of Revenue (DOR) and
Report information regarding each sale, including the name and address of the customer.

- The Preventing All Cigarette Trafficking Act (PACT Act) Prohibits mailing of cigarettes, vapes and e-cigarettes, flavored and smokeless tobacco. UPS and Federal Express also ban shipment of such products.. Tobacco mail order and online sellers are required by federal, state, and local laws to meet sales reporting, tobacco product shipping and tax requirements to ensure they are compliant with cigarette regulations.
- Importantly, under the federal PACT Act, common carriers or other delivery services must have the purchaser placing the delivery sale order or another adult sign to accept delivery of the shipping container at the delivery address. They must also obtain proof from the person who accepts delivery of the shipping container—in the form of a valid, government-issued identification bearing a photograph of the individual— that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery. (15 U.S.C. § 376 et seq.) (emphasis added) **This would apply to any local jurisdiction where the NFG is in effect, in my opinion.**

That's a lot to digest but, in short, no flavored products may be sold to anyone in MA online and any tobacco products sold online must be signed for at time of delivery by someone who is legally able to be sold tobacco in that local jurisdiction.

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Mark Gottlieb, Executive Director
Public Health Advocacy Institute
at Northeastern University School of Law
360 Huntington Avenue / 117 Cushing Hall
Boston MA 02115
mark@phai.org
www.phai.org
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On Thu, Oct 31, 2024 at 8:21 PM Anthony Ishak <aishakpharmd@yahoo.com> wrote:

Hi Mark and Kate

I am putting you in touch with Ken Elstein, a member of the Board of Health for Belchertown. He is working on a summary for the Select Board meeting on Monday so I wanted to put you in touch in case he had questions in preparation of his summary (draft to be updated attached).

Mark--He asked me if you can buy tobacco products online, perhaps you can weigh-in.
Ken-"See" you Monday/Wednesday.

Anthony

Anthony Ishak Pharm.D. BCPS
he/his/him

----- Forwarded Message -----

From: Ken Elstein <kenelstein@gmail.com>

To: aishakpharmd@yahoo.com <aishakpharmd@yahoo.com>

Sent: Thursday, October 31, 2024 at 05:52:01 PM EDT

Subject: Belchertown TFG comments (10/31 draft attached)