

This document is for guidance purposes only.

DETERMINING IF A PRODUCT IS COVERED BY THE NEW STATE LAW

Amended 4/12/22

STEP ONE: Is it a vape product?

- The product must “rely on vaporization or aerosolization.”
 - The product does not need to contain either tobacco or nicotine.
- If **yes**, the product is covered by the state law for BOTH the nicotine content policy (35 mg/ml issue) and, for those that are flavored products, the flavor sales restriction policy.
- Unflavored or tobacco flavored versions of vape products are not covered by the flavor sales restriction policy. However, they are covered by the nicotine content policy.
- Vape product sold at legally licensed marijuana dispensaries/shops, intended for marijuana use only are exempt. However, they cannot contain either nicotine or tobacco by state law.
- If **the product is not a vape product**, go to the next step...

STEP TWO: If it is not a vape product, is it a tobacco product?

- The product must contain either nicotine or tobacco.
- The route of consumption is broad. It can be by smoking, chewing, dissolving, sniffing, etc. as long as it is not by vaping.
- If **yes**, the flavored versions of the product are covered by the state law for the flavor sales restriction policy. The unflavored or tobacco flavored versions of qualified tobacco products are not covered by the flavor sales restriction policy.
- If **no, it is not a tobacco product**, go to the next step...

STEP THREE: If it is neither a vape product nor a tobacco product, is it an “enhancer”?

- A Tobacco Product Flavor Enhancer is “any product designed, manufactured, produced, marketed or sold to produce a characterizing flavor when added to any tobacco product.”
- This is a new and a very innovative area of coverage for the flavor sales restriction policy – be patient with it!
- Determining if a product is an “enhancer”:
 - Some products will be very clearly marked as a flavoring for vape products or tobacco products – these are “enhancers.”
 - Some products will be products that are used alone without tobacco (ex: hemp cigarettes). These products are not covered by the flavor sales restriction policy as they are not a vape product, not a tobacco product and not an enhancer.
 - Many products will not be marked. Some may even be marked “not for consumption with tobacco.” These products are more difficult to figure out if they are “enhancers.” Feel free to seek assistance when you encounter a

product that fits this category. Please have ready for review the product and whether the retailer is a general retailer and AORTS.

- If the product qualifies as a Tobacco Product Flavor Enhancer, it is covered by the flavor sales restriction policy.

STEP FOUR: If you have a blunt wrap sales ban, some blunt wrap products may be covered.

- To determine if a particular product is covered, review your blunt wrap definition – it may require tobacco content.