

This document is for guidance purposes only.

REQUIRED CONTENT OF A MANUFACTURER'S LETTER

Amended 6.14.15

The Massachusetts Department of Public Health has issued guidelines that manufacturers should follow when developing their letters that either (1) attest that each specific product is not flavored and/or (2) attest that each specific vape product has a nicotine content of 35 mg/ml or less.

Here is a checklist incorporating the DPH guidelines:

1. The letter must be from the product manufacturer, but can be obtained from the wholesaler/distributor;
2. The letter must certify that the products listed within the letter or attached to the letter are neither flavored nor have a characterizing flavor (per 105 CMR 665.005);
3. The letter must certify, for ENDS (Electronic Nicotine Delivery Systems) only, that the products listed within the letter or attached to the letter are neither flavored nor have a characterizing flavor as indicated above and, in addition, do not have a nicotine content greater than 35 milligrams per milliliter. The content calculation must be in "milligrams per milliliter";
4. The letter must contain an "attestation clause" indicating that the "letter is true and accurate";
5. The letter must state that the "manufacturer will immediately provide an updated letter to correct any inaccuracy";
6. The letter must state that the person signing the letter "is authorized on behalf of the manufacturer to sign the letter";
7. The letter must include the signature of the manufacturer's corporate officer or an owner (required).

Smoking Bars: Manufacturer letters are not required for MA Department of Revenue-approved smoking bars for either nicotine content or flavor determination.

Adult-Only Retail Tobacco Stores: For nicotine content only, manufacturer letters are not required for adult-only retail tobacco stores where there is no one under the age of 21 allowed to enter the premises, however, they are required to obtain manufacturer letters that attest that the products for sale are not flavored.

Enforcement:

- If the product is known to you and you have already seen it on a manufacturer's letter, there is no need to ask for the letter;
- If the product is new to the market, or new to you, the retailer must produce the manufacturer's letter upon request;
- If there is no manufacturer's letter available, and the product is not known to you, instruct the retailer to remove the product from the retail space. It is your choice to have the retailer keep the product in a back room or remove the product from the store completely. When a retailer's letter is produced listing the questioned product the retailer may then return the product to the sales floor. Technically, a penalty can be issued for a disputed flavored product. It is a call by the enforcement agent.