



# ONLINE E-CIGARETTE SALES & SHIPMENTS TO CONSUMERS

## State Laws Prohibiting Them



This chart is a snapshot of state laws that prohibit online direct-to-consumer sales and shipments of electronic cigarettes. The summary is of laws in effect as of December 1, 2019.



## Jurisdiction / Arkansas

### Key Provisions

Entities (manufacturers, wholesalers, retailers) cannot deal with, deliver, or cause to be delivered any tobacco, vapor (e-cigarette), alternative nicotine, or e-liquid product to a retailer or consumer in Arkansas without first registering with the Director of Tobacco Control and obtaining a permit. If conducting business from more than one location, each location must register and obtain a separate permit. A permitted wholesaler may function as a retailer only if a retailer permit is also obtained. Amendment to Arkansas Tobacco Products Tax Act of 1977, sec. 11, 2019 Ark. Acts 1071 (to be codified at Ark. Code Ann. § 26-57-214 (a-d)).

A privilege fee for doing business in Arkansas must also be paid before commencing business. Amendment to Arkansas Tobacco Products Tax Act of 1977, sec. 11, 2019 Ark. Acts 1071 (to be codified at Ark. Code Ann. § 26-57-215 (a-d)).

Retailer is defined in Arkansas Code § 26-57-203(27) to include entities that purchase tobacco, vapor, and related products for the purpose of selling those products to consumers in person and over the counter. Online retailers do not meet this definition and thus are ineligible to obtain a permit to sell to Arkansas consumers. Amendment to Arkansas Tobacco Products Tax Act of 1977, sec. 6, 2019 Ark. Acts 1071 (to be codified at Ark. Code Ann. § 26-57-203(11)).

### Penalties & Enforcement

Selling, delivering, or causing to be delivered (immediately or in the future), without a valid permit, tobacco, vapor, alternative nicotine, or e-liquid products to retailers or consumers is a Class A misdemeanor.

A person engaged in buying, selling, or otherwise doing business in tobacco, vapor, alternative nicotine, or e-liquid products in Arkansas without a permit is subject to a Class A misdemeanor. Amendment to Arkansas Tobacco Products Tax Act of 1977, sec. 15, 2019 Ark. Acts 1071 (to be codified at Ark. Code Ann. § 26-57-226.

A person who violates any section of this subchapter for which a specific penalty is not provided is subject to a criminal violation and administrative civil penalties. Amendment to Arkansas Tobacco Products Tax Act of 1977, sec. 7, 2019 Ark. Acts 1071 (to be codified at Ark. Code Ann. § 26-57-204.

## Jurisdiction / Maine

### Key Provisions

Tobacco products may not be shipped to anyone other than a licensed retailer or distributor in the state. Me. Rev. Stat. Ann. tit. 22, §1555-F (2018).

A person may not knowingly transport or cause to be delivered to a person a tobacco product purchased from any person not licensed as a tobacco retailer; this provision does not apply to transportation or delivery of tobacco products to licensed distributors or retailers. Me. Rev. Stat. Ann. tit. 22, § 1555-D (2018).

“Tobacco Product” includes products made or derived from tobacco or that contain nicotine, as well as e-cigarettes and e-liquids (nicotine or non-nicotine). Me. Rev. Stat. Ann. tit. 22, §1551 (3) (2018).

### Penalties & Enforcement

Attorney General may bring an enforcement action seeking injunctive relief and fines, penalties, and equitable relief. Me. Rev. stat. ann. tit. 22, §1555-F (3D) (2018).

Violators of this law commit civil violation and are subject to a fine of between \$1,000 and \$5,000 per offense. Me. Rev. stat. ann. tit. 22, §1555-F (3A) (2018).

## Jurisdiction / South Dakota

### Key Provisions

The shipping of tobacco products to any consumer in the state is prohibited, whether the seller is located within or outside the state. S.D. Codified Laws §10-50-99 (2019).

Vapor products are included in the definition of “tobacco product.” S. D. Codified Laws § 34-46-20 (2019).

### Penalties & Enforcement

Injunction to restrain a threatened or actual violation. S.D. Codified Laws § 10-50-100 (2019).

Civil penalty: 1st violation, the greater of up to \$1,000 or 5 times the value of the products. S.D. Codified Laws §10-50-101 (2019).

## Jurisdiction / Utah

### Key Provisions

Only “licensed persons” can place orders or make purchases via the internet, mail, phone, or other electronic means. Utah Code Ann. § 59-14-509 (2019).

Retailers may only sell tobacco products and e-cigarettes to consumers in face-to-face exchanges. Tobacco specialty stores and adult facilities may have vending machines or self-service displays. Utah Code Ann. § 76-10-105.1 (2019).

A person may not sell, offer to sell, or distribute e-cigarettes without a license (unless the person has a license to sell tobacco products). Licensure to sell e-cigarettes is valid only at one fixed address, and only at a physical location within Utah. Utah Code Ann. § 59-14-803 (2019).

### Penalties & Enforcement

A violation is an unfair and deceptive trade practice, the penalty for which is a misdemeanor for each violation (fine no greater than \$5,000, or imprisonment of up to 12 months, or both). The court may order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state for deposit in the General Fund. Each order is a separate violation.

In addition, each violation subjects a violator to the following: a civil penalty of no more than \$5000; an injunction to restrain a threatened or actual violation; and recovery of the state’s costs (investigation; expert witnesses; costs of action; and attorney’s fees). Utah Code Ann. § 59-14-509 (2019).

A violation of Utah Code Ann. §76-10-105.1 (2019) is a class C misdemeanor (1st offense); a class B misdemeanor (2nd offense); and a class A misdemeanor (3rd and subsequent offenses).

A violation of the requirement to be properly licensed to sell, offer to sell, or distribute e-cigarettes is a class B misdemeanor.) Utah Code Ann. § 59-14-803 (2019).

## Jurisdiction / Vermont

### Key Provisions

No person shall cause tobacco, tobacco substitutes, substances containing nicotine or otherwise intended for use with a tobacco substitute, or tobacco paraphernalia, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network, to be shipped to anyone other than a licensed wholesale dealer or retail dealer in this State. 2019 Vt. Acts & Resolves 22 (to be codified at Vt. Stat. Ann. tit. 7, § 1010(b) (2019)).

### Penalties & Enforcement

A violation is punishable by up to 5 years imprisonment, \$5,000 fine, or both.

Enforcement: Attorney General

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This publication was prepared by the Public Health Law Center at Mitchell Hamline School of Law, St. Paul, Minnesota, and made possible by the financial support of the Robert Wood Johnson Foundation. The Public Health Law Center provides information and legal technical assistance on issues related to public health. The Center does not provide legal representation or advice. This document should not be considered legal advice.