

Frequently Asked Questions

Inhalant Delivery System (IDS) child-resistant packaging requirements for Tobacco Retail License (TRL) compliance inspections

It is a federal regulation and Oregon state law that inhalant delivery systems (IDS), commonly referred to as e-cigarettes, must be sold in child-resistant packaging. Starting **January 1, 2024**, the TRL program will begin enforcing this law through compliance inspections.

What do retailers need to know?

Q: What products are covered under the child-resistant packaging law?

A: Liquid nicotine containers for sale to a consumer, non-nicotine liquid containers for sale to a consumer, and fillable IDS packaged with a liquid nicotine container for sale to a consumer. See [OAR 333-015-0305](#) for full definitions of covered products.

Q: Does this include all refillable IDS, such as mods, that can be refilled with vape juice or nicotine salts?

A: Yes, if the IDS is packaged with a liquid nicotine container for sale to a consumer, it requires verification that the packaging has been determined to be child-resistant based on the testing protocol contained in federal regulation (16 CFR 1700.20 (1995)). Verification may include a certificate of conformity for the product.

Q: Are disposable IDS covered under the child-resistant packaging law?

A: No, disposable IDS fall within the “prefilled inhalant delivery system” definition and do not need to be in child-resistant packaging. They do not require verification. See [OAR 333-015-0305](#) for full definitions of covered products.

Q: Does the child-resistant packaging law refer to retail packaging or the devices themselves?

A: The law (ORS 431A.175(2)(e)) and the Oregon Health Authority's child-resistant packaging rules require IDS packaging to be child-resistant.

Q: Do OHA's rules require that IDS products have either child-resistant inner packaging or child-resistant outer packaging, or both?

A: OHA's rules allow either packaging component to be child-resistant. As long as either the inner or outer packaging of a product is child-resistant, the requirement is satisfied. See the definition of "child-resistant" below from [OAR 333-015-0305](#):

(3) "**Child-resistant**" means *having inner or outer packaging* that is:

(a) Intended to protect children from nicotine exposure in the household environment or other environment where the product is used;

(b) Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly, as defined by 16 CFR 1700.20 (1995); and

(c) Re-sealable for any product intended for more than a single use, such as a fillable inhalant delivery system.

Q: What does the rule mean when referring to inner and outer packaging?

A: "Inner package" or "inner packaging" means the materials used to wrap or protect a product that must be opened by a consumer in order to have access to product and that may also be but is not required to be the outer package.

"Outer package" or outer packaging" means the external material used to wrap or protect a product that is visible to a consumer in the retail setting such as, but not limited to, a box or container. See [OAR 333-015-0305](#) for full definitions associated with the child-resistant packaging requirement.

Q: If I am unable to get the required documents directly from a manufacturer, are we able to purchase our own child-resistant packaging to put our devices into, such as a bag?

A: No, a “baggie” does not meet the definition of an inner or outer package under OHA rules. A “baggie” is not the inner package that a consumer must open to immediately access the product, and it is also not the external material used to wrap the product that is visible to the consumer in a retail setting. As such, use of a child-resistant “baggie” is not “child-resistant” under OHA’s rules because it is not inner or outer packaging.

Q: If the product in my retail store meets the child-resistant packaging requirements, what should I do?

A: If a product in your retail store meets the requirements for child-resistant packaging, work with the product distributor or manufacturer to get verification of the product manufacturer’s written laboratory testing report describing the results of whether the product’s packaging is child-resistant based on the protocol set forth in 16 CFR 1700.200 (1995). See the QR code below for an example.

Q: What will compliance inspectors be looking for during an inspection?

A: During an inspection, compliance inspectors may ask the person in charge and on site to verify child-resistant packaging for a sample of covered products. The person in charge will be asked to provide verification that the packaging for each of the products selected has been determined to be child-resistant based on the testing protocol contained in federal regulation (16 CFR 1700.20 (1995)).

View an example of a certificate of conformity by visiting the following link or scanning the QR code:

https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/TOBACCPREVENTION/Documents/Ex_letter%20of%20conformity.pdf



Q: Where should I keep the manufacturer’s verification that each product meets the requirements of child-resistant packaging set by the federal standards (16 CFR 1700.20 (1995))?

A: Because retailers must provide the verification of a manufacturer’s written laboratory testing report during an inspection, the document should be kept onsite

at the retail location where the product are being sold and accessible by the person onsite that is in charge. Keeping these documents in a binder or easy location for retail staff to find is a helpful way to stay organized.

Q: Have any manufacturers met the requirements for child-resistant packaging?

A: This is not a new requirement. Federally, the Child Nicotine Poisoning Prevention Act (the Act) requires any liquid nicotine products covered by the Act that are manufactured after July 26, 2016, to meet federal standards for child-resistant packaging. Manufacturers whose products are not child-resistant based on the protocols set forth in 16 CFR 1700.20 (1995) may also be operating out of compliance with federal regulations.

Q: What are some best practices for ensuring that I have the manufacturer's verification for products that need to be in child-resistant packaging?

A: When ordering products, retailers could request documentation verifying that the product's packaging is child-resistant based on the protocol set forth in 16 CFR 1700.20 (1995).

Who do I contact if I have additional questions?

For more information on the retail sale of tobacco products and inhalant delivery systems, including packaging and labeling definitions (OAR 333-015-0305), see [OAR 333-015-0300 to 333-015-0360](#).

For more information on the Code of Federal Regulations child-resistant packaging standards, see [16 CFR 1700.15](#) and [16 CFR 1700.20](#).

For questions about OHA compliance inspections and enforcement:

Tobacco.Inspections@odhsoha.oregon.gov, 971-673-2283. For more information and access to resources for retailers: healthoregon.org/tobaccoretailsales.

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