



Rules for Packaging of Inhalant Delivery Systems (including E-cigarettes) in Oregon:

Inhalant delivery systems packaged in a manner attractive to minors

Frequently Asked Questions

Businesses that sell tobacco products and inhalant delivery systems (IDS) in Oregon are responsible for complying with federal, state and local laws. Retailers that sell IDS are required to comply with Oregon packaging standards and all federal rules regulating inhalant delivery systems.

According to [ORS 431A.175\(2\)\(f\)](#), “it is unlawful to distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery system is packaged in a manner that is attractive to minors, as determined by the authority by rule.”

In the Spring of 2018, the Oregon Health Authority (OHA) convened a Rules Advisory Committee (RAC) to refine the meaning of “packaged in a manner attractive to minors” as it relates to IDS (including e-cigarettes), as used in Oregon Administrative Rules (OAR) 333-015-0300 to 333-015-0375. The revised rules went into effect on September 1, 2018.

Q: I have never heard of IDS packaging rules before. Are they new?

A: The requirement that IDS not be packaged in a manner that is attractive to minors is not new. However, in September 2018, OHA revised its rules regarding IDS packaging that is attractive to minors. The new rules aim to make it clearer what is attractive to minors.

Q: When does enforcement begin for the revised rules?

A: OHA currently is not enforcing the revised rules, except in cases where a product’s packaging is so clearly attractive to minors that there is no room for doubt that it is attractive to minors. Enforcement, in this case, will begin with a warning letter prior to issuing a civil penalty.

Q: How do I know if packaging is attractive to minors?

A: OHA intends to issue guidance for distributors and retailers about how OHA will apply the rule about packaging that is attractive to minors. The guidance will include information that illustrates the kinds of packaging that OHA believes does



not fall into the category of “attractive to minors.” In addition, IDS vendors should read the rules and consult legal counsel for interpretation of the rules. OHA intends to have guidance available by the end of 2018 and will post the guidance on its tobacco retail sales webpage: www.healthoregon.org/tobaccoretailsales.

Q: Who was involved in revising the rules?

A: OHA convened a Rules Advisory Committee (RAC) to provide input into rules revisions, and to provide feedback on the revisions. The RAC was composed of representatives from business organizations, local public health organizations, the vaping industry, youth and non-profit organizations. OHA received public comment about the revisions through a public hearing as well as through an online public comment submission process. The [Hearing Officer’s Report](#) is available at www.healthoregon.org/tobaccoretailsales.

Q: What products are covered under these rules?

A: The rules apply to all IDS, as defined in Oregon law (ORS [431A.175](#)). An “inhalant delivery system” means:

1. A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or
2. A component of a device...or a substance in any form sold for the purpose of being vaporized or aerosolized by a device...whether the component or substance is sold separately or is not sold separately.

Q: Will OHA review my products and approve packaging?

A: No, OHA does not approve packaging for IDS. IDS vendors should read the rules and consult legal counsel for interpretation of the rules. OHA intends to issue guidance for distributors and retailers about how OHA will apply the rule about packaging that is attractive to minors. The guidance will include information that illustrates the kinds of packaging that OHA believes does not fall into the category of “attractive to minors.” OHA’s goal is to have the guidance available by the end of 2018. OHA will post the guidance on its tobacco retail sales webpage: www.healthoregon.org/tobaccoretailsales.

Q: How are these rules different from the rules before the revision?

A: The rules revisions include a separate rule (OAR [333-015-0357](#)) that sets out what OHA considers to be attractive to minors, though it is not an exclusive list.



By prohibiting packaging that is attractive to minors the rule aims to prevent youth access to and use of tobacco products and IDS.

Q: Do these rules ban flavors?

A: No. The rules explain what OHA considers to be packaging that is attractive to minors. If an IDS is flavored and its packaging is attractive to minors it cannot be sold in Oregon.

Q: I've heard a lot in the media lately about the risks of flavored tobacco and e-cigarette products. Why are flavors such a big deal?

A: Tobacco use is the leading preventable cause of death in Oregon, killing nearly 8,000 people each year.¹ Oregon data show that the availability of flavored tobacco products is a key component of youth initiation. Sweet flavored tobacco products have fueled the popularity of inhalant delivery systems and cigars among youth and young adults. In Oregon, inhalant delivery systems use among 11th graders increased nearly three-fold from 2013 to 2017 from 5% to 13%. Flavored tobacco products are more popular among Oregon youth (65%) and young adults (64%) compared to older adults (21%).²

Q. I am already registered and align with the U.S. Food and Drug Administration (FDA) regulations. Isn't that sufficient?

A: No. Businesses that sell tobacco products and IDS in Oregon are responsible for complying with all relevant federal, state and local regulations. All IDS retailers in the U.S. must comply with FDA regulations and Oregon's packaging standards.

Q: I heard the FDA is going to ban flavors for e-cigarettes. Is this true?

A: On September 12, 2018, the FDA, in [its press release](#), announced it would take action to reduce the accessibility of e-cigarettes and vape products, such as JUUL, to youth. IDS retailers are required to comply with all federal, state and local laws. More information about federal laws and rules for e-cigarettes is on the [FDA website](#).

Q. Where can I find the rules on IDS?

¹ Oregon Vital Statistics Annual Reports, Volume 2: Chapter 6. Mortality. Table 6-20. Available at <http://www.oregon.gov/oha/ph/BirthDeathCertificates/VitalStatistics/annualreports/Volume2/Pages/index.aspx>

² Oregon Tobacco Facts, 2018. Oregon Health Authority Public Health Division, Health Promotion and Chronic Disease Prevention Section.



A: The updated rules on IDS are online here: [OAR 333-015-0300 to 333-015-0375](#)
If you would like a printed copy, you may request it here:
tobacco.inspections@state.or.us

Q: Why is packaging attractive to minors a problem?

A: Product promotion is a cause of youth tobacco use, and packaging is one component of promotion. The Oregon Public Health Division is committed to reducing tobacco and inhalant delivery system use among underage persons. The purpose of these rules is to reduce the appeal of IDS to minors.

For more information about e-cigarettes, visit
www.healthoregon.org/tobaccoretailsales.