

## Section 8: Manufacturing, Labeling, Marketing and Safety Requirements

(a) Manufacturers, distributors, and retailers shall comply with the following requirements:

(1) An e-liquid container must use a child proof cap that has the child resistant effectiveness set forth in the federal poison prevention packaging standards, 16 CFR 1700.15(b)(1).

(2) An e-liquid container must use a tamper evident package. The tamper evident package feature must be designed to and remain intact when handled in a reasonable manner during the manufacture, distribution, and retail display of the e-liquid container.

(3) The label on an e-liquid container must meet the nicotine addictiveness warning statement requirements set forth in 21 CFR 1143.3.

(4) Retailers in this State shall display signage indicating that states “unaccompanied minors are not allowed on the premises, “products are not for sale to minors”, or “underage sales prohibited”.

(5) All retailers selling vapor products shall display vapor products behind a counter or in an enclosed display that is not accessible without the assistance of a sales representative.

(b) A manufacturer, distributor, or retailer of e-liquids or vapor products shall not sell, offer for sale, or distribute any e-liquid or vapor product with labeling or packaging made to be attractive to minors. The labeling or packaging of an e-liquid or vapor product is attractive to a minor if it uses packaging or labeling that does any of the following:

1. (1) Contains the terms “candy”, “candies”, “kandy”, “kandeez”, “bubble gum”, “cotton candy”, “gummy bear”, “cupcake”, “soda pop”, “lollipop”, or “milkshake”, or variants in spelling of these terms;
2. (2) Depicts images of juice boxes, soft drinks, cereal, candy, or desserts;
3. (3) Depicts images of cartoons, toys, superheroes, children, and any other likeness to images, characters, or phrases, such as “unicorn”, that are or have been primarily marketed to minors;
4. (4) Imitates or mimics trademark or trade dress of food products such as candy, cookies, cereal, juice boxes, or soft drinks that are or have primarily been marketed towards minors;
5. (5) Depicts images or references to video games, movies, videos, or animated television shows known to appeal to minors.
6. (6) Depicts the actual consumption of e-liquids or vapor products;
7. (7) Depicts a minor using e-liquids or vapor products;
8. (8) Makes any health, medicinal, or therapeutic claims about e-liquids or vapor products;
9. (9) Promotes overconsumption of e-liquids or vapor products;

(d) A manufacturer, distributor, or retailer of e-liquids or vapor products shall not advertise or market any e-liquids or vapor products in a manner that does not adhere to the following:

1. (1) All advertisements and marketing shall accurately and legibly identify the person responsible for its content;
2. (2) Any advertising or marketing in broadcast, cable, radio, print, and digital communications, or any event marketing or sponsorships, shall only be made where at least 85% percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data;
3. (3) All advertising shall be truthful and appropriately substantiated;
4. (4) Advertise or market in a manner that is materially false or untrue;
5. (5) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;

6. (6) Advertise or market e-liquids or vapor products on an advertising sign within 1,000 feet of a day care center, schools offering instruction in kindergarten or any of grades 1 through 12, inclusive, playground, or youth center. This shall not apply to the placement of advertising signs inside a licensed premises and which are not readable by normal unaided vision from a public place or the public way, provided that such advertising signs do not advertise e-liquids or vapor products in a manner intended to encourage persons under the age of 21 years to consume e-liquids or vapor products; or
7. (7) Publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the health benefits of consumption.