

Laws for retailing

Smoking Products

Requirements for retailers

September 2021

This is an information guide only.

Consult the *Tobacco and Other Smoking Products Act 1998* and the *Tobacco and Other Smoking Products Regulation 2021* for full details of the Queensland legislative requirements for the retail sale of smoking products in Queensland. It is also important to be aware of the requirements under the legislation for smoke-free areas which may also apply to your business.

You can also call 13 QGOV (13 7468) for additional information about laws in Queensland or visit

www.health.qld.gov.au/public-health/topics/atod/tobacco-laws/

Suppliers of smoking products need to comply with Australian Government laws, such as tobacco advertising and tobacco packaging laws that may be relevant to their situation. This information is not outlined in the document however more information is available at www.health.gov.au/health-topics/smoking-and-tobacco/about-smoking-and-tobacco/smoking-and-tobacco-laws-in-australia

Key terms

Entitlement means an entitlement to goods or services, or to a reduced price for goods or services.

Point of sale means a place where there is a counter or similar fixture where smoking products are sold within a retail outlet but does not include a tobacco product vending machine.

Relevant point of sale means the point of sale at a retail outlet at which the supplier sells smoking products.

Retail outlet means premises where smoking products are available for sale by retail. This can include liquor licensed premises.

Shop includes any part of a building or place that is used for the sale, or supply as part of a business activity, of goods and a stall or other structure used for the sale, or supply as part of a business activity, of goods at a market or elsewhere.

Smoking products can include:

- a tobacco product
- a herbal cigarette
- a loose smoking blend
- an electronic cigarette (personal vaporiser)
- an electronic cigarette (personal vaporiser) related product e.g. an e-liquid
- a smoking related product
- a package or carton of any of the above.

Smoking related product means:

- cigarette papers
- cigarette filters
- cigarette tubes
- a cigarette rolling machine
- cigar or cigarette holders
- a handheld machine for injecting tobacco into paper tubes
- cigarette tips
- a cigar cutter.

Smokeless tobacco product means tobacco, or something containing tobacco, prepared for consumption other than by being smoked, for example snuff or chewing tobacco.

From 1 March 2022 smoking related product means

- a cigarette paper (whether or not the paper is pre-rolled)
- another product sold to enclose loose tobacco or a loose smoking blend
- flavouring sold for the purpose of flavouring a tobacco product or a loose smoking blend
- a machine for injecting loose tobacco or a loose smoking blend into a pre-rolled paper or another product sold to enclose loose tobacco or a loose smoking blend
- a cigarette filter
- a cigarette tip
- a machine for rolling a cigarette or herbal cigarette
- a mouthpiece used to hold a cigar, cigarette or herbal cigarette
- a cigar cutter
- a pipe used for smoking loose tobacco or a loose smoking blend and a filter, grate or screen for a pipe.

Supplier means a person who as part of a business activity supplies smoking products to the public e.g. the owner of the business. A supplier is not an employee of a business. For liquor licensed premises, the supplier is the licensee. A supplier can be an individual or a company.

Tobacconist means a person who conducts a business selling smoking products by retail and the sale of smoking products makes up at least 80 per cent or more of the business average gross turnover. The business must be conducted separately from, not in conjunction with, and not within the premises of, any other business.

Tobacco product means tobacco prepared for consumption or something containing tobacco for consumption, and includes a cigarette, cigar and loose tobacco but does not include a smokeless tobacco product.

Retail outlets

Single point of sale

Only one point of sale is allowed at a retail outlet. This is called the 'relevant point of sale'. This means that smoking products may only be sold from one counter or similar fixture at a retail outlet.

Mandatory sign

A supplier must display a mandatory sign at their relevant point of sale. The form of the mandatory sign is prescribed under regulation.

Changes to the form of the mandatory sign came into effect on 1 September 2021. If a supplier immediately prior to 1 September 2021 displayed a mandatory sign at a relevant point of sale that complied with the previous regulation, this sign can remain until it needs to be replaced or 1 September 2023 whichever is earlier.

The mandatory sign (below) is available free of charge by calling 13 QGOV (13 7468).



Smoking products must not be supplied to people under 18

A supplier and their employees must not supply a smoking product to a person under 18 years of age.

Suppliers must instruct employees not to supply smoking products to children in any circumstances, even if the supply is for, or claimed to be for, an adult; and to sight acceptable evidence of age for a person before supplying a smoking product to the person, unless satisfied the person is an adult. Suppliers must also warn employees that if they supply smoking products to children in disregard of these instructions, they commit an offence against this Act.

Suppliers must obtain written acknowledgement from employees that they received these instructions and warning. An employee information and training acknowledgement form is available from www.health.qld.gov.au/public-health/topics/atod/tobacco-laws/retail or by calling 13 QGOV (13 7468).

Acceptable evidence of the age of a person includes a driver licence, proof of age card or an Australian or foreign passport bearing a photograph of the person; and indicating that the person has attained a particular age e.g. references their date of birth.

Location of smoking products

Smoking products may be kept at a retail outlet only at or in the following places:

- At or near the supplier's relevant point of sale, if the smoking products are either on the seller's side of the point of sale, or above or below, but not on, a counter where customers are served, in a way that the smoking products cannot be accessed by customers.
- In a room or other place, such as a storage room, if the smoking products are kept in a way that they cannot be accessed by customers.
- Cigars may be kept in a humidified room where they can be accessed by customers only if, while a customer is in the room, the customer is accompanied by the supplier or an employee of the supplier.

All smoking products must be kept out of sight of customers

The retail display of smoking products is banned.

This means that all smoking products kept at a retail outlet must be kept in a way that they are not visible to customers. This includes cigars in humidifiers and humidified rooms.

Covering and arrangement of smoking products

If smoking products are kept at or near the supplier's relevant point of sale, the smoking products must be concealed by a covering that is opaque; and of a colour or design that does not make a feature of the covering as distinct from its surrounds. For example, a plain curtain or cupboard door can be used to cover the products. All smoking products, including the tops, sides and bottoms of packets must be covered.

There are no limits on the number or type of product facings that may be behind the covering, however, an arrangement of smoking products behind or under a covering must not constitute a tobacco advertisement itself; or create a composite picture or other meaningful visual image whose component parts are printed on individual cartons or packages.

When is viewing of smoking products allowed?

In some circumstances it is reasonable for smoking products to be seen. The fleeting incidental view by a customer of an area of no more than 1m² of smoking products is permitted only to the extent required to carry out activities in the ordinary course of the supplier's business, such as removing smoking products as part of a transaction.

It is important to note that the intent of this provision is not for retailers to deliberately and routinely remove coverings as a selection aid for customers. Deliberate removal of coverings for extended periods of time could be considered to be a display of smoking products and enforcement action may be taken.

Minimum saleable quantities

A supplier must sell cigarettes or herbal cigarettes only in a package and this package must not contain less than 20 cigarettes.

A supplier must not sell:

- loose tobacco except in a package and this package must not contain less than 25g of loose tobacco
- loose smoking blend except in a package and this package must not contain less than 15g of loose smoking blend.

Temporary retail stores

Smoking products cannot be sold from a temporary retail store.

A temporary retail store is a temporary structure, regardless of whether any part of the structure is permanent for example a booth, tent, market stall or stand; or a vehicle or mobile structure, including a trailer, caravan or other similar thing designed or modified to be easily attached to a vehicle for transportation.

Prohibited products

The sale, supply as part of a business activity and display of ice pipe and bongs (including the components of ice pipes or bongs) in a shop or near and in connection with a shop is prohibited.

The display of more than three hookahs in a shop is prohibited. The display of part of a hookah is taken to be the display of a hookah.

The supply of a smokeless tobacco product to another person, without lawful authority or excuse is prohibited.

The supply as part of a business activity of an object, other than a tobacco product that resembles a tobacco product is prohibited.

The sale of a cigarette that is confectionary-flavoured or fruit-flavoured is prohibited. This does not include menthol-flavoured cigarettes.

Providing information about smoking products

A supplier may only provide information about smoking products in a way specifically provided for in the legislation (e.g. see price tickets). Advertising of smoking products, including discounted smoking products, or signage relating to smoking or smoking products that is not specifically provided for in the legislation is prohibited.

Smoking products can be included in your business name; however, suppliers cannot advertise or display a business name that includes anything about the price of smoking products e.g. *Discount Cigs and Tobacco* is prohibited. If you are a tobacconist, you can use the term 'tobacconist' in your business advertising or display.

Price tickets

Price tickets for smoking products must not be larger than 80mm x 40mm and must be the same size as the price tickets for all other smoking product price tickets.

Price tickets may only display information stating the name of the product line, packet size, price, country of origin, and a bar code or similar identification code.

The words on the price ticket must be the same font size, style and typeface (e.g. 10 point, bold and Times New Roman) as all other smoking product price tickets.

The words, bar code or similar identification code must be in white on a black background, or black on a white background. A single colour with a different coloured background (e.g. black text on a yellow background), can be used if this dual colour scheme is used elsewhere in the retail outlet for other goods. Price tickets must be the same colour as the price tickets for all other smoking product price tickets.

No other information (e.g. 'special' or 'discount') is allowed on the price tickets. If a customer asks about the price of a smoking product or if any products are on special, verbal advice may be provided.

From 1 March 2022, all price tickets for smoking products sold at a retail outlet must also use the same spacing between words and letters.

The tickets must be fixed at the place where the smoking products are kept (when kept at or near the relevant point of sale).

Booklets of price tickets or other selection aids with information about smoking products are not allowed. Price lists and price boards are also not permitted.

Permitted sign

Some retailers may wish to display a sign to inform customers that smoking products are available for sale. A supplier may therefore produce and display a 'permitted sign' for this purpose. The sign may be displayed at the relevant point of sale only.

In accordance with the regulation, a permitted sign must be no more than 210mm x 148mm in size (A5) and must display only the following words in the following sequence:

Smoking products sold here

These words must be in black text on a white background, in Arial or Times New Roman typeface only and be a maximum size of 17mm in height. The words must not be in bold, italics or underlined. Nothing else may be on the sign.

The permitted sign is not mandatory, and it is up to retailers to produce this sign if desired. An example of how the permitted sign should look is provided below.



Objects, entitlements, competitions and giveaways

Objects or entitlements cannot be supplied and competitions cannot be conducted where they promote a smoking product; or a trademark or brand name, or part of a trademark or brand name, of a smoking product; or the name or interests of a manufacturer or distributor of a smoking product in association with the smoking product.

Objects or entitlements cannot be supplied if the supply is in association with the sale or consumption of a smoking product, or of smoking products generally.

Competitions cannot be conducted that have an association with the sale or consumption of a smoking product, or of smoking products generally.

Smoking products cannot be supplied for free if the supply promotes the sale of a smoking product.

Images of consumption of a smoking product

Images that promote a person or thing consuming, using or being associated with a smoking product cannot be displayed at a retail outlet. This does not include a trademark.

Tobacco product vending machines

Location

Tobacco product vending machines can only be located in:

- a) bar areas (in the immediate vicinity of a bar and within 5 metres of the outer edge of the counter of the bar) of licensed premises where the use of the machine can be easily observed by staff behind the bar; or
- b) gaming machine areas (within 1 metre of a gaming machine) and can be easily observed by staff; or
- c) casinos.

Product information on machines

A tobacco product vending machine may only display price tickets or another indicator of price (such as an electronic display). The display and advertising of a smoking product in or on the tobacco product vending machine is banned.

Price tickets

The rules for price tickets on vending machines are consistent with those outlined for retail outlets (see page 5), noting that a new requirement will come into effect on 1 March 2022 as outlined.

In addition, pricing information on vending machines can be an indicator of price other than a price ticket for example an electronic display. An indicator of price may only display the following words – the name of the product line, packet size, price and country of origin.

Special/discounted price tickets, price lists and price boards are prohibited.

Mandatory sign

A mandatory sign must be displayed on the front of the vending machine or near the machine and must be easily visible to a person purchasing a tobacco product.

The form of this sign is prescribed under regulation, see page 3. The transitional arrangements for the display of the new mandatory sign as outlined on page 3 also apply to vending machines.

The mandatory sign is available free of charge by calling 13 QGOV (13 7468).

No other signage is allowed.

Business names

Smoking products can be included in your business name; however, the person in charge of the tobacco product vending machine cannot advertise or display a business name that includes anything about the price of smoking products e.g. *Discount Cigs and Tobacco* is prohibited.

People under 18 cannot access tobacco products

A person in charge of a tobacco product vending machine in licensed premises must not allow a child to obtain a tobacco product from the vending machine.

A person in charge of a tobacco product vending machine must instruct employees to take reasonable steps to ensure that a child does not obtain a tobacco product from the vending machine, even if the product is for, or claimed to be for, an adult; and sight acceptable evidence of age for a person before allowing the person to obtain a tobacco product from the vending machine, unless satisfied the person is an adult. They must also obtain written acknowledgement by each employee that the employee received these instructions.

See information at page 3 about acceptable evidence of age and how to obtain an employee information and training acknowledgement form.

Products that can't be supplied

Electronic cigarettes, electronic cigarette related products, herbal cigarettes or a loose smoking blend cannot be supplied through a vending machine.

Frequently asked questions

Q How do I let customers know I sell smoking products at my retail outlet?

A A supplier may produce and display a permitted sign at their relevant point of sale. This sign is prescribed under the regulation and described on page 6. You may not advertise or promote the availability of smoking products in any way other than a way specifically allowed by the legislation.

Q Do smoking products that are not available for sale, such as stock in a store room need to have a covering?

A Particular coverings for smoking products that are not at or near the relevant point of sale, such as in a storage room, are not prescribed. These products, however, must be kept out of sight of customers and must be kept in a way that they cannot be accessed by customers.

Q I don't have access to the tobacco product vending machine/s, isn't the tobacco company responsible?

A Under the Queensland *Tobacco and Other Smoking Products Act 1998*, the person responsible for all requirements relating to a tobacco product vending machine is the licensee of the licensed premises at which the vending machine is located.

Q Do I need a licence to sell smoking products in Queensland?

A No. You do not currently need a licence to sell smoking products in Queensland, but you must comply with all laws concerning the sale of smoking products at all times.

Q I only sell electronic cigarettes and associated products, do the laws apply to me?

A Yes. The Queensland laws apply to electronic cigarettes (personal vaporisers) and electronic cigarette related products e.g. e-liquids. Further the sale of liquid nicotine or products containing liquid nicotine from a retail outlet is prohibited.

**For information,
assistance or to order
resources**

**13 QGOV
(13 7468)**

[www.health.qld.gov.au/public-health/
topics/atod/tobacco-laws/](http://www.health.qld.gov.au/public-health/topics/atod/tobacco-laws/)

