

Laws for selling

Smoking

Products in Queensland

Requirements for retailers of tobacco and e-cigarettes

June 2023

This is an information guide only. You should seek independent legal advice to ensure you meet all the legislative requirements that may apply to your business.

The *Tobacco and Other Smoking Products Act 1998* and the *Tobacco and Other Smoking Products Regulation 2021* provide the full details of the Queensland laws for the retail sale of smoking products in Queensland. The laws also establish smoke-free areas which may apply to your business.

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

<https://www.health.qld.gov.au/public-health/topics/atod/smoking-laws>

Australian Government laws, such as tobacco advertising and tobacco packaging laws may also be relevant to your business. This information is not outlined in this document however more information is available at <https://www.health.gov.au/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.

Illicit tobacco means a smoking product that does not comply with any of the following requirements—

- plain packaging or health warning requirements under the *Tobacco Plain Packaging Act 2011*
- other requirements prescribed by State regulation.

Online shop means a website for a business that enables customers to purchase products or services from the business.

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 at which smoking products are available for sale by retail. Each premises is taken to be a separate retail outlet regardless of ownership, any trading name or franchise agreements relating to the 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. It includes stalls or other structures 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 thing that is intended to be smoked in a hookah
- a smoking related product
- a package or carton of any of the above.

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
- pipe filters, grates or screens.

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

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.

Wholesale outlet means premises from which smoking products are available for sale by wholesale. Each premises is taken to be a separate wholesale outlet regardless of ownership, any trading name or franchise agreements relating to the premises.

Retail outlets

One point of sale

You can only sell smoking products at one place in your retail outlet e.g. from one counter. This is called the 'relevant point of sale'.

Display one mandatory sign

You must display one mandatory sign at your relevant point of sale. The form of this sign is prescribed under regulation. It is available for free by calling 13 QGOV (13 7468).



The mandatory sign changed on 1 September 2021. You can continue to display the previous version of the sign until it needs to be replaced or 1 September 2023 whichever is earlier.

Smoking products must not be supplied to people under 18

You and your employees must not supply a smoking product to a person under 18 years of age.

Provide training to your employees

You must instruct your 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 before supplying a smoking product, unless satisfied the person is an adult.

From 1 September 2024 you must also instruct employees:

- to only supply smoking products as authorised under your retail or wholesale licence, including all the conditions applying to the licence; and
- if the employee is under 18 –not to supply smoking products to anyone in any circumstances (this requirement commences from 1 September 2025 for small businesses).

You must also:

- warn your employees that if they supply smoking products to children in disregard of these instructions, they commit an offence against this Act; and
- get written acknowledgement from employees that they received these instructions and warning - an employee information and training acknowledgement form is available at www.health.qld.gov.au/public-health/topics/atod/smoking-laws/retail or by calling 13 QGOV (13 7468).

Acceptable evidence of age includes:

- a driver licence
- proof of age card
- an Australian or foreign passport
- an Australia Post Keypass

These documents must bear a photograph of the person and indicate that the person is over 18 e.g. references their date of birth.

Smoking products cannot be accessed by customers

Smoking products must be kept at your retail outlet in a way that they cannot be accessed by customers.

Products must only be kept in the following places:

- at or near your relevant point of sale on your side of the counter or above or below the counter but not on the counter where customers are served
- in a room or other place, such as a storage room, which is not accessed by customers.

Cigars may be kept in a humidified room where they can only be accessed by customers when accompanied by you or your employee.

All smoking products are kept out of sight of customers

You cannot display smoking products.

All smoking products 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 your relevant point of sale, you must conceal them with 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, you could use a plain curtain or cupboard door to cover the products. You must cover all smoking products, including the tops, sides and bottoms of packets.

Any number or type of product facings can 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 one square metre of smoking products is permitted as required to carry out activities in the ordinary course of your business, such as removing smoking products as part of a transaction.

It is important to note that this does not mean that you can deliberately and routinely remove coverings as a selection aid for customers. Deliberately removing coverings for extended periods of time could be considered as display of smoking products and enforcement action may be taken.

You must keep a copy of your invoices for at least two years

You must keep a copy of the invoices for the purchase of your smoking product stock from a wholesaler for at least two years.

Providing information about smoking products

You may only provide information about smoking products (advertise) at a retail outlet or online shop in a way specifically provided for in the legislation. 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 banned.

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

Descriptors or colloquialisms for smoking products such as vapes, smokeless products or tobacco-free products is considered advertising or display under the Act.

One permitted sign

You can choose to display one sign at your relevant point of sale to inform customers that you sell smoking products. This is a 'permitted sign'.

This 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. An example of how the sign should look is below.



Price tickets

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

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 all price tickets must be in the same font size, style and typeface (e.g. 10 point, bold and Times New Roman) and all price tickets must have the same spacing between words and letters.

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. All price tickets for smoking products must be in the same colours.

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.

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.

Objects, entitlements, competitions and giveaways

You cannot supply objects or entitlements or conduct competitions which promote:

- a smoking product including a trademark or part of a trademark
- a brand name of a smoking product or part of the brand name
- the name or interests of a manufacturer or distributor of a smoking product.

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

You cannot conduct competitions that are associated with the sale or consumption of a smoking product, or of smoking products generally.

You cannot supply smoking products for free or for a nominal fee if the supply promotes the sale of a smoking product.

Images of consumption of a smoking product

You cannot display images (fixed, moving or as part of a video) that promote a person or thing consuming, using or being associated with a smoking product at your retail outlet. This does not include a trademark.

Minimum saleable quantities

You can only sell cigarettes or herbal cigarettes in a package of 20 or more cigarettes.

You can only sell:

- loose tobacco in a package of 25g or more of loose tobacco
- loose smoking blend in a package of 15g or more of loose smoking blend.

Temporary retail outlets

You cannot sell smoking products from a temporary retail store.

A temporary retail store is:

- a temporary structure, regardless of whether any part of the structure is permanent e.g. 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

You cannot:

- supply illicit tobacco
- store or possess illicit tobacco at retail premises
- sell nicotine vaping products (unless on prescription and dispensed by a pharmacy)¹
- sell, supply as part of business activity, or display ice pipes and bongs (including the components of ice pipes or bongs) in a shop or near and in connection with a shop
- display more than three hookahs in a shop - display means a complete hookah, part of a hookah, packaging for a hookah or an image of a hookah or its parts
- supply a smokeless tobacco product to another person, without lawful authority or excuse
- supply as part of a business activity, an object, other than a tobacco product that resembles a tobacco product
- sell a cigarette that is confectionary-flavoured or fruit-flavoured. This does not include menthol-flavoured cigarettes.

1. Noting this is regulated by the *Medicines and Poisons Act 2019*

Checklist for selling from a retail outlet

Requirements	
One point of sale only (relevant point of sale)	
Display one mandatory sign at your relevant point of sale	
Do not supply smoking products to people under 18	
Provide training to your employees and retain a written acknowledgment from each employee	
Smoking products cannot be accessed by customers and are kept at your retail outlet only at allowable places outlined in the Act	
Smoking products are kept out of sight of customers, i.e. not on display	
Products meet minimum saleable quantity requirement	
No sales from temporary retail store	
Requirements regarding prohibited products are met	
Only provide information about smoking products in the ways permitted by legislation including meeting requirements regarding signage, price tickets and business names	
No entitlements, giveaways, incentives or competitions that promote smoking products including trademarks, brands, manufacturers and distributors or that are associated with smoking products sale or consumption	
No images promoting consumption, use or association with a smoking product	
Copies of invoices for the purchase of your smoking product stock kept for at least two years	
Additional requirements starting soon (see page 9)	
Have a valid licence to sell smoking products	
Display an approved copy of licence at your retail outlet or online shop (as soon as you are granted a licence)	
Employees under 18 do not sell or handle smoking products (from 1 September 2024)	
Additional requirements for employee training met (from 1 September 2024)	

Tobacco product vending machines

Location

From 1 September 2024 liquor licensed premises can only supply tobacco products from one service counter. A tobacco product vending machine can be on site, however, must be located in an area of liquor licensed premises that can only be accessed by staff. A liquor licensee will also need to hold a retail licence (liquor).

Until September 2024, tobacco product vending machines can only be located in:

- 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
- gaming machine areas (within 1 metre of a gaming machine) and can be easily observed by staff; or
- casinos.

You must keep a copy of your invoices for at least two years

You must keep a copy of the invoices for the purchase of your smoking product stock from a wholesaler for at least two years.

Product information on machines

A tobacco product vending machine may only display price tickets or another indicator of price (such as an electronic display). You cannot display or advertise a smoking product in or on the machine.

Price tickets

The rules for price tickets on vending machines are consistent with those outlined for retail outlets (see page 5).

Pricing information for vending machines can be indicated using electronic display. Only the following words can be displayed– the name of the product line, packet size, price and country of origin.

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

Objects, entitlements, competitions and giveaways

See information on page 5.

Mandatory sign

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

The form of this sign is set by regulation and changed in 2021, see information on page 3. You can order the mandatory sign for free by calling 13 QGOV (13 7468).

No other signage is allowed.

Business names

Smoking products can be included in your business name; however, you cannot advertise or display a business name that includes anything about the price of smoking products e.g. Discount Cigs and Tobacco.

People under 18 cannot access tobacco products

You and your employees must not supply a tobacco product to a person under 18 years of age.

You must provide training about this to your employees and obtain written acknowledgement of this training from each employee.

See information on page 3 about employee training, 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.

Requirement

Until September 2024 a vending machine is located in:

- a bar area (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
- a gaming machine area (within 1 metre of a gaming machine) and can be easily observed by staff; or
- a casino

From 1 September 2024

- tobacco products only supplied from one service counter; and
- tobacco product vending machine located in staff only area

Price tickets/electronic display of price meet requirements

Mandatory sign displayed on the front of the machine or near the machine so that it is easily visible to a person purchasing a tobacco product

No other signage or smoking product advertising in or on the machine

No advertising or display of a business name that includes anything about the price of smoking products

People under 18 cannot access tobacco products from a vending machine

Provide training to employees and retain a written acknowledgment from each employee

Do not supply electronic cigarettes, electronic cigarette related products, herbal cigarettes or a loose smoking blend

No entitlements, giveaways, incentives or competitions that promote smoking products including trademarks, brands, manufacturers and distributors or that are associated with smoking products sale or consumption

Copies of invoices for the purchase of your smoking product stock kept for at least two years

Other requirements starting soon (see page 9)

Have a valid licence to sell smoking products – retailer licence (liquor)

Display an approved copy of your licence (as soon as you are granted a licence)

Employees under 18 do not sell or handle smoking products (from 1 September 2024)

Other changes starting soon that you need to know about

You must have a licence to sell smoking products

By 1 September 2024 you will need to hold one of the following licences to sell smoking products in Queensland:

- a retail licence to sell smoking products to the public from a retail outlet or online shop
- a retail licence with a limited wholesale condition to sell limited quantities of smoking products by wholesale to smaller licensed retailers
- a retail licence (liquor) to sell smoking products at a liquor licensed premises
- a wholesale licence to sell smoking products by wholesale to licensed retailers from a wholesale outlet or online shop.

You will need a licence for each retail or wholesale outlet that you sell smoking products from.

A retail licence allows you to also sell smoking products from one online shop associated with the retail outlet.

Pharmacists supplying a smoking product that is a regulated substance on prescription do not need a licence under the *Tobacco and Other Smoking Products Act 1998*.

You will need to make sure your business is ready for this change. Check the Queensland Health website for information about the application and approval process and timeframes.

You must display an approved copy of your licence (as soon as you are granted a licence)

You must display an approved copy of the license at the relevant retail or wholesale outlet so that it can be easily read by customers at all times that your business is open.

An approved copy of the licence must also be displayed on the website for an online shop.

Employees under 18 cannot sell or handle smoking products (from 1 September 2024)

From 1 September 2024 you must ensure any employees under 18 do not sell or handle a smoking product in the course of their employment.

This does not apply:

- if you are a pharmacist, and the smoking product is a regulated substance supplied under a prescription or
- if an employee under 18 is handling a smoking product to deliver it to premises, load or unload smoking products to or from a vehicle or to warehouse the smoking products.

If your business has less than 20 employees, you have until 1 September 2025 to ensure that you meet this requirement.

Frequently asked questions

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

A You can only advertise or promote the availability of smoking products in ways specifically allowed by the legislation, this includes for example the display of one permitted sign at your relevant point of sale and the display of compliant price tickets.

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 required. 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 where the machine is located.

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

A Yes, from 1 September 2024 you will need a licence to sell smoking products in Queensland. More information about how to apply if available on page 9.

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. The sale of liquid nicotine or products containing liquid nicotine from a retail outlet is illegal.

Q Are there any additional requirements for wholesalers of smoking products?

A Yes. There are some additional requirements for wholesalers of smoking products. Refer to the *Tobacco and Other Smoking Products Act 1998* and check the Queensland Health website for more information to ensure your business complies.

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

Call

**13 QGOV
(13 7468)**

Visit

<https://www.health.qld.gov.au/public-health/topics/atod/smoking-laws>

