

**ATTORNEY GENERAL
STATE OF MONTANA**

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**NOTICE
To All Montana Licensed Tobacco Retailers
December 10, 2015**

Effective January 1, 2016

On April 28, 2015, “An Act Revising the Youth Access To Tobacco Products Control Act”, regarding “alternative nicotine products” and “vapor products”, 2015 Mont. Laws Ch. 337 (SB 66) was signed by the Governor and became law. The full text of SB 66 is found at the Legislative website located at [LAWS Detailed Bill Information Page](#).

There are several changes of particular interest to current and prospective Montana retailers. Retailers will be required to obtain and maintain an alternative nicotine or vapor products retailer license to sell either alternative nicotine products or vapor products from the Department of Revenue. *See*, § 16-11-122(4) and § 16-11-303, MCA.

Montana Law, at Montana Code Annotated, § 16-11-302(1), defines “alternative nicotine products” as:

“any manufactured noncombustible product containing nicotine derived from tobacco that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include a tobacco product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.”

Montana Law, at Montana Code Annotated, § 16-11-302(7), defines “vapor product” as:

“a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.”

Retail point of sales of alternative nicotine products, or vapor products will be required to conspicuously display a sign provided without charge by the Department of Revenue that these products are not to be sold to persons under the age of 18 years. *See*, § 16-11-304, MCA.

Retailers are prohibited from selling or distributing alternative nicotine products, or vapor products to individuals under the age of 18 years, whether over the counter, by vending machine, or otherwise. The seller may require presentation of a driver's license or other generally accepted identification that includes a picture of the individual if there is reasonable doubt of the individual's age. *See*, § 16-11-305, MCA.

Alternative nicotine products and vapor products can be sold through tobacco product vending machines. These products are restricted in the same manner as tobacco products. *See*, § 16-11-306, MCA.

Penalties and remedies for violation of sales to individuals under the age of 18 years are set forth in § 16-11-308, MCA, and may include, verbal and written warnings, tobacco education requirements, civil penalties, and/or suspension/revocation of your tobacco retailer license.

It is strongly advised that everyone read the new amendments to the law to determine how it will affect your business. However, if there are any questions, please contact the following individuals for assistance:

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