

WEST VIRGINIA CODE: §16-9H-10

§16-9H-10. Prohibition of sales of certain vapor products.

(a) Beginning March 1, 2027, a manufacturer of a vapor product may not sell, either directly or through a distributor or wholesaler, vape or smoke retailer, or similar intermediary or intermediaries, a vapor product in this state that uses, in the name of the product, the labeling of the product, the packaging of the product, or the marketing of the product and of the following terms or references:

- (1) "Candy", "candies", or variants in spelling such as "kandy" or "kandeez";
- (2) "Bubble gum", "cotton candy", "gummy bear", "gummy worm", "lollipop", or other variant of these terms;
- (3) Cartoons, cartoon characters, superheroes, television shows, video games, movies, or other similar characters or references;
- (4) References to or utilization of trade dress, trademarks, or other regulated imagery that imitate or replicate trade dress, trademarks, or other imagery of food brands or products that have been primarily marketed to minors such as brands of breakfast cereals, cookies, juice drinks, soft drinks, ice creams, and frozen pops; or
- (5) References to or utilization of trade dress, trademarks, or other related imagery that imitate or replicate trade dress, trademarks, or other imagery of school supplies such as USB drives or highlighters, smart phones or smart watches, headphones, any item of clothing, any toy, video game devices, or phone app integration features.

(b) Beginning July 1, 2027, a person, vape or smoke retailer, or other entity may not conduct advertising or promotional activities: *Provided*, That the person, vape, or smoke retailer may display a sign on the exterior of the establishment to identify the shop as a vape or smoke shop which sign is of uniform size and design, no greater than 18 inches by 18 inches: *Provided*, however, That the person, vape, or smoke retailer shall upon renewal of their license file a new application attesting to compliance with this subsection. The sign shall additionally conform to the following guidelines:

- (1) The sign shall be affixed in one location on the outside of the licensed retail location;
- (2) The sign can be double sided;
- (3) The font shall be Helvetica or Arial and said font cannot exceed three inches in height or width per character;
- (4) The sign can be illuminated but shall not have a flashing light or intermittent light.

(c) The vape or smoke retailer shall be located at least 300 feet from a church, school, or daycare center. This distance is to be calculated by measuring a straight line from the entrance to the property line of the nearest place in question.

(d) Includes a product label inconsistent with the requirements set forth in this article or contains an inaccurate or misleading product label; or

(e) No person manufacturing, processing, distributing, offering for sale, or selling any vape or vapor products in this state shall sell, give, or furnish, or cause to be sold, given, or furnished, any vape product, in any form, to any person younger than 21 years of age, which shall be verified by a valid driver's license, state identification card, or any valid and unexpired federally issued identification card such as a passport or military identification card.