

**RULES AND REGULATIONS FOR LICENSING OF  
ELECTRONIC NICOTINE-DELIVERY SYSTEM  
DISTRIBUTORS AND DEALERS**

[R23-23-1-ECIG]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

**May 2015**

## ***INTRODUCTION***

These *Rules and Regulations for Licensing of Electronic Nicotine-Delivery System Distributors and Dealers* [R23-23-1-ECIG] are promulgated pursuant to the authority set forth in RIGL § 23-1-55 through § 23-1-58 for the purpose of establishing the prevailing standards for licensure of electronic nicotine-delivery system distributors and dealers.

Pursuant to the provisions of § 42-35-3(a)(3) and § 42-35.1-4 of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified.

## **TABLE OF CONTENTS**

	<b><i>Page</i></b>
<b>INTRODUCTION</b>	i
1.0 <b><i>Definitions</i></b>	1
2.0 <b><i>Licensing Requirements and Use of Licensed Entities</i></b>	2
2.1 General Licensing Requirements	2
2.2 Use of Licensed Entities Required	2
3.0 <b><i>Eligibility for Licensing</i></b>	2
4.0 <b><i>Application for Licensure and Fee</i></b>	3
5.0 <b><i>Issuance of License</i></b>	4
6.0 <b><i>Required Notification to the Department</i></b>	4
7.0 <b><i>Expiration &amp; Renewal of Registration, and Failure to Renew</i></b>	4
7.1 Expiration	4
7.2 Renewal	4
7.3 Failure to Renew	4
8.0 <b><i>Penalties for Unlicensed Business</i></b>	4
9.0 <b><i>Severability</i></b>	5

## Section 1.0 ***Definitions***

Wherever used in these Regulations, the following terms shall be construed as follows:

- 1.1 ***"Act"*** means § 23-1-55 through § 23-1-58 of RIGL Chapter 23-1 entitled *"Department of Health"*.
- 1.2 ***"Dealer"*** means any person, whether located within or outside of the State of Rhode Island, who sells or distributes electronic nicotine-delivery system products to a consumer in the State of Rhode Island.
- 1.3 ***"Department"*** means the Rhode Island Department of Health.
- 1.4 ***"Director"*** means the means the Director of the Rhode Island Department of Health or his or her designee.
- 1.5 ***"Distributor"*** means any person:
  - (a) Whether located within or outside of the State of Rhode Island, other than a dealer, who sells or distributes electronic nicotine-delivery system products within or into the State of Rhode Island. Such term shall not include any electronic nicotine-delivery system products manufacturer, export warehouse proprietor, or importer with a valid permit, if such person sells or distributes electronic nicotine-delivery system products in the State of Rhode Island only to licensed distributors, or to an export warehouse proprietor or another manufacturer with a valid permit;
  - (b) Selling electronic nicotine-delivery system products directly to consumers in the State of Rhode Island by means of at least twenty-five (25) electronic nicotine-delivery system product vending machines;
  - (c) Engaged in the State of Rhode Island in the business of manufacturing electronic nicotine-delivery system products or any person engaged in the business of selling electronic nicotine-delivery system products to dealers, or to other persons, for the purpose of resale only; provided that seventy-five percent (75%) of all electronic nicotine-delivery system products sold by that person in the State of Rhode Island are sold to dealers or other persons for resale and selling electronic nicotine-delivery system products directly to at least forty (40) dealers or other persons for resale; or
  - (d) Maintaining one or more regular places of business in the State of Rhode Island for that purpose; provided, that seventy-five percent (75%) of the sold electronic nicotine-delivery system products are purchased directly from the manufacturer and selling electronic nicotine-delivery system products directly to at least forty (40) dealers or other persons for resale.
- 1.6 ***"Electronic nicotine-delivery system"*** means an electronic device that may be used to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or electronic hookah and any related device and any cartridge or other component of such device.
- 1.7 ***"RIGL"*** means the General Laws of Rhode Island, as amended.
- 1.8 ***"These Regulations"*** mean all parts of Rhode Island *Rules and Regulations for Licensing of Electronic Nicotine-Delivery System Distributors and Dealers [R23-23-1-ECIG]*.

## Section 2.0 *Licensing Requirements and Use of Licensed Entities*

2.1 **General Licensing Requirements.** A person engaging in the business of selling electronic nicotine-delivery system products in the State of Rhode Island, including any distributor or dealer, shall annually secure a license from the Department before engaging in that business, or continuing to engage in it.

- (a) A person, including any distributor or dealer, shall not engage in the business of selling electronic nicotine-delivery system products in the State of Rhode Island unless the person is licensed pursuant to the provisions of the Act and these Regulations.
- (b) A person shall not maintain or operate, or cause to be operated, a vending machine for electronic nicotine-delivery systems in the State of Rhode Island without procuring a dealer's license for each machine pursuant to the provisions of the Act and these Regulations.
- (c) A separate license is required for each class of business if the applicant is engaged in more than one of the activities required to be licensed in the State of Rhode Island pursuant to the provisions of the Act and these Regulations.

## 2.2 **Use of Licensed Entities Required**

- (a) An importer shall only obtain electronic nicotine-delivery systems from a manufacturer licensed pursuant to the Act and these Regulations.
- (b) A manufacturer or importer shall only sell or distribute electronic nicotine-delivery systems to a person located or doing business within the State of Rhode Island who is a distributor licensed pursuant to the Act and these Regulations.
- (c) A distributor shall only sell or distribute electronic nicotine-delivery systems to a person located or doing business within the State of Rhode Island who is a distributor or dealer licensed pursuant to the Act and these Regulations.
- (d) A distributor shall only obtain electronic nicotine-delivery systems from an importer, manufacturer or distributor licensed pursuant to the Act and these Regulations.
- (e) A dealer shall only obtain electronic nicotine-delivery systems from a distributor licensed pursuant to the Act and these Regulations.

## Section 3.0 *Eligibility for Licensing*

3.1 No license may be issued, maintained, or renewed pursuant to the Act and these Regulations if the applicant, or any combination of persons owning directly or indirectly any interests in the applicant:

- (a) Is delinquent in any tax filings for one month or more; or
- (b) Had a license issued pursuant to the Act and these Regulations revoked within the past two (2) years.

3.2 No person shall apply for a new license or renewal of a license, and no license shall be issued or renewed for any person, unless all outstanding fines, fees, or other charges relating to any license held by that person have been paid.

- 3.3 No license shall be issued relating to a business at any specific location until all prior licenses relating to that location have been officially terminated and all fines, fees, or charges relating to the prior licenses have been paid or otherwise resolved or if the Director has found that the person applying for the new license is not acting as an agent for the prior licensee who is subject to any such related fines, fees, or charges that are still due. Evidence of such agency status includes, but is not limited to, a direct familial relationship and/or unemployment, contractual, or other formal financial or business relationship with the prior licensee.
- 3.4 No person shall apply for a new license pertaining to a specific location in order to evade payment of any fines, fees, or other charges relating to a prior license for that location.
- 3.5 No new license shall be issued for a business at a specific location for which a license has already issued unless there is a bona fide, good faith change in ownership of the business at that location.
- 3.6 No license or permit shall be issued, renewed or maintained for any person, including the owners of the business being licensed, who has been convicted of violating any criminal law relating to tobacco products and/or electronic nicotine-delivery system products, the payment of taxes, or fraud, or has been ordered to pay civil fines of more than twenty-five thousand dollars (\$25,000) for violations of any civil law relating to tobacco products and/or electronic nicotine-delivery system products, the payment of taxes, or fraud.

#### Section 4.0     *Application for Licensure and Fee*

- 4.1 **Application for Licensure.** Application for licensure shall be made on forms furnished by the Department, which shall be completed, notarized and submitted to the Department.
- 4.2 **Categories of Licensure.**
  - (a) An application for a license to engage in the business of selling electronic nicotine-delivery system products in the State of Rhode Island shall be submitted for each applicable category of business:
    - (1) Distributer (including manufacturer and importer); or
    - (2) Dealer (retail and vending machine)
  - (b) Each category of business, dealer location and vending machine for electronic nicotine-delivery systems shall require a separate application.
- 4.3 **Fee.** The application fee (not refundable and non-returnable) as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany the application for registration. Applications received without the required application fee shall be returned to the applicant.

## Section 5.0 *Issuance of License*

- 5.1 A license to engage in the business of selling electronic nicotine-delivery system products in the State of Rhode Island may be issued to an applicant who meets the relevant requirements for licensure as required by the Act and these Regulations.
- 5.2 A dealer's license shall be issued to a specific licensee for a specific location and shall not be transferable. Each issued license shall be prominently displayed on the premises, if any, covered by the license.
- 5.3 If the applicant for a license does not have a place of business in the State of Rhode Island, the license shall be issued for such applicant's principal place of business, wherever located.

## Section 6.0 *Required Notification to the Department*

- 6.1 A licensee shall notify the Department, in writing, within thirty (30) days in the event that it changes its principal place of business.

## Section 7.0 *Expiration & Renewal of Registrations and Failure to Renew*

- 7.1 **Expiration.** The license of every person licensed pursuant to provisions of the Act and these Regulations shall expire on the thirty-first (31<sup>st</sup>) day of January of the following year.
- 7.2 **Renewal.** Every licensed person who desires to renew his or her license shall file with the Department a renewal application, executed, together with a renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, on or before the thirty-first (31<sup>st</sup>) day of January in each year. Upon receipt of a renewal application and payment of the renewal fee, the accuracy of the application shall be verified and the Department may grant a renewal license effective on the first (1<sup>st</sup>) day of February and expiring on the thirty-first (31<sup>st</sup>) day of January of the following year.
- 7.3 **Failure to Renew.** Failure to renew a license on or before the thirty-first (31<sup>st</sup>) day of January in each year, as required by these Regulations, shall result in the business becoming an unlicensed business, and subject to the penalties described in § 8.0 of these Regulations.

## Section 8.0 *Penalties for Unlicensed Business*

- 8.1 Pursuant to § 23-1-57 of the Act, any distributor or dealer who sells, offers for sale, or possesses with intent to sell, electronic nicotine-delivery system products in the State of Rhode Island without the appropriate license issued pursuant to the Act and these Regulations, shall be fined in accordance with the provisions of, and the penalties contained in, § 23-1-58 of the Act.
- 8.2 Any individual or business who violates the provisions of the Act or these Regulations by selling or conveying an electronic nicotine-delivery system product in the State of Rhode Island without a retail license pursuant to the Act and these Regulations shall be cited for

that violation, pursuant to § 23-1-58 of the Act, and shall be required to appear in District Court for a hearing on the citation.

8.3 Any individual or business cited for a violation pursuant to § 23-1-58 of the Act shall:

- (a) Either post a five hundred dollar (\$500) bond with the District Court within ten (10) days of the citation; or
- (b) Sign and accept the citation indicating a promise to appear in Court.

8.4 An individual or business who or that has accepted the citation may:

- (a) Pay the five hundred dollar (\$500) fine, either by mail or in person, within ten (10) days after receiving the citation; or
- (b) If that individual or business has posted a bond, forfeit the bond by not appearing at the scheduled hearing. If the individual or business cited pays the five hundred dollar (\$500) fine or forfeits the bond, that individual or business is deemed to have admitted the cited violation and to have waived the right to a hearing before the District Court on the issue of commission on the violation.

#### Section 9.0 *Severability*

9.1 If any provisions of these Regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these Regulations which can be given effect, and to this end the provisions of these Regulations are declared to be severable.

*E\_Cigarette\_Final\_May2015*  
*Monday, May 04, 2015*