

The Tobacco Modernization and Compliance Act of 2010

On May 11, 2010, Minnesota Governor Tim Pawlenty signed into law the Tobacco Modernization and Compliance Act of 2010, which will expand the reach of Minnesota laws related to the sale and use of tobacco products and related devices. The law takes effect on August 1, 2010. A summary of the law's provisions is below.

- The definition of “tobacco products” has been modified for excise tax purposes to ensure that all tobacco products are taxed as such – not only those that are “suitable for chewing or smoking,” as the law had previously read. Any tobacco product that can be ingested by any means will be taxed as such, including dissolvable products such as Ariva, Stonewall, and Camel Orbs.



- Tobacco products that the FDA has approved for sale either as tobacco cessation products or other medical purposes and are marketed exclusively for such purposes will not be taxed as tobacco products.
- The promotional distribution of tobacco products at no cost or nominal cost was already prohibited under Minnesota law. The new law clarifies that this prohibition applies to tobacco products that can be ingested by any means, not just those that are smoked or chewed.
- The new legislation prohibits selling tobacco products, rolling papers and pipes — including hookah pipes — in open displays, except in adult-only tobacco stores.
- Minnesota law already required all tobacco retailers to obtain a license from the city, town,

or county in which the retailer is located. The new law clarifies that retailers who sell tobacco products, rolling papers or pipes — including hookah pipes — must obtain a tobacco retail license. A tobacco retail license is not required for the sale of tobacco cessation products approved by the FDA.



- The law makes it clear that it is a crime to sell tobacco products, rolling papers, or pipes to a minor. Minors are prohibited from possessing or attempting to purchase such products. The law does not apply to a minor's use of tobacco as part of certain Native American cultural ceremonies or to a minor's attempt to purchase tobacco as part of an adult-supervised compliance check. The prohibitions do not apply to FDA-approved cessation products.
- The new legislation prohibits selling to a minor any product that contains or delivers nicotine or lobelia. Lobelia is a plant that has been used as an alternative to nicotine, most recently in products marketed as so-called *e*-cigarettes. Minors are prohibited from possessing or attempting to purchase these products. The prohibition does not apply to products that have been approved by the FDA as cessation devices and are being marketed and sold as such.

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