

Inhalant Delivery System Packaging Attractive to Minors

Frequently Asked Questions (FAQ) for Tobacco Retail License (TRL) compliance inspections

It is Oregon law that inhalant delivery systems (IDS), also known as e-cigarettes, **not** be packaged in a way that is attractive to minors (Oregon Revised Statute (ORS) 431A.175(2)(f)). Starting **July 1, 2024**, the Oregon Health Authority (OHA) Tobacco Retail License program will start enforcing this law during compliance inspections.

What do retailers need to know?

Q: What products are covered under the IDS packaging attractive to minors law?

A: Features of packaging that may reasonably appear to be attractive to minors include but are not limited to the following:

- The shape of any animal
- The shape of a commercially recognizable toy
- The shape of sports equipment
- The shape of commercially recognizable candy
- The shape of images of minors
- A commercially recognizable toy attached to the package.
- Sports equipment attached to the package.
- Commercially recognizable candy attached to the package.

See Oregon Administrative Rule ([OAR](#)) [333-015-0357](#) for [specific packaging attractive to minors requirements](#).

Q: Does the packaging attractive to minors law refer to the label or the e-liquid bottle?

A: The law (ORS 431A.175(2)(f)) and the OHA's packaging attractive to minors rules prohibit IDS packaging from being attractive to minors.

Q: What does the rule mean when referring to inner and outer packaging?

A: “Inner package” or “inner packaging” means the materials used to wrap or protect a product that must be opened by a consumer in order to have access to the product and that may also be but is not required to be the outer package.

“Outer package” or “outer packaging” means the external material used to wrap or protect a product that is visible to a consumer in the retail setting such as, but not limited to, a box or container.

See [OAR 333-015-0305](#) for full definitions associated with the packaging attractive to minors requirement.

Q: Will OHA be creating a list of products considered attractive to minors that is available for retailers?

A: OHA has not started enforcing this rule yet. We do not plan on providing a list of products considered attractive to minors as the product market changes daily and the list would immediately be out of date.

Q: Is there some process for pre-approving products or establishing a list of products that are legal to be sold?

A: No, OHA will not be establishing an approval system or a list of legal products. However, OHA is considering creating tools to help guide retailers about what packaging may be considered attractive to minors.

Q: What do I do if I have products that are attractive to minors that I am currently selling?

A: Consider contacting your distributor(s) or manufacturer(s) to discuss the packaging attractive to minors requirements and how to return the products or dispose of them. If OHA tobacco retail license inspectors find these products in a tobacco retail location **July 1, 2024 or after**, they will be marked as violations.

Q: Can I legally continue to sell these products until July 1, 2024?

A: The sale of IDS in packaging attractive to minors has been against the law since 2016. Starting July 1, 2024, the OHA Tobacco Retail License program will start enforcing this law through compliance inspections.

Violations and Penalties

Q: Who decides whether the packaging is in violation and what happens when an inspector finds a violation?

A: OHA tobacco retail license inspectors will conduct compliance inspections. If a violation is found, inspectors will follow program protocols to document the violation and the retailer will be notified of the violation.

Q: If a packaging attractive to minors violation is found, what is communicated to the retailer and is there an appeal process?

A: If a violation is found, retailers are informed that a product is in violation of the packaging attractive to minors requirements while the inspector is at the retail location. No penalties are issued on site. If a penalty is warranted, OHA will issue the licensed retailer a notice of civil penalty. The notice of civil penalty will contain appeal rights.

Q: What if I receive products that are packaged in a manner that is attractive to minors?

A: Products packaged in a manner attractive to minors may not be offered for sale. Products received should be secured in an employee only area and clearly identified as not for sale until they can be returned or disposed of.

Q: What is the penalty amount?

A: OHA may issue civil penalties according to the following schedule:

- \$1000 for the first violation in the review period
- \$2000 for the second violation of the same subsection of OAR 333-015-0257 within the review period
- \$3500 for the third violation of the same subsection of OAR 333-015-0257 within the review period

- \$5000 for the fourth or subsequent violation of the same subsection of OAR 333-015-0257 within the review period

See [OAR 333-015-0262](#) for full rule language around civil penalties and violations.

Q: If I am selling a product that is attractive to minors and have several of the same product for sale, do I receive a violation for each item?

A: OHA may impose a civil penalty not exceeding \$5000 for each violation described in OAR 333-015-0257, including packaging attractive to minors. A retailer may be subject to multiple civil penalties at a single inspection if multiple instances of violations of the same rule are found.

See [OAR 333-015-0262](#) for more information on civil penalties and violations.

Who do I contact if I have additional questions?

For more information on the retail sale of tobacco products and inhalant delivery systems, including packaging and labeling definitions ([OAR 333-015-0305](#)), see OAR 333-015-0305 to OAR 333-015-0360.

For questions about OHA compliance inspections and enforcement:
Tobacco.Inspections@odhsoha.oregon.gov, 971-673-2283.

For more information and access to resources for retailers:
www.healthoregon.org/tobaccoretailsales.

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