

## Legal Update: Regulation of E Cigarettes

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On May 5, 2016, the federal Food and Drug Administration (FDA) announced new regulations governing the sale of e-cigarettes, hookahs, dissolvable tobacco, pipe tobacco, cigars and other tobacco products (ENDS). The new rule will require manufacturers, importers and retailers of ENDS to applicable requirements pertaining to tobacco products in the Federal Food, Drug, and Cosmetic Act and FDA regulations. The new regulations go into effect August 9, 2016.

These new rules are intended to aid in the implementation of the Family Smoking Prevention and Tobacco Control Act of 2009 ("Act"). In 2010 a federal appeals court held that the FDA could not regulate ENDS as a drug or a device, and could only regulate them as a tobacco product. It has taken six years since the passage of the Act for implementing regulations to be released.

There are important provisions in the new regulations restricting access to such products by minors. Presently the sale of ENDS is not regulated at the state level in Pennsylvania. The new federal regulations will prohibit the sale of such products to persons under 18 years of age (both in-person and online), require age verification by photo identification; prohibit the sale of tobacco products in vending machines (unless in an adult-only facility); and prohibit the distribution of free samples.

You can access additional information regarding the regulations [here](#).

Some LEAs have adopted policies addressing e-cigarettes, and others have modified existing tobacco or drug-paraphernalia policies to address this issue in school. However, some have delayed taking any official action in light of the lack of specific regulatory guidance. If you have questions, or if we can provide any assistance as you review your existing policies and procedures, please do not hesitate to contact us.