

# UTSFA

Utah Smoke-Free Association



## Retail Specialty Vapor Standards

Version 2.0  
January 2015

These standards are a living document and subject to change based on need, legislative requirements, concerns or membership of the Utah Smoke Free Association.

## Table of Contents

<b>Purpose</b> .....	<b>3</b>
<b>Scope</b> .....	<b>3</b>
<b>Inspection Schedule</b> .....	<b>3</b>
<b>Definitions</b> .....	<b>4</b>
<b>Retail Standards</b> .....	<b>6</b>
<b>Section 1 – Licensing / Insurance</b> .....	<b>6</b>
<b>Section 2 - Signage</b> .....	<b>6</b>
<b>Section 3 – Active Age Verification</b> .....	<b>7</b>
Smart Device Software.....	7
ID Scanner (pending finalized contract with manufacturer) .....	7
<b>Section 4 – E-Liquid Sales</b> .....	<b>7</b>
<b>Section 5 – Product Sales</b> .....	<b>8</b>
<b>Section 6 – Rebuildable Coil Wrapping</b> .....	<b>8</b>
<b>Section 7 – Internet Sales</b> .....	<b>8</b>
<b>Section 8 – Underage audits / stings</b> .....	<b>9</b>
<b>Section 9 – E-Liquid testing</b> .....	<b>9</b>
<b>Section 10 – OSHA (Occupational Safety &amp; Health Administration) Requirements</b> .....	<b>9</b>
Material Safety Data Sheets.....	9
Safety Training.....	9
<b>Section 11 – Misc. Recommendations</b> .....	<b>9</b>
<b>Section 12 – Penalties</b> .....	<b>10</b>
First offence .....	10
Second offence .....	10
Third offence .....	10
<b>Code of Conduct</b> .....	<b>11</b>

## **Purpose**

The purpose of these standards is to create responsible and sustainable “best practice” processes and procedures for the sales of vapor products. Our members believe we have a responsibility to self-regulate for sales of vapor products above and beyond what is required by law and based on professional retail sales best practices.

The Utah Smoke Free Association aims to accomplish this by creating, implementing and upholding standards for the retail sales of vapor products. One of our primary goals is to provide consumers and regulators with elevated confidence that our products are sold with professionalism, accuracy and safety.

## **Scope**

These standards apply to all Utah Smoke Free Association members that engage in the sales of vapor products.

These standards will serve as a basis for:

- Evaluating compliance for membership acceptance
- Confirming compliance of existing membership

## **Inspection Schedule**

Inspections are required prior to full membership is granted and is performed twice during each membership period. All retail locations must be inspected by a member of the Utah Smoke Free Association Board of Directors or Officer Board, agree to the Utah Smoke Free Association Code of Conduct, Membership Terms & Conditions and pay any applicable Association dues before a membership may be granted. After the inspection has been completed and required dues paid, you will receive a door decal representing your membership and your business will be included on the Utah Smoke Free Association website under the vendor listings. Should you have any questions on the above standards or wish to schedule an inspection, please contact a member of our board.

## Definitions

Term	Definition
Active Age Verification	Taking active measures to ensure that all customers are of legal age. Can be accomplished in many ways including Photo Identification and 3rd party verification systems. Note: Having pop up box asking the person to indicate they are over a specified age is not Active Age Verification.
Business License	Permit issued by the state of Utah that allow companies to conduct business within the respective geographical jurisdiction. It is the authorization to start a business issued by the local government.
Certificate of Insurance	Document issued by an insurance company that certifies an insurance policy has been bought and shows an abstract of the most important provisions of the insurance contract.
County Permit	Similar to a business license. Required in most Utah counties in order to operate a dedicated vapor product retail operation.
Child-resistant Caps	Caps for e-liquid bottles that must be pushed down and turned to open.
Electronic Age Verification	Smartphone software or a hand-held scanner that verifies through Active Age Verification that the cardholder is of legal age to purchase electronic cigarette vapor products. Electronic methods cannot replace common sense or use good judgment. While the use of these devices can be an excellent tool for age verification, they should not be the only method relied upon for age verification. For instance they machine cannot verify that the person presenting you the card is the actual card holder, be wary of imposters using someone else's ID
Electronic Cigarette	A battery operated inhaler that has the appearance of a combustible tobacco cigarette and vaporizes a propylene glycol and/or glycerin-based liquid solution into an aerosol mist simulating the act of tobacco smoking. These are referred to in the industry as "closed" vapor products due to the inability to refill the cartridges.
E-Liquid	Liquid for producing vapor in electronic cigarettes, known as e-juice or e-liquid
E-Liquid Manufacturing	The act of making e-liquid from Propylene Glycol, Vegetable Glycerin, Nicotine and flavorings; to include all processes from supply acceptance to the point of customer delivery
Generally Recognized as Safe (GRaS)	Generally recognized as safe (GRAS) is an American Food and Drug Administration (FDA) designation that a chemical or substance added to food is considered safe by experts, and so is exempted from the usual Federal Food, Drug, and Cosmetic Act (FFDCA) food additive tolerance requirements
ID Card	A government issued card giving identifying data about a person that contains either a bar code or magnetic stripe on the reverse side. Must include full name, address, age and a photograph.
Leaf Tobacco Accessories	Products for the consumption of leaf tobacco products. Includes but is not limited to glass pipes, bongos, hookahs, rolling papers, herbal vaporizers, wax atomizers, oil atomizers and leaf atomizers.
Leaf Tobacco Products	Tobacco products such as loose tobacco, cigarettes, cigars and shisha
Mg / ml	Milligrams per Milliliter – a scale (or ratio) for measuring an ingredient component, in liquid form, where accuracy is measured in mg per ml - or a percentage equivalent

Specialty Retail Outlet	Retail operation specializing in the sale of electronic cigarette vapor products and e-liquid that does not sell leaf tobacco products or accessories.
Tamper Evident	Tamper-evident describes a device or process that makes unauthorized access to the protected object easily detected. Seals, markings or other techniques may be tamper indicating
Titration	Also known as titrimetry, is a common laboratory method of quantitative chemical analysis that is used to determine the concentration of an identified component; the determination of rank or concentration of a solution with respect to water with a pH of 7 (the pH of pure H <sub>2</sub> O under standard conditions)
USP	The United States Pharmacopeia (USP) is the official pharmacopeia of the United States, published dually with the National Formulary as the USP-NF. The United States Pharmacopeia Convention (usually also called the USP) is the nonprofit organization that owns the trademark and copyright to the USP-NF and publishes it every year. Prescription and over-the-counter medicines and other health care products sold in the United States are required to follow the standards in the USP-NF. USP also sets standards for food ingredients and dietary supplements
Vapor Product	Also known as VTM (Vapor/Tank/Mods). These are “open” vapor products and generally use refillable tanks, open atomizers or rebuildable atomizers and refillable e-liquid. Vapor products consist of all products after the “first generation” “closed” vapor products.

## Retail Standards

Utah laws require an individual to be at least 19 years of age to purchase, possess, or be provided with any tobacco product, electronic cigarette, vapor product, vapor product accessory or vapor product e-liquid (even zero nicotine content). This is the **LAW** and one that is enforced in all specialty retail outlets in the state.

Per Utah law, entrance to a specialty retail outlet by those under the age of 19 is allowed so long as there is no sampling or demonstration of products occurring. Where sampling or demonstration of product is required, anyone under the age of 19 must exit the store; this includes children of customers. <http://www.rules.utah.gov/publicat/code/r392/r392-510.htm>

Retail Zoning regulations: The Utah Legislature included vapor product specialty retailers under the Retail Tobacco Specialty Business (RTSB) definition in 2012. All zoning regulations that apply to a smoke/head shop, also apply to the vapor retailers who sell NO tobacco products of any kind. <http://le.utah.gov/xcode/Title17/Chapter50/17-50-S333.html>

Any retail establishment selling vapor products in Utah that wishes to join the Association must follow any applicable state/county regulations and agree to employ the following standards.

### Section 1 – Licensing / Insurance

- a. All retail specialty outlets must have proper business licenses to operate in the city/county/state of incorporation. Additional licensing may be required depending on the county of incorporation. Copies of all license types must be provided to the Utah Smoke Free Association prior to acceptance into the Association.
- b. All retail specialty outlets must have a proper Federal Tax Identification Number (EIN).
- c. All retail specialty outlets should have insurance to protect their business against loss and liability for injury/illness brought on by products sold. Retailers should have a certificate indicating they are insured for both e-cigarettes and e-liquid. Recommendations of providers are available upon request.
- d. All retail specialty outlets must obtain copies of all business licenses, tax license and insurance certificates for all Utah based liquid manufacturers/suppliers. This is also strongly recommended for any suppliers/manufacturers outside the state of Utah.

### Section 2 - Signage

- a. The entrance doors to all Specialty Retail Outlets must contain appropriate signage indicating that entry to the outlet is prohibited to anyone under the age of 19. Additional signage will be provided to all member Specialty Retail Outlets upon completion of the inspection process and payment of dues.
- b. The Utah Smoke Free Association recommends a full restriction on anyone under 19 (including children of customers) however you are welcome to follow the current law, which is outlined above.

### Section 3 – Active Age Verification

All member specialty retail outlets are required to utilize Active Age Verification to validate the age of all customers. As per state law, outlets must check government issued ID cards of all customers who enter your store that appear under the age of 27 including those accompanied by an adult of legal purchasing age. Where a legal adult accompanies a minor, refuse sales where it appears the minor is influencing the decision. No unaccompanied teens in stores at anytime. We recommend using electronic verification through 2 primary methods:

#### Smart Device Software

- a. Software is available for smart phones and tablets that provide a visual method to age verification that removes the possibility of human-error. This software should only be contained on one or two devices to protect your customers from ID theft. Consult your state law for additional restrictions on electronic data retention.

#### ID Scanner (pending finalized contract with manufacturer)

- a. ID Scanners are available for purchase separately or as part of your Association dues; which has been custom programmed for ages 18, 19 and 21.
  - i. If you wish to obtain this as part of your Association dues, you must notify the Board of Directors prior to payment.
  - ii. Scanners may be purchased at <http://www.kheelan.com/utsfa>

### Section 4 – E-Liquid Sales

Utah is the only state in the country with industry self-regulations, county regulations and soon to be state regulations. Because of this unique environment, strict labeling and bottling standards exist which need to be followed by all suppliers to remain within the mandated regulations.

- a. No liquid may not be sold over 36mg (3.6%) in a final mixed state meant for immediate consumption (or 24mg in Weber County). This excludes unflavored base meant for DIY mixing.
- b. All e-liquid to be packaged in bottles with child-resistant caps. If you are purchasing liquids from a supplier, let them know this is a state requirement.
- c. All bottle labels are to be smudge proof, contain nicotine content in percentage or mg per ML of volume, warning statement (contents containing nicotine. Keep out of reach of children/pets) flavor, batch number, city/state of mixing facility, vendor name & ingredients.
- d. Tamper evident packaging on e-liquid is required in most Utah counties and this is recommended regardless of current laws. This could be the use of a break-away seal or shrink wrap that covers the caps and a portion of the bottle. Shrink wrap seals are available for purchase upon request
- e. E-liquid sold may not have labels with child friendly images or common product brand names. Examples could be images of Elmo or existing product names such as Nerds, Atomic Fireball, tobacco names that closely resemble combustible tobacco brand names, etc.
- f. E-liquid suppliers must have proper business licenses to operate in the city/county/state of incorporation. This license must be provided to the retailer upon request.
- g. E-liquid suppliers must provide certificate of insurance to retail operation to indemnify said retail operation of losses incurred due to injury or illness caused by the liquid product.

## Section 5 – Product Sales

- a. All products sold in a retail specialty outlet must be behind the counter or in locked display cases
- b. No "child friendly" products sold in your stores. Examples can be:
  - i. Names of products that can be confused for a child's product
  - ii. Products that could be attractive to kids. This could include items such as 'Hello Kitty' stickers or the 'Bunny drip tip
  - iii. E-Liquid with children's cartoon characters
- c. Outlets shall not have in their inventory or sell any solid leaf tobacco products such as but not limited to; cigarettes, cigars, loose tobacco, etc. Members also may not sell accessories designed for the smoking of leaf tobacco such as but not limited to; glass pipes, water pipes, hookahs, rolling papers, herbal vaporizers, wax or solid leaf atomizers, etc.
- d. No health or therapeutic claims may be made in your store or advertisements (this is an FDA requirement). Examples of claims may be: 'E-cigarettes will help you quit smoking' or 'A healthy alternative to smoking'.

## Section 6 – Rebuildable Coil Wrapping

- a. Where store employees undertake the practice of custom coil wrapping for rebuildable atomizer products (RBA), testing of the coil resistance and checking the consumers battery amperage is required to ensure the consumer operates the device in a safe manner.
- b. Any retail operations who provides a coil wrapping service for their customers on Rebuildable atomizers (RDAs) must use a 'Release Of Liability' to indemnify your operation and employees from any liability associated with low ohm coil builds. A release form and instructions are available to all retail operations upon request.

## Section 7 – Internet Sales

Internet sales to Utah consumers by Utah based retail specialty outlets is forbidden under Utah law. Any internet presence and subsequent sales to Utah addresses is under your own risk. The Utah Smoke Free Association will not "Certify" internet only retail operations. However if you do operate a site and do not sell to Utah consumers, the following is necessary for an internet web-store:

- a. Age verification landing page controlled by a 24-hour cookie to ensure any page visited will require the visitor to validate their date of birth.
- b. Additional Age verification on checkout page.
- c. It is recommended that the only shipping option available be that of 'age restricted delivery' to further control delivery of products to those consumers who are of legal tobacco use age as outlined by individual state laws.
- d. No health or therapeutic claims on your website, social media pages, store or advertisements (this is an FDA requirement). Examples of claims may be: 'E-cigarettes will help you quit smoking' or 'A healthy alternative to smoking'.
- e. No "child friendly" products sold in your e-stores. Examples can be:
  - i. Names of products that can be confused for a child's product (excluding liquid flavors)
  - ii. Products that could be attractive to kids. This could include items such as 'Hello Kitty' stickers, the 'Bunny drip tip', or Spongebob device wraps.



## Section 8 – Underage audits / stings

All retailers shall make available upon request copies of your quarterly audit reports from your respective city or county authorities to demonstrate your compliance with the state tobacco use age purchase laws.

## Section 9 – E-Liquid testing

Each line of liquid must be tested for nicotine content, Diacetyl and Acetyl Propionyl (2,3-pentanedione). Nicotine content must be within 10% +/- of the target nicotine advertised on the label. Diacetyl and Acetyl Propionyl must be less than 5 parts per million. This test needs to be performed twice yearly on each line of liquid unless your supplier is providing you with a signed certificate of testing. Test results must be maintained for a period of not less than 24 months and be made available to the Utah Smoke Free Association as requested. A UTSA approved testing facility with member pricing is available upon request.

## Section 10 – OSHA (Occupational Safety & Health Administration) Requirements

Employers must be committed to the elimination of safety and health hazards. With the commitment of eliminating safety and health hazards in the workplace and establishing a safety and health program, employers benefit from increased productivity, better morale and decreased workers' compensation and health care costs. For more information:

<http://laborcommission.utah.gov/divisions/UOSH/>

### Material Safety Data Sheets

- a. OSHA requires all employers to maintain a physical binder containing all Material Safety Data Sheets (MSDS) for every chemical stored on site. Binder location must be known and be accessible by all employees. Examples of chemicals can include, e-liquid components, air deodorizers, cleaning chemicals, window cleaner, soaps, etc.

### Safety Training

The Utah Smoke Free Association is happy to assist in organizing consultation training at no cost to our members on OSHA safety and the necessary requirements a business owner must follow to remain in compliance with the law. Please contact the Board of Directors if you require assistance.

## Section 11 – Misc. Recommendations

The following are recommendations based on experiences and comments made by various officials and consumers.

- a. For building security
  - i. Use 3M Hurricane Film on all windows of your building to prevent entry if someone tries to 'smash & grab' or use of scissor or roll-down retractable security gates
  - ii. 24/7 monitored security system with glass breakage, movement, fire detection and HD cameras
- b. Weekly cleaning of interior and exterior windows and all glass surfaces. Glass attracts PG/VG from exhaled vapor and it looks bad if not regularly cleaned.

## **Section 12 – Penalties**

Penalties may be assessed against retailers that fall out of compliance with the published standards. If after the bi-annual inspections, any deficiencies are noted; 30 days will be given to correct the issues and come back into compliance. If after a re-inspection, the issues remain, the following penalties will apply:

### **First offence**

1. Financial penalty of \$500

### **Second offence**

Within 12 calendar months:

1. Financial penalty of \$1000 ~and
2. Removal from consumer VIP program

### **Third offence**

Within 12 calendar months:

1. Six-month suspension from organization, forfeiture of dues and benefits, removal from consumer VIP program and removal from trusted retailer directory.
2. Re-entry into the organization will require all fees to be repaid and full inspections to be taken.

## Code of Conduct

As a Utah Smoke Free Association member retailer, by signing this you agree to these terms below:

1. It shall be prohibited to sell, give or furnish in any manner, vapor products to minors under the age of "19". Minors shall not be allowed to sample any product at any time, nor will they be allowed into any vapor specialty retail establishment unless accompanied by a parent or legal guardian (not a friend) above the age of "21".
2. Members shall not at any time engage in unlawful or illegal activity including but not limited to, the sale or distribution of illegal and or controlled substances. Members agree not to sell any equipment that can be used or to facilitate illegal drug activity.
3. Members shall not have in their inventory or sell any solid leaf tobacco products such as but not limited to; cigarettes, cigars, loose tobacco, etc. Members also may not sell tobacco accessories designed for the smoking of leaf tobacco such as but not limited to; glass pipes, water pipes, hookahs, rolling papers, herbal vaporizers, etc.
4. Members shall operate their businesses in a professional and ethical manner at all times as an active member of the Utah Smoke Free Association and agree to uphold ethical standards of the organization.
5. Member retailers shall provide to the Utah Smoke Free Association a copy of its sales tax permit, a copy of business entity filing on file with the state of Utah and a copy of any applicable county permits.
6. We believe in ethical, fair and vigorous competition. Any unethical or unprofessional actions towards other shops; or actions which may harm the reputation of the Utah Smoke Free Association, membership as a Utah Smoke Free Association retailer may be prohibited or revoked at the discretion of the Utah Smoke Free Association Board of Directors.

Any illegal activity witnessed or reported, the Utah Smoke Free Association will work diligently with local, county and state officials to take the appropriate action; membership as a Utah Smoke Free Association retailer may be revoked at the discretion of the Utah Smoke Free Association Board of Directors.

Any violations of the above code of conduct will result in revocation of membership, benefits, advertising, and any dues set forth for a period of not less than 6 consecutive months.

By signing, you are accepting these terms of the Utah Smoke Free Association "Code of Conduct" and agree to operate your business in a professional and ethical manner.

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Store name \_\_\_\_\_

Date \_\_\_\_\_