

**DRAFT BAHAMAS NATIONAL STANDARD**

**— Requirements for Tobacco & Tobacco Products  
Advertising, Promotion and Sponsorship**

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## Foreword

This Standard has been prepared by the Bahamas Bureau of Standards and Quality (BBSQ) in conjunction with the Tobacco and Tobacco Products Technical Committee to outline requirements for the Advertising, Promotion and Sponsorship of tobacco products, electronic nicotine delivery systems (“ENDS”) and electronic nicotine delivery system products (“ENDS products”) to be used throughout The Commonwealth of The Bahamas. It was developed in response to the need for national standards in the tobacco and tobacco product industry.

In developing this Standard, information was derived from the following sources:

- a) World Health Organisation Framework Convention on Tobacco Control (WHO FCTC);
- b) WHO FCTC: Guidelines for Implementation relating to Article 13;
- c) World Health Organization’s Manual for Developing Tobacco Control Legislation in the Region of the Americas; and
- d) The Bahamas National Standard BNSCRS 26:2013 for the Labelling of Tobacco Products

# Requirements for Tobacco Advertising, promotion and sponsorship

## 1 Scope

This Standard specifies the requirements for advertising, promotion and sponsorship of tobacco products, electronic nicotine delivery systems (“ENDS”) and electronic non-nicotine delivery system (“ENNDS”) throughout The Commonwealth of The Bahamas.

## 2 Terms and definitions

For the purposes of this Standard, the following terms and definitions shall apply:

### 2.1

#### **competent authority**

any governmental body, statutory body or any authorized person administering any law regulating tobacco products, electronic nicotine delivery systems (“ENDS”) and electronic non-nicotine delivery system (“ENNDS”);

### 2.2

#### **component**

- i. with regard to a tobacco product, means a part of a tobacco product, whether or not sold separately from the tobacco product, such as the paper, filter, plug wrap, and tube in the case of a smoked product, and the portion pouch in the case of a tobacco product that is not smoked;
- ii. with regard to an electronic nicotine delivery system or electronic non-nicotine delivery system, component includes the cartridge, atomizer, designated power source, the ‘e-liquid’ solution, whether containing nicotine or not, and any source of flavourings or other substances;

### 2.3

#### **cross border tobacco advertising, promotion and sponsorship**

any tobacco advertising, promotion and sponsorship that originates within a territory and enters another territory or could be received in another territory, including by means such as, but not limited to, placement on the internet or through broadcasts or other communications technologies, as well as that which originates outside the territory and enters the territory or could be received within the territory;

### 2.4

#### **distributor**

a person or entity directly engaged in the wholesaling of tobacco products after they are obtained from a manufacturer.

### 2.5

#### **entity**

the entire tobacco marketing chain including, but not limited to, the primary initiators of tobacco

advertising, promotion and sponsorship, usually being the manufacturers, importers, distributors, retailers and their agents and associates or other entity involved or associated with the tobacco industry; entities involved in the production, placement and dissemination of tobacco advertising, promotion and sponsorship; and entities that receive any relevant form of contribution and any intermediaries that facilitate the making or receiving of any relevant form of contribution;

**2.6  
Electronic nicotine delivering system (“ENDS”)**

An electronically operated product designed to deliver an aerosol to users by heating a solution comprised of nicotine and typically, but not necessarily, propylene glycol and/or glycerol, and often flavouring;

**2.7  
Electronic non-nicotine delivery system (“ENNDS”)**

An electronically operated product designed to deliver an aerosol to users by heating a solution of substances that does not contain nicotine;

**2.8  
manufacturer**

person or entity that processes, prepares or packages any tobacco product for sale or distribution;

**2.9  
Member State**

any Member State of the Caribbean Community (CARICOM);

**2.10  
promotional price**

a price below the regular trade price where cost includes applicable taxes;

**2.11  
retailer**

a person or business that sells tobacco products directly to the consumer;

**2.12  
tobacco advertising and promotion**

any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product, tobacco product brand element or tobacco use either directly or indirectly; and includes any advertising and promotion or a person or entity's involvement in the tobacco industry;

**2.13  
tobacco industry**

a tobacco manufacturer, wholesale distributor or importer

**2.14****tobacco product**

any product entirely or partly made of the tobacco stem or leaf as raw material, which is manufactured to be used for smoking, sucking, chewing or snuffing or by any other means;

**2.15****tobacco sponsorship**

any form of contribution to any event, activity, service, physical establishment, vehicle or organisation that has the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.; and

**2.16****toy tobacco product**

any object that resembles a tobacco product or a smoker's pipe, and can be used to simulate smoking, but cannot be smoked and has a primary purpose other than to aid in smoking cessation.

**2.17*****E-liquid***

means a liquid solution, with or without nicotine, and with or without flavourings, for use in an ENDS device;

**2.18****ENDS**

means an Electronic Nicotine Delivery System device that uses E-liquid and electrical power, in combination with an atomizer and airflow, to generate an inhalable vapour from an E-liquid;

**2.19****ENDS product**

means either an ENDS device or the E-liquid cartridge contained therein;

### **3 General Requirements**

#### **3.1 Prohibition on tobacco advertising, promotion or sponsorship**

No person or entity shall:

- a) any person who features in advertising materials, must be, and clearly appear to be, aged and 25 and over.
- b) There shall be no placement of advertising on billboards and external signage within 100 meters of a school or health facility.

- c) There shall be no placement of advertising in printed publications unless there is evidence (study, readership statistics or similar) that at least 75% of the readers are adults.
- d) There shall be no placement of advertisements on the outside cover of a printed publication.
- e) There shall be no advertising in cinemas, television or radio unless it is being screened as classified for adults only or there is reason to believe that access is limited to adults.
- f) Branded sponsorship or promotional events should be limited to events that are only for adults over the age of eighteen (18).
- g) Targeting of individuals with promotional, including informational, material, such as direct mail, telemarketing, consumer surveys or research, or person- to- person conversation must be directed at adult smokers over the age of eighteen (18) and age verification must be conducted.
- h) There shall be no sale or supply of toy tobacco products or sweets that resemble tobacco products.

### **3.2 Ferries, airplanes, ports and airports**

The restrictions contained herein shall apply and extend to all ferries, airplanes, ports and airports within The Commonwealth of The Bahamas.

## **4 Requirements for the Advertising, Promotion and Sponsorship of electronic nicotine delivery systems ("ENDS") and electronic nicotine delivery system products ("ENDS products")**

### **4.1 Permissible Advertising and Promotional Activities**

4.1 .1 A Manufacturer, Importer, Distributor, or Retailer may disseminate or cause to be disseminated, subject to the restrictions set forth in Section 2. Advertising and promotional materials relating to ENDS Products in the following media or formats:

- a) Adult Publications;
- b) Non-Point-of-sale promotional materials (including direct mailing to Consumers);
- c) Point-of-sale promotional materials (including video formats delivered at Point-of-sale);
- d) Commercial radio;
- e) Commercial television;
- f) Internet website advertising, including company websites of Manufacturers, Importers, Distributors or Retailers, and including social media websites;
- g) Outdoor promotional materials, including billboards and advertising on public transit and related facilities; and
- h) Sponsorship by Manufacturers, Importers, Distributors, or Retailers of live events aimed at an audience 18 years of age and above.

2. Any advertising or promotional material for ENDS Products shall make clear that the product is an ENDS Product and not a tobacco product.

## 4.2. Restrictions on Advertising and Promotion

### 4.2.1 Marketing to persons under age 18

- a) No Manufacturer, Importer, Distributor, or Retailer may take any action, directly or indirectly, with the intent of targeting persons under 18 years of age in the advertising, promotion, or marketing of ENDS Products, or take any action, the primary purpose of which is to initiate, maintain or increase the incidence of ENDS Product use by persons under 18 years of age.

### 4.2.2 General marketing restrictions

- a) No Manufacturer, Importer, Distributor, or Retailer may place or cause to be placed any advertising or promotion on commercial radio that can be heard within The Bahamas..
- b) No Manufacturer, Importer, Distributor, or Retailer may place or cause to be placed any advertising or promotion on commercial television that can be viewed within The Bahamas..
- c) The following restrictions are applicable to any advertising or promotional materials placed or caused to be placed within Bahamas by any Manufacturer, Importer, Distributor, or Retailer:
  - i. No person depicted in any advertising and promotional materials shall be or shall appear to be under age 25;
  - ii. No advertising and promotional materials shall suggest that use of ENDS Products is essential to social prominence, distinction, success or sexual desirability;
  - iii. No advertising and promotional materials shall feature sports or celebrity testimonials from persons who have particular appeal to persons under age 18;
  - iv. No advertising and promotional materials shall depict an ENDS Product user participating in, or just having participated in, a physical activity requiring stamina or physical conditioning beyond that of normal recreation; and
  - v. Provided they are otherwise consistent with Section 2.2 (3) 1 to 4 advertising and promotional materials may picture and feature persons, but there shall be no suggestion that the person's appearance results from ENDS Product use.

### 4.2.3 Marketing Health Claims

- a) All product marketing claims shall be supported by documentary evidence demonstrating that the claim is accurate and not misleading.
- b) No Manufacturer, Importer, Distributor, or Retailer may issue or cause to be issued any advertising or promotion, in any media, that states or implies, directly or indirectly, any medicinal or health benefit claims with respect to any ENDS Product, including claims relating to quitting smoking, satisfying cravings, or smoking cessation.

### 4.2.4 Marketing performance claims

4.2.4.1 All product marketing claims shall be supported by documentary evidence demonstrating that the claim is accurate and not misleading. All performance claims shall remain accurate over the expected lifetime of the product and its components.

The prohibitions on advertising, promotion and sponsorship of tobacco products, electronic nicotine delivery systems ("ENDS") and electronic non-nicotine delivery systems ("ENNDS") contained herein do not apply to:

- a) depictions of the aforementioned products or tobacco use in media where the depiction is justified by reasons of historical accuracy and legitimate journalistic, artistic or academic expression; and
- b) genuine political, social, or scientific commentary about tobacco products or tobacco use;

provided no payment or other consideration was offered or made by any person or entity acting on behalf of or in the interest of the tobacco industry or tobacco retailer, or any manufacturer, wholesale distributor, importer or retailer of electronic nicotine delivery systems (“ENDS”) or electronic non-nicotine delivery systems (“ENNDS”).

### 4.3. Age Restrictions on Sale of ENDS Products

4.2.5.1 It is prohibited for any person, either directly or indirectly through an agent, to sell or offer to sell any ENDS Product to any person under 18 years of age.

4.2.5.2 No person may sell or offer to sell any ENDS Product to another person without first taking reasonable steps to verify that the other person is 18 years of age or over.

### 4.4. Permissible Retail Sale Channels

4.2.6.1 The following methods of sale of ENDS Products are permitted:

- a) Via a direct, face-to-face exchange at a retail establishment.
  - i. ENDS Products sold or offered for sale at a retail establishment may be displayed at such establishment, even if such establishment is not an Adult-Only Facility, but any display of such products shall be maintained in an area of the retail establishment that is not accessible to customers (including but not limited to an area behind the sales counter where customers are not permitted to enter).
  - ii. (ii) No self-service displays of ENDS Products are permitted in any retail establishment.
  - iii. (iii) All sales of ENDS Products via a direct, face-to-face exchange at a retail establishment are subject to the requirements of Section 9.
- b) Via a Remote Sale to a Consumer.
  - i. Any person who mails or ships ENDS Products sold pursuant to a Remote Sale shall not accept a Remote Sale order from a person without obtaining verification that they are a licensed business.
  - ii. Any person who mails or ships ENDS Products sold pursuant to a Remote Sale and not via a direct face-to-face exchange shall keep records of such sales, including invoicing for each shipment of ENDS Products, along with the name and address of each purchaser, recipient and delivery agent. Such records shall be maintained in their original form for a period of not less than [1] years and shall be produced upon request to [Local Regulator], subject to [local privacy, confidentiality and related laws].
  - iii. Any person who mails or ships ENDS Products into Bahamas sold pursuant to a Remote Sale and not via a direct face-to-face exchange shall comply with the provisions of this Act and any regulations or other requirements relating to ENDS Products then in effect.

### 4.5. Distribution of Free Product Samples

4.2.7.1 No free product samples shall be distributed.

## 5 Display of tobacco products

5.1 Where a retailer displays the brand element, such display shall be subject to the following restriction:

- a. small poster advertising tobacco and tobacco products are authorized as long as the posters:
  - i. are put inside the shop or the space dedicated to tobacco sale and
  - ii. are not visible from the outside of the premises. The poster must include a Text Health warning covering at least 20% of the surface of the poster.
- b. Tobacco and tobacco products shall be displayed in a designated dispenser which shall prevent self-service by customers.

## 6 Price lists

A price list for tobacco products, electronic nicotine delivery systems ("ENDS"), electronic non-nicotine delivery systems ("ENNDS"), or components, may only be made available At any point of sale,

A price list for tobacco and tobacco products is permissible at the point of sale.

## ANNEX A

### Indicative List of the Forms, Media and Means of Tobacco Advertising,

#### Promotion and Sponsorship Prohibited Under this Standard

1. Communication through audio, visual or audiovisual means, such as print (for example, newspapers, magazines, pamphlets, leaflets, flyers, letters, billboards, posters, signs), television and radio (including terrestrial and satellite), films, DVDs, videos and CDs, games (such as computer games, video games or online games), other digital communication platforms (such as the Internet and mobile phones) and theatre or other live performance;
2. Brand-marking, including in entertainment venues and retail outlets and on vehicles and equipment, such as by use of use of words, designs, images, sounds and colours, including brand names, trademarks, logos, names of tobacco product manufacturers or sellers, and colours or schemes of colours, in whole or part, and any other indicia associated with tobacco products, tobacco product manufacturers or sellers;
3. Product diversification through brand stretching, reverse brand-stretching and brand sharing, which would include placement of indicia associated or likely to be associated with a tobacco product or tobacco product manufacturer or seller on a non-tobacco product, item or service; and placement of any logo, slogan, trademark or brand name of a non-tobacco product or service on a tobacco product;
4. Product placement, such as the inclusion of, or reference to a tobacco product, service or trademark in the context of communication in return for payment or other consideration;
5. Provision or offer of prizes, gifts or discounted products, such as footwear, clothing and accessories (t-shirts, baseball hats etc), key rings, cigarette lighters, CDs, other trinkets, or tobacco products, with the purchase of tobacco products;
6. Supply or offer of free samples of tobacco products, including in conjunction with marketing surveys and taste testing;
7. Incentives, promotions or loyalty schemes, such as redeemable coupons provided with purchase of tobacco products;
8. Competitions associated with tobacco products or brand names, whether requiring the purchase of a tobacco product or not;
9. Direct targeting of individuals with promotional, including informational, material, such as direct mail, telemarketing, consumer surveys or research, or person- to- person conversation;

10. Promotion of discounted products;
11. Payments or other contributions to retailers to encourage or induce them to sell tobacco products, including retailer incentive programmes, such as rewards to retailers for achieving certain sales volumes;
12. Payment or other consideration for the exclusive sale or prominent display of a particular product or manufacturer's product in a retail outlet or at a venue or event;
13. Provision of financial or other support to events, activities, individuals or groups, such as sporting or arts events, individual sports persons or teams, individual artists or artistic groups, welfare and other public interest organisations, government institutions or organisations, politicians, and political candidates or political parties, whether or not in exchange for attribution, acknowledgement, or publicity, including corporate social responsibility activities of any kind;
14. Provision of financial or other support to venue operators, such as pubs, clubs or other recreational venues, in exchange for building or renovating or decorating premises to promote tobacco products or the use or provision of awnings, sunshades, and similar items;
15. Sale of tobacco products with other products either packed together with a product that is not a tobacco product; or distributed or supplied together with a product that is not a tobacco product, at a single price;
16. Commercial display of tobacco products, including at point of sale and vending machine sales;
17. Sale of tobacco products through the internet; and
18. Any other form of tobacco advertising, promotion or sponsorship by any method or means.