

E-liquid FAQ

1. Do I need to apply as a manufacturer in Indiana if I am manufacturing outside of Indiana?

Any company that manufactures e-liquid for distribution and sale in Indiana must obtain a permit from the Indiana Alcohol and Tobacco Commission to manufacture e-liquid. (See IC 7.1-7-2-15)

2. When do I need a retail merchant certificate from the Indiana Department of Revenue?

A retail merchant certificate from the Indiana Department of Revenue is required if you are selling to consumers. It is not required if you are only manufacturing or distributing e-liquid.

3. Does the required scannable code need to be on the bottle of e-liquid or can it be on external packaging?

The scannable code must be on the bottle so it can be accessible to consumers.

4. What are the video recording requirements for an e-liquid manufacturer?

IC 7.1-7-4-6 requires that “[t]he manufacturer’s facility...be subject to twenty-four (24) hour video recording where e-liquid is mixed, bottled, packaged, and stored. The video recordings must be retained for at least thirty (30) days.” The statute does not require twenty-four (24) hour monitoring of the video recording.

5. When do I have to stop selling, distributing, or manufacturing product in Indiana that was not manufactured in compliance with IC 7.1-7?

On June 13, 2016 the ATC adopted the interpretation of IC 7.1-7-5-1 that in order to be in compliance with this law, all e-liquid product not produced by a permitted manufacturer should be removed from distribution after July 1, 2016. That interpretation was inconsistent with a previous, published interpretation by the ATC of that same statutory provision.

As a result, considerable, confusion exists as to what businesses must do to be in compliance with the new law and how Indiana State Excise Police (ISEP) enforcement will proceed. This addition to the FAQ is intended to clear the confusion so that industry stakeholders will clearly understand the ATC’s position on this issue, what type of enforcement activity to expect and what actions need to be taken by industry stakeholders to be in compliance with the law.

- A. After July 1, 2016 you may only buy e-liquids from a manufacturer who is licensed by the ATC.
- B. It is illegal to possess or sell e-liquid product manufactured prior to July 1, 2015. Any product manufactured before July 1, 2015 found on shelves for sale will be confiscated.
- C. As it relates to non-compliant e-liquid product manufactured after July 1, 2015 but before June 30, 2016, it is the ATC's position as stated in its most recent June 13, 2016 FAQ, that such product should be removed from shelves and not for sale.
- D. However, in light of the two reasonable interpretations of that statutory provision and that the ATC's published inconsistent directives on that topic the ISEP will extend a period of educational enforcement for 60 days beginning June 30, 2016. During that time you will be allowed to sell or remove from your shelves non-compliant product that was manufactured after July 1, 2015 and before June 30, 2016.
- E. This educational period extends to retailers selling product that was manufactured after July 1, 2015 but before June 30, 2016. This does not apply to non-permitted product manufactured after June 30, 2016, nor does it apply to any product manufactured after June 30, 2016 by manufacturers who have not received a manufacturing permit from the ATC.
- F. After September 1, 2016 when the period of educational enforcement ends, the ISEP will begin enforcement on non-compliant product consistent with the ATC's interpretation of the law.