

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

DEMAND TO CEASE AND DESIST

July 23, 2018

VIA OVERNIGHT MAIL

Eonsmoke, LLC
1500 Main Avenue, 2nd FL
Clifton, NJ 07011

Dear Sir / Madam:

The Office of the Massachusetts Attorney General ("AGO") having determined that you, EONSMOKE LLC ("Eon"), located at 1500 Main Ave 2nd FL, Clifton, NJ 07011, are engaged in acts or practices constituting violations of M.G.L. c. 93A, § 2(a), and applicable regulations found at 940 C.M.R. 21.00 *et seq.*, hereby demands that you **cease and desist the practices described below, effective immediately.** We request that you or your legal representative contact us at your earliest convenience at the phone number below to discuss this demand and to avoid any further violation of Massachusetts law.

BASIS FOR DEMAND

Eon owns, maintains, and/or operates at least one Website – eonsmoke.com – that sells "electronic smoking devices" (or "vaping products" or "vaping devices"),¹ and is accessible in Massachusetts. Consequently, Eon must comply with M.G.L. c. 93A and the Attorney General's Regulations on Sales and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts, 940 C.M.R. 21.00 *et seq.* The AGO's review of your business practices has uncovered that you are violating 940 C.M.R. 21.04(4)(a) by selling electronic smoking devices through the Internet and failing to ensure:

¹ The Massachusetts Attorney General's Regulations define an "electronic smoking device" as:
any product that can deliver nicotine to the user through inhalation of vapor. Electronic smoking device includes any component part of such product, including liquid for use in the device regardless of whether the liquid contains nicotine, whether or not sold separately[.]
940 C.M.R. 21.03, available at mass.gov/files/documents/2016/08/wj/940-cmr-21-00.pdf.

- (i) verification that the purchaser is of the Minimum Legal Sales Age² through a commercially available database, or aggregate of databases, that is regularly used by government and business for the purpose of age and identity verification; and
- (ii) use of a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

Specifically, eonsmoke.com offers a wide variety of vaping products, including those that are compatible with or superficially identical to vaping products manufactured by JUUL Labs, Inc. However, the purchasing process on eonsmoke.com does not involve the utilization of any kind of database to verify the age of the purchaser of the vaping products. Instead, a consumer can purchase vaping products at eonsmoke.com simply by clicking a box to indicate that he or she is over 18 and by entering a wholly unverified date of birth. These perfunctory measures do not comply with the plain requirements of Massachusetts law for all purchases, and fail to comply with the requirement that, in many localities in Massachusetts, the Minimum Legal Sales Age is 21.³ Moreover, packages mailed to consumers from eonsmoke.com do not require an adult (*i.e.*, a person of the Minimum Legal Sales Age) to sign for the package, constituting a further violation of Massachusetts law. *See* 940 C.M.R. 21.04(a)(4)(ii).

DEMAND

The Attorney General hereby demands that you immediately cease engaging in the following practices:

Accepting orders from or causing deliveries to be made to any address in the Commonwealth of Massachusetts until you demonstrate to the AGO's satisfaction that eonsmoke.com is in full compliance with 940 C.M.R. 21.04(4)(a).

² The Massachusetts Attorney General's Regulations define "Minimum Legal Sales Age" as "the age an individual must be before that individual can be sold cigarettes, smokeless tobacco products, or electronic smoking devices as established by statute, regulation, *by-law or local ordinance* which in no instance shall be less than 18 years of age." 940 C.M.R. 21.03 (emphasis added).

³ According to the Massachusetts Municipal Association's Municipal Tobacco Control Technical Assistance Program, at least 171 of the 351 cities and towns in Massachusetts have adopted by-laws or local ordinances that require a purchaser of tobacco products to be 21 years or older. These municipalities constitute 71.7% of state's population. Many of these municipalities specifically include the purchase of vaping devices as part of these restrictions, but such inclusion is not required for purposes of the Attorney General's Regulations. *See, e.g.*, City of Boston, bphc.org/whatwedo/tobacco-free-living/tobacco-regulations/Documents/Youth%20Access%20Regulation.pdf; Town of Medway, townofmedway.org/sites/medwayma/files/uploads/medway_boh_regs_tobacco.pdf; Town of Needham, www.needhamma.gov/documentcenter/view/16108.

Eonsmoke LLC
July 23, 2018
Page 3

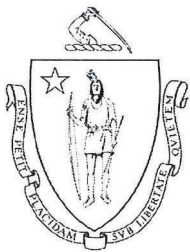
Failure to cease immediately from engaging in the practices identified above will cause this office to conclude that any such future violations are knowing and willful. Please contact the undersigned Assistant Attorney General at your earliest convenience to discuss these matters. If you are represented by an attorney, please initiate such contact through your attorney.

Thank you for your prompt attention to this matter.

MAURA HEALEY
ATTORNEY GENERAL

By: _____


Max Weinstein
Assistant Attorney General
Consumer Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2499 (phone)
(617) 727-5765 (fax)
max.weinstein@state.ma.us



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

DEMAND TO CEASE AND DESIST

July 23, 2018

VIA OVERNIGHT MAIL

Direct Eliquid LLC
1200 North Federal Highway Suite 200
Boca Raton, FL 33432

Dear Sir / Madam:

The Office of the Massachusetts Attorney General (“AGO”) having determined that DIRECT ELIQUID LLC (“Direct Eliquid” or “You”), located at 1200 North Federal Highway Suite 200, Boca Raton, Florida, has engaged in acts or practices constituting violations of M.G.L. c. 93A, § 2(a), and applicable regulations found at 940 C.M.R. 21.00 *et seq.*, hereby demands that you **cease and desist the practices described below, effective immediately.** We request that you or your legal representative contact us at your earliest convenience at the phone number below to discuss this demand and to avoid further liabilities under Massachusetts law.

BASIS FOR DEMAND

Direct Eliquid owns, maintains, and/or operates at least two Websites – buyjuul.com and directeliquid.com – that sell “electronic smoking devices” (or “vaping products” or “vaping devices”),¹ and are accessible in Massachusetts. Consequently, Direct Eliquid must comply with M.G.L. c. 93A and the Attorney General’s Regulations on Sales and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts, 940 C.M.R. 21.00 *et seq.* The AGO’s review of your business practices has uncovered that your Websites violate 940 C.M.R. 21.04(4)(a)(ii) by selling electronic smoking devices through the Internet and failing to insure “use of a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.”

¹ The Massachusetts Attorney General’s Regulations define an “electronic smoking device” as: any product that can deliver nicotine to the user through inhalation of vapor. Electronic smoking device includes any component part of such product, including liquid for use in the device regardless of whether the liquid contains nicotine, whether or not sold separately[.] 940 C.M.R. 21.03, *available at* mass.gov/files/documents/2016/08/wj/940-cmr-21-00.pdf.

Specifically, Direct Eliquid's Websites offer a wide variety of vaping products, including those that appear to be vaping products provided by JUUL Labs, Inc. Vaping products ordered from Eliquid's Websites and mailed to Massachusetts consumers do not require an adult (*i.e.*, person of the Minimum Legal Sales Age) to sign for the package, constituting a violation of Massachusetts law. *See* 940 C.M.R. 21.04(a)(4)(ii). Consequently, these Websites fail to comply with the plain requirements of Massachusetts law.²

DEMAND

The Attorney General hereby demands that you immediately cease engaging in the following practices:

Accepting orders from or causing deliveries to be made to any address in the Commonwealth of Massachusetts until you demonstrate to the AGO's satisfaction that all of Direct Eliquid's Websites are in full compliance with 940 C.M.R. 21.04(4)(a).

Failure to cease immediately from engaging in the practices identified above will cause this office to conclude that any such future violations are knowing and willful. Please contact the undersigned Assistant Attorney General at your earliest convenience to discuss these matters. If you are represented by an attorney, please initiate such contact through your attorney.

² In many localities, the Minimum Sales Age is 21. According to the Massachusetts Municipal Association's Municipal Tobacco Control Technical Assistance Program, at least 171 of the 351 cities and towns in Massachusetts have adopted by-laws or local ordinances that require a purchaser of tobacco products to be 21 years or older. These municipalities constitute 71.7% of state's population. In fact, many of these municipalities specifically include the purchase of vaping devices as part of these restrictions, however, such inclusion is not required for purposes of the Attorney General's Regulations. *See, e.g.*, City of Boston, bphc.org/whatwedo/tobacco-free-living/tobacco-regulations/Documents/Youth%20Access%20Regulation.pdf; Town of Medway, townofmedway.org/sites/medwayma/files/uploads/medway_boh_regs_tobacco.pdf; Town of Needham, needhamma.gov/documentcenter/view/16108.

Direct Eliquid LLC
July 23, 2018
Page 3

Thank you for your prompt attention to this matter.

MAURA HEALEY
ATTORNEY GENERAL

By:



Max Weinstein
Assistant Attorney General
Consumer Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2499 (phone)
(617) 727-5765 (fax)
max.weinstein@state.ma.us