



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

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

DEMAND TO CEASE AND DESIST

February 5, 2019

VIA OVERNIGHT MAIL

Kilo Eliquid, Inc.
Registered Agent: James Kim
16831 Knott Ave.
La Mirada, CA 90638

Dear Sir / Madam:

The Office of the Massachusetts Attorney General (“AGO”) having determined that you, KILO ELIQUID, INC. (“Kilo”), located at 16831 Knott Ave, La Mirada, CA 90638, 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 numbers below to discuss this demand and to avoid any further violation of Massachusetts law.

BASIS FOR DEMAND

Kilo owns, maintains, and/or operates at least one Website – kiloeliquids.com – that sells “electronic smoking devices” (or “vaping products” or “vaping devices”),¹ and is accessible in Massachusetts. Consequently, Kilo 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 Age [of at least 21,²] 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, kiloeliquids.com offers a wide variety of vaping products for sale on the internet. However, the purchasing process on kiloeliquids.com does not use any kind of database to verify that the identity of the purchaser or that the age of the purchaser is 21 or older. Instead, a youth can purchase vaping products at kiloeliquids.com simply by entering a wholly unverified date of birth on your website's home page to gain access to the entire website, including its purchase page, so long as the inputted date equates to the purchaser being at least 21 years old. This perfunctory measure does not comply with the plain requirements of Massachusetts law for all purchases. Moreover, packages mailed to consumers from kiloeliquids.com do not require an adult (*i.e.*, a person at least 21 years old) to sign for the package, constituting a further violation of Massachusetts law. *See* 940 C.M.R. 21.04(a)(4)(ii).

Additionally, advertisements for Kilo's "1K" vaping device have appeared on myhomeworkapp.com, a website designed for K-12 students, teachers, and schools. Your device has been featured in an advertisement displayed next to tenth-grade history, English, algebra, and biology assignments.

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). As of December 31, 2018, the Minimum Legal Age to purchase tobacco products in Massachusetts is statutorily 21. St. 2018, c. 157; M.G.L. c. 270, § 6.

DEMAND

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

1. 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 kiloeliquids.com is in full compliance with 940 C.M.R. 21.04(4)(a); and
2. Advertising any of your vaping products on websites directed to people under the age of 21 in the Commonwealth of Massachusetts such as myhomeworkapp.com.

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 Attorneys 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:



Samantha Shusterman
Daniel A. Less
Assistant Attorneys General
Consumer Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2844/2854 (phone)
(617) 727-5765 (fax)
samantha.a.shusterman@mass.gov
daniel.less@mass.gov