Nicotine Product - Frequently Asked Questions

What are HB 1220 and SB 221, and how do they differ?

HB 1220 and SB 221 are complementary South Dakota laws enacted in 2026 that together establish a comprehensive regulatory framework governing nicotine products, with HB 1220 focused on distribution and SB 221 focused on retail sales.

When are the licenses required, and do they expire?

- The Nicotine Distributor license is required starting July 1, 2026. It is valid from July 1 through June 30 each year and must be renewed annually.
- The Nicotine Retailer license is required starting January 1, 2027. It is valid from January 1 through December 31 each year and must be renewed annually.

Who needs a license and what are the requirements?

License Type	Who Needs It	Fees
Nicotine Distributor License	Required for anyone to distribute nicotine products at wholesale unless they already hold a Tobacco Distributor or Tobacco Wholesaler license under SDCL chapter 10-50.	$1,000 per location. Effective July 1, 2026.
Nicotine Retailer License	Required for anyone selling nicotine products directly to consumers, with one license required per retail location. This includes stores and vending machines that sell nicotine products. Each vending machine location must hold its own retailer license.	$300 if more than 50% annual gross income is from sales of nicotine products. $200 if less than 50% annual gross income is from sales of nicotine products. $100 per vending machine. All Nicotine Retailer license fees are effective January 1, 2027.
South Dakota Sales Tax License	Required for all businesses, whether distributor, wholesaler, or retailer, that have a physical or economic presence in South Dakota.	No fee.

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What are considered nicotine products?

- Tobacco products (e.g. cigarettes, cigars, snuff, etc.)
- Vapor products (e.g. vapes and e-cigarettes)
- Alternative nicotine products (e.g. nicotine pouches)

Where do I apply for a license?

Please visit our website at https://apps.sd.gov/rv23cedar/main/main.aspx to apply for any of the licenses mentioned above. Please note the retailer license is not required until January 1, 2027.

Are there filing requirements for a Nicotine Retailer or Nicotine Distributor?

Retailers must report all nicotine sales on their sales tax license. There is no separate filing requirement for Nicotine Distributors.

What are the differences between the tobacco and nicotine licenses?

- Tobacco Distributor (TD): A TD license authorizes a business to sell all tobacco and nicotine products wholesale to licensed retailers. This license is required for businesses that apply South Dakota cigarette tax stamps.
- Tobacco Wholesaler (TW): Used when purchasing already stamped cigarettes from a licensed Tobacco Distributor. A TW license allows businesses to sell all tobacco and nicotine products to licensed retailers.
- Nicotine Distributor (ND): Issued to businesses selling only non-tobacco nicotine products. An ND license allows a business to sell all non-tobacco nicotine products to licensed retailers.

If a business already has a Tobacco Distributor or Tobacco Wholesaler license, is a Nicotine Distributor license required?

No. A business that already holds a Tobacco Distributor (TD) or Tobacco Wholesaler (TW) license under SDCL chapter 10-50 does not need to obtain a separate Nicotine Distributor (ND) license. Those existing licenses meet the requirement to distribute nicotine products for resale. Businesses that are not required to obtain a TD or TW license must apply for an ND license.

Can a Nicotine Distributor, Tobacco Distributor, or Tobacco Wholesaler also be a Nicotine Retailer?

Yes. A Nicotine Distributor, Tobacco Distributor, or Tobacco Wholesaler may also operate as a Nicotine Retailer, as long as they hold both licenses. However, Nicotine Retailer licenses cannot be issued until January 1, 2027.

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Did the license fee increase for a Tobacco Distributor and Tobacco Wholesaler license?

Yes. Beginning July 1, 2026, the fee for a Tobacco Distributor (TD) and Tobacco Wholesaler (TW) license will increase from $150 to $1,000 for both initial applications and annual renewals.

Can nicotine sales be made direct to consumers?

Direct-to-consumer sales of alternative nicotine products only are permitted for Nicotine Distributors, Tobacco Distributors, and Tobacco Wholesalers provided they are properly licensed, comply with age-verification requirements at delivery, and the taxpayer remits all applicable taxes.

Are there any restrictions for Nicotine Retailers?

Yes, there are several restrictions that Nicotine Retailers must follow:

- All nicotine products must be purchased or received from a licensed nicotine distributor, tobacco distributor, or tobacco wholesaler.
- No free samples of nicotine products.
- No packaging designed to look like video games, cartoons, or other youth-appealing themes.
- Vending machines may only be placed in certain licensed alcohol or gaming establishments and must be equipped with an age-verification system.
- Retailers must display required age-verification signage and their valid nicotine retailer license.
- All licensed locations are subject to compliance inspections.

Are there age restrictions on nicotine product sales?

Yes, sales to individuals under 21 years old are prohibited by law.

What penalties could apply?

<u>For Nicotine Retailers:</u>

The following is not an all-inclusive list of penalties, but it includes key requirements:

- Retailers must only purchase nicotine products from licensed Nicotine and Tobacco Distributors or Tobacco Wholesalers. Violations may result in criminal penalties.
- Retailers who sell nicotine products within South Dakota without a license are subject to a fine of $500 per day.
- Civil fines ranging from $500 to $5,500 in addition to license suspension and revocation for other violations.

For Nicotine Distributors:

- Operating as a Nicotine Distributor without the required license or reselling shipped products illegally - Class 1 misdemeanor.
- Failing to maintain required records - Class 2 misdemeanor.
- Civil fines ranging from $1,000 to $5,000, or up to five times the retail value of illegally shipped products.

How do I know if my cigarette/tobacco/nicotine product distributor is properly licensed?

You may ask the distributor for their South Dakota distributor license number. Valid license numbers will begin with either TD, TW, or ND followed by a five-digit number. You may also contact the Department at 1-800-829-9188 to verify whether your distributor is properly licensed.