



american society for
emergency contraception

STATE BY STATE REVIEW: LAWS AND REGULATIONS ON SALE OF OVER-THE- COUNTER PRODUCTS IN VENDING MACHINES

Vending machines are an important method for increasing access to emergency contraception (EC). Vending machines can be located in areas that are most accessible to consumers – near health centers on college campuses, community centers, or any accessible location. [Note that EC must be stored within a certain temperature range (68-77°) therefore, in most places, vending machines should not be placed outdoors.] If you are considering whether vending machines are an option for your campus or community, this guide can help you determine what is allowable in your state.

This document outlines the laws and regulations about the sale of over-the-counter (OTC) medications in all fifty states and the District of Columbia and will help you determine if your state allows for emergency contraception to be sold in a vending machine. This information was compiled for the [American Society for Emergency Contraception](#) by [Public Policy Partners](#) and the [National Health Law Program](#). The research team employed policy surveillance methodology to systematically compile state laws using keyword searches of Westlaw and regulatory databases, developing a coding scheme, independently and blindly analyzing each law and regulation, and upload the analysis for publication. The team's full research protocol can be accessed at <https://lawatlas.org/datasets/emergency-contraception-in-vending-machines>.

General Findings and Notes of Review

How many states allow sales of OTC products in vending machines?

Allowed (49 states plus DC): Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

Prohibited (1 state): Connecticut

What does it mean to say a state "allows" the sale of OTC products in vending machines?

When a state "allows" the sale of OTC products in vending machines, it could mean either that state law or regulation:

1. Expressly authorizes the sale of OTC products in vending machines. In these states, the law or regulation clearly states that vending machine sales are allowed and in what circumstances. Only a minority of states have these laws; or
2. Contains no prohibition on the sale of OTC products in vending machines. This is the most common situation for states. Most states do not have rules or restrictions on the sale of OTC products in vending machines. This means that vending machine sales are allowed as long as other applicable laws are followed (e.g. vending machine licenses).

Many states without restrictions have extra statutory guardrails that could protect the sale of OTC products in vending machines. Common examples are:

- Prohibition on a board of pharmacy from restricting the sale of OTC products by retailers and other non-pharmacy vendors; and
- Prohibition on state and local agencies from interfering in access to contraceptives.

What is an over-the-counter (OTC) product?

An OTC product is a medication or device that has been approved by the federal Food and Drug Administration for sale over-the-counter, without a prescription. OTC products include pain medication like aspirin, antacids, emergency contraception (Plan B One-Step[®] and its generics), condoms, and allergy medication.

When states have laws governing the sale of OTC products in vending machines, sometimes that language is specific to “medication.” This means that the law may not be applicable to “devices” such as condoms. A few states have vending machine laws specific to condoms.

What terminology do state laws use to define OTC products?

Some states use the terminology of “over-the-counter” to describe medication or other products. Other common terms are “nonprescription,” “nonlegend,” and “proprietary medication.”

Do states charge a sales tax on OTC products?

States vary widely. Some states exempt OTC products from sales tax. Other states require that the retailer/vendor collect and remit sales tax on OTC products. In those cases, the sales tax would be built into the price of the vending machine product, so it should be invisible to the consumer.

Do vending machine owners need licenses?

Many states require vending machine owners to obtain a general business license. If a state requires a sales tax on OTC products, the business license might be under a state’s department of revenue and taxation. A few states have specific licenses for vending machines.

Are there any special rules for vending machines on State university and college campuses?

States sometimes have special rules for vendors on State property. States vary in whether State universities and colleges fall under those rules. The rules generally require that the state agency give a first-pass opportunity to specific vendors to establish stores, food stands, or vending machines. Those vendors are participants in state programs to support individuals with disabilities.

Are there any special rules for vending machines in elementary and secondary schools?

This analysis does not include the use of vending machines for dispensing OTC products in elementary and secondary schools. However, it should be noted that many states have rules on the use of vending machine on the grounds of elementary and secondary schools. While these rules primarily address restrictions on the sale of soda and snacks, there could be implications for the use of vending machines for other products. Also, some states have restrictions on the dispensing of contraception on school grounds.

How can I use this 50-State guide?

This guide provides a state-by-state summary of state laws and regulations on the sale of OTC products in vending machines. For each state, we have included:

- Whether vending machine sales of OTC products are permitted; and
- Most relevant sections of state laws or rules. If a state has no restrictions, this might mean that there are no statutes or regulations to reference.

If you need more detailed information on State rules, please go to <https://lawatlas.org/datasets/emergency-contraception-in-vending-machines>. This database contains information on business licenses, OTC sales tax, and rules state agencies may have to follow to determine which vendors can operate on state property. Most vending machine companies and organizations have business offices which can navigate these rules.

Alabama

There are no restrictions on the sale of OTC products in vending machines. See Ala. Code § 34-23-2.

Alaska

There are no restrictions on the sale of OTC products in vending machines. See Alaska Stat. § 08.80.045.

Arizona

Sale of OTC products in vending machines is authorized, and a permit is required. See Ariz. Rev. Stat. §§ 13-3605, 32-1921

Arkansas

There are no restrictions on the sale of OTC medications in vending machines. Vendors must obtain a decal from the state in order to operate. See Ark. Code §§ 17-92-102, 26-57-1204

California

There are no restrictions on the sale of OTC products in vending machines. See Cal. Bus. & Prof. Code § 4057.

Colorado

There are no restrictions on the sale of OTC products in vending machines. See Colo. Rev. Stat. § 12-280-119.

Connecticut

Statute authorizes retailers to sell OTC medications if they have obtained a permit from the Commission of Pharmacy. However, the Commission of Pharmacy has regulations which prohibit the sale of OTC medications through vending machines. See Conn. Gen. Stat. § 20-623, Conn. Agencies Regs. § 20-576-31.

Delaware

There are no restrictions on the sale of OTC products in vending machines. See Del. Code tit. 24, § 2523.

District of Columbia

There are no restrictions on the sale of OTC products in vending machines. See D.C. Code § 24-2885.01.

Florida

There are no restrictions on the sale of OTC products in vending machines. Statute requires the operator of a vending machine to register with the state Department of Revenue and obtain a county-specific registration certificate. See Fla. Stat. §§ 212.0515, 465.027.

Georgia

While pharmacies may not sell OTC medications in vending machines, there are no restrictions for other vendors or retailers. See Ga. Code Ann. §§ 26-4-30, -89.

Hawaii

Hawaii statute does not restrict the sale of OTC medications through vending machines. There is specific statutory authorization for the sale of condoms through vending machines. It should be noted that in Hawaii, regulations from the Department of Health mandate that condoms must be the only product in the vending machine. Therefore, individuals advocating for the sale of EC in vending machines in Hawaii should not include condoms in the same machines. Additionally, condom sales are prohibited in non-college public schools. See Haw. Rev. Stat. §§ 321-115, Haw. Code R. §§ 11-36-1–11-36-8.

Idaho

There are no restrictions on the sale of OTC products in vending machines. See Idaho Code Ann. § 54-1729.

Illinois

There are no restrictions on the sale of OTC products in vending machines. See 225 Ill. Comp. Stat. § 85/4.

Indiana

There are no restrictions on the sale of OTC products in vending machines. See Ind. Code § 25-26-13-29.

Iowa

There are no restrictions on the sale of OTC products in vending machines. See Iowa Code §§ 148.1–.2, 155A.3–.4.

Kansas

Sale of OTC products in vending machines is authorized. It should be noted that statute sets a limit of twelve as the number of OTC products that can be sold in vending machines without a permit. See Kan. Stat. Ann. §§ 65-650, 65-1643, and Kan. Admin. Regs. § 68-3-5.

Kentucky

There are no restrictions on the sale of OTC products in vending machines. See Ky. Rev. Stat. Ann. § 315.040.

Louisiana

There are no restrictions on the sale of OTC products in vending machines.

Maine

Sales of OTC products in vending machines is authorized. It should be noted that no more than 12 different nonprescription drugs may be dispensed by any single vending machine. See Me. Stat. tit. 32, §§ 13751, 13792.

Maryland

On October 1st, 2021 bill HB 107/SB 499 - Prohibition on Vending Machine Sales of Drugs and Medicines – Repeal went into affect allowing for the sale of OTC products in vending machines.

Massachusetts

There are no restrictions on the sale of OTC products in vending machines. In a provision of criminal law that dates back to the 1960's, health care providers (physicians, physician assistants, nurse practitioners, and certified nurse midwives) are authorized to prescribe contraception for the prevention of pregnancy. There is a note in that provision that it does not permit the sale or dispensing of contraceptives by a vending machine. While this may cause some confusion, it does not apply to settings other than offices of physicians, nurse practitioners, nurse-midwives, and physician assistants. When read in context, the prohibition prohibits health care providers from dispensing contraception through vending machines. See Mass. Gen. Laws ch. 112, § 41A, ch. 272, § 21A.

Michigan

There are no restrictions on the sale of OTC products in vending machines. See Mich. Comp. Laws § 333.17770.

Minnesota

There are no restrictions on the sale of OTC products in vending machines. See Minn. Stat. § 151.26.

Mississippi

There are no restrictions on the sale of OTC products in vending machines. See Miss. Code Ann. § 73-21-123.

Missouri

There are no restrictions on the sale of OTC products in vending machines. See Mo. Rev. Stat. § 338.010.

Montana

There are no restrictions on the sale of OTC products in vending machines. See Mont. Code Ann. § 37-7-201.

Nebraska

There are no restrictions on the sale of OTC products in vending machines. See Neb. Rev. Stat. § 38-2850.

Nevada

There are no restrictions on the sale of OTC products in vending machines. See Nev. Rev. Stat. §§ 639.070, 639.270.

New Hampshire

There are no restrictions on the sale of OTC products in vending machines. See N.H. Rev. Stat. Ann. §§ 318:1, 318: 42.

New Jersey

There are no restrictions on the sale of OTC products in vending machines. See N.J. Rev. Stat. § 45:14-72.

New Mexico

There are no restrictions on the sale of OTC products in vending machines. See N.M. Stat. § 61.11.7.

New York

There are no restrictions on the sale of OTC products in vending machines. See N.Y. U.C.C. Law § 6807.

North Carolina

There are no restrictions on the sale of OTC products in vending machines.

North Dakota

There are no restrictions on the sale of OTC products in vending machines. See N.D. Cent. Code § 43-15-02.

Ohio

There are no restrictions on the sale of OTC products in vending machines. See Ohio Rev. Code § 4729.29.

Oklahoma

There is a statute specifically restricting the availability of Plan One-Step and its generic equivalents, but this law was permanently blocked by Oklahoma County District Judge Lisa Davis on January 28, 2014. There are no restrictions in effect on the sale of OTC products in vending machines. See also Okla. Stat. tit. § 59-353.18(E).

Oregon

Statute permits the sale of OTC medication through vending machine if the vendor meets the requirements of the Board of Pharmacy. In regulation, the Board of Pharmacy has established permit requirements for vending machines. See Or. Rev. Stat. §§ 689.305, 689.527, Or. Admin. R. 855-035-0005, -0020.

Pennsylvania

There are no restrictions on the sale of OTC products in vending machines. See 63 Pa. Cons. Stat. § 390-8.

Rhode Island

There are no restrictions on the sale of OTC products in vending machines. See 5 R.I. Gen. Laws § 5-19.1-22.

South Carolina

There are no restrictions on the sale of OTC products in vending machines. See S.C. Code Ann. §§ 40-43-60, 40-43-86, 59-1-405.

South Dakota

There are no current restrictions on the sale of OTC products in vending machines, although the state Board of Pharmacy does have authority to promulgate rules pertaining to the sale of nonprescription drugs. To date, the Board has not issued any such rules. See S.D. Codified Laws § 36-11-11.

Tennessee

Statute allows any nonprescription drug or device to be sold in its original packaging, but it prohibits the sale of drugs through vending machines if the drug can cause physical or mental harm if there is an overdose. See Tenn. Code Ann §§ 53-1-103, 63-10-206. There are no further guidelines on how this restriction is interpreted. Most OTC products are not harmful except in very large quantities, and overdose with levonorgestrel is very unlikely. Nonetheless, it is advised to consult with an attorney before advocating for a vending machine that would sell Plan B One-Step or its generic equivalents.

Texas

There are no restrictions on the sale of OTC products in vending machines. See Tex. Occ. Code § 551.004.

Utah

There are no restrictions on the sale of OTC products in vending machines. See Utah Code § 58-17b-601.

Vermont

There are no restrictions on the sale of OTC products in vending machines. See Vt. Stat. Ann. tit. 26, §§ 2022, 2032, Vt. Code R. 04-030-230-1-1.2.

Virginia

There are no restrictions on the sale of OTC products in vending machines. See Va. Code Ann. §§ 54.1-3301, -3401.

Washington

Statute authorizes “shopkeepers” to sell OTC medication if they have received a permit from the Pharmacy Quality Assurance Commission. Guidance from the Commission specifically authorizes use of vending machines to sell OTC products if the vendor meets the Commission’s requirements. See Wash. Rev. Code §§ 18.64.044, .255, Wash. Admin. Code § 246-945-253. See also <https://www.doh.wa.gov/Portals/1/Documents/2300/2018/POAC-62TechServicesGuide.pdf>.

West Virginia

There are no restrictions on the sale of OTC products in vending machines. See W. Va. Code §§ 30-5-22, -29.

Wisconsin

There are no restrictions on the sale of OTC products in vending machines. See Wisc. Stat. §§ 450.02, .03, .16, .155.

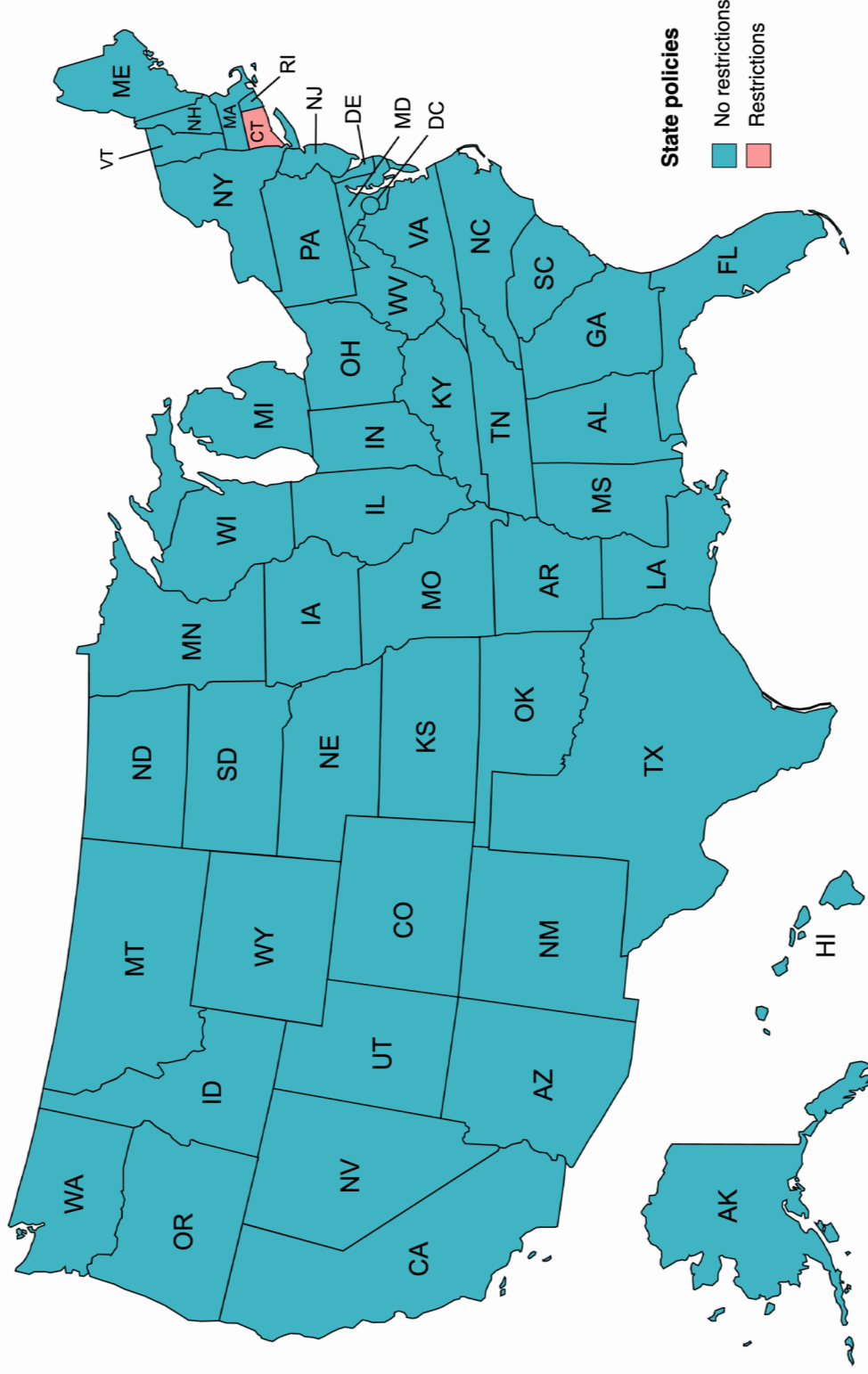
Wyoming

There are no restrictions on the sale of OTC products in vending machines. See Wyo. Stat. Ann. § 33-24-131.

The Bottom Line:

Vending machines provide a confidential way for individuals to access emergency contraception when they need it, without interactions at a pharmacy or clinic that may not be desired. The vast majority of states do not prohibit sale of emergency contraception in vending machines. For more information about how to advocate for a vending machine that includes emergency contraception on college campuses (and beyond), visit ASEC's Emergency Contraception for Every Campus project at www.ec4ec.org.

STATE BY STATE MAP



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