



# Shisha and the law

## Smoking and selling shisha

Selling shisha, displaying shisha and the smoking of shisha is regulated by law in Western Australia.<sup>1</sup> This law is designed to reduce the exposure of people to tobacco smoke from tobacco products that are smoked by other people.

Molasses, herbal and 'tobacco-free' shisha all fall within the legal definition of a tobacco product. The same legal requirements apply to shisha as other tobacco products like cigarettes.

### Smoking shisha

#### Indoors

- Shisha cannot be smoked in an enclosed public place.
- An enclosed public place is a public place which has a ceiling or roof, and is more than 50 per cent enclosed by walls or other vertical structures or coverings. This definition includes an outdoor area that has been enclosed by café blinds.
- A public place is a place that:
  - some or all of the public either use or can use if they:
    - pay money
    - are invited
    - are members of a club or
    - can access in some other way.

#### Outdoor areas – Without liquor licence

- Shisha can only be smoked in an outdoor area where food or drink is not being consumed (i.e. not in an outdoor eating area). An outdoor eating area is an outdoor area that is provided where food and drink can be consumed by people sitting at tables – this includes using any surface as a table.
- If a business provides an outdoor area for the smoking of shisha, it is recommended that signage be displayed making it clear that no food or drink can be consumed in any area where people smoke. This includes food or drink brought from somewhere else.
- If any food or drink is consumed in an outdoor area where shisha is being smoked, staff must ask customers to stop eating or drinking and this must be enforced by the owner.
- Premises without a liquor licence, which only have a permit from the local government to sell food, are not able to create a smoking zone in an outdoor eating area e.g. café, deli, lunch bar.

#### Outdoor areas – With liquor licence

- For premises licensed under the *Liquor Control Act 1988*, shisha can only be smoked in an outdoor eating area if the area is designated as a 'smoking zone'.

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<sup>1</sup> *Tobacco Products Control Act (2006)* and the *Tobacco Products Control Act Regulations (2006)*.

- The exception to this rule is premises with a restaurant liquor licence where the sale of liquor can only be made in addition to the consumption of a meal supplied by the restaurant. Shisha **cannot** be smoked in an indoor or outdoor area that is covered by this type of licence.

**You may incur a \$300 infringement or be prosecuted, where you may also incur a court imposed fine, if you allow shisha to be smoked in an ‘enclosed public place’ or an ‘outdoor eating area’ (which is not a licensed smoking zone).**

## Selling shisha

- You must hold a tobacco seller’s licence (issued by the Department of Health Western Australia) to sell or supply shisha.
- It is against the law to sell any tobacco product to people under 18 years of age. Proof of age ID should be checked if a customer looks under the age of 25 years.

A tobacco seller’s licence is required if a person:

- offers or agrees to sell or supply shisha
- offers shisha in exchange for other goods
- keeps a stock of shisha for sale
- sends or delivers shisha for sale.

## Advertising shisha prohibited

- You must not use the word shisha in any advertising on or in your premises.
- You must not have any pictures, signs, symbols or visual images of any tobacco products or smoking implements including shisha hookahs or water pipes.
- You must not advertise smoking, shisha products or hookahs or water pipes on social media (e.g. Facebook, Instagram, Twitter or on your own webpages).

**For information on how to get a licence, go to the Department of Health web page:**

[ww2.health.wa.gov.au/Articles/S\\_T/Tobacco-sellers-licensing](http://ww2.health.wa.gov.au/Articles/S_T/Tobacco-sellers-licensing)

**If you do not have a licence and you are found selling or supplying shisha:**

- you may be fined \$1,000
- the shisha may be seized or you may be taken to court.

**If you have to go to court, you may be fined up to \$10,000 as a person or \$40,000 as a company.**

## Display of shisha or water pipes/hookahs

- If you hold a retail tobacco licence, you are not allowed to display shisha or any other products which can be smoked.
- It is also against the law to have hookahs or water pipes on display.
- If a customer asks to see these items, you can take them out to show them, but you must put them away afterwards.

**If you hold a tobacco licence and shisha or hookahs are displayed you may:**

- be fined \$1,000
- the goods seized
- or you may be taken to court.

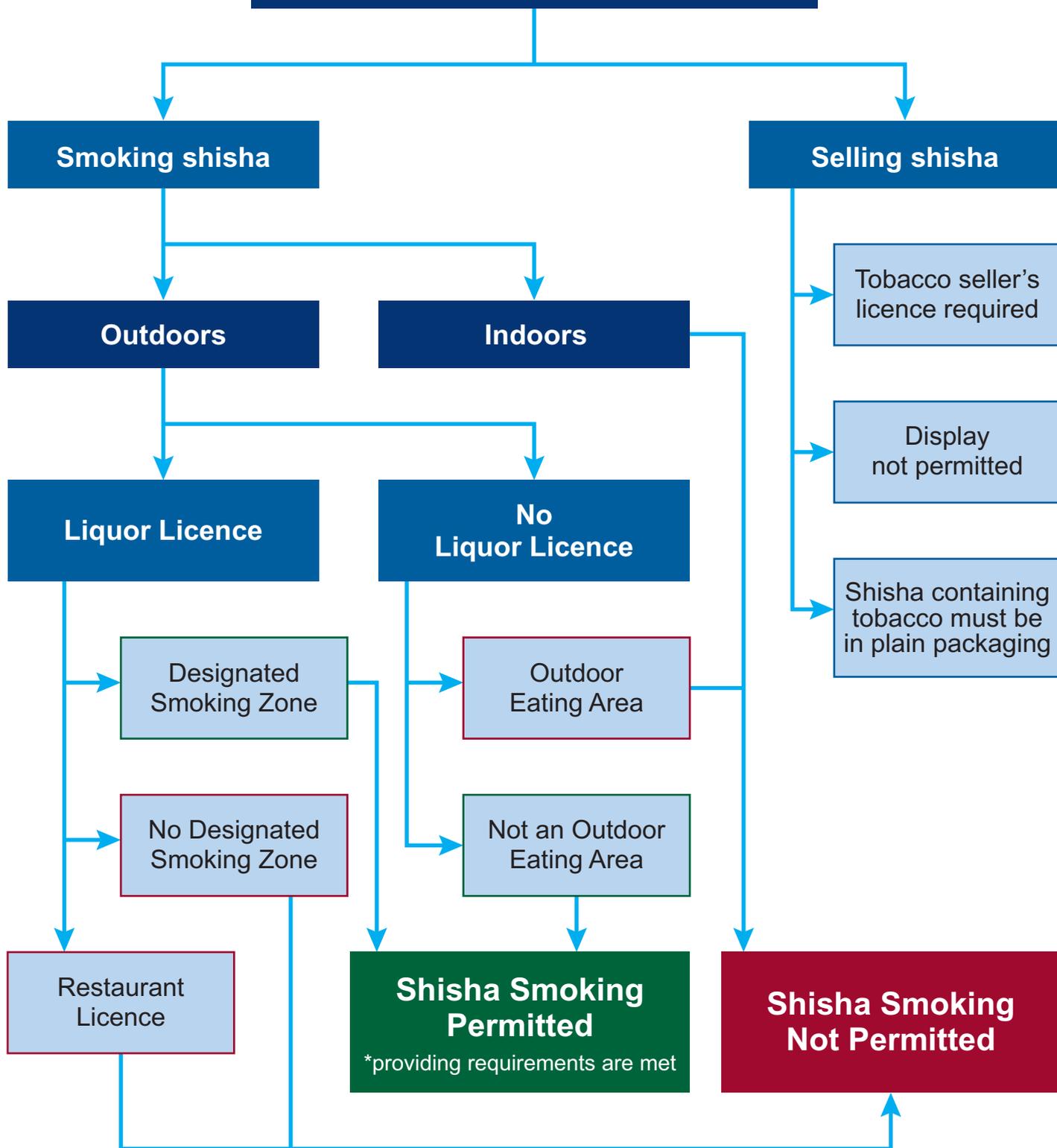
**The court may fine you up to \$50,000.**

## Plain packaging and health warnings on shisha

- Shisha containing tobacco must be packed in plain packaging and labelled with health warnings prior to sale. This is in accordance with Australian Federal Government laws.
- Shisha not containing tobacco does not require plain packaging or a health warning.

**Visit [www.yourhealth.gov.au](http://www.yourhealth.gov.au) for information on plain packaging and health warnings.**

# Shisha and the Law



## More information

For more information contact:

**Tobacco Control Branch**

Telephone: 1300 784 892

Email: [tcb@health.wa.gov.au](mailto:tcb@health.wa.gov.au)

Website: [ww2.health.wa.gov.au/Health-for/Industry-trade-and-business/Tobacco](http://ww2.health.wa.gov.au/Health-for/Industry-trade-and-business/Tobacco)

## Disclaimer:

The information contained in this factsheet has been produced as a guide only. To view full details in the relevant Tobacco Control legislation, visit:

[ww2.health.wa.gov.au/Health-for/Industry-trade-and-business/Tobacco](http://ww2.health.wa.gov.au/Health-for/Industry-trade-and-business/Tobacco)

This document can be made available in alternative formats on request for a person with disability.

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