THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5359 GIBRALTAR Thursday 12th November 2026

SMOKE-FREE GENERATION, NICOTINE PRODUCTS AND SINGLE-USE VAPES (BAN) BILL 2026

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THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5359 GIBRALTAR Thursday 12th November 2026

B. 31/26

BILL

FOR

AN ACT to prohibit the sale of tobacco and tobacco products to certain persons; to prohibit the sale of products imitating tobacco products; to prohibit the importation and sale of oral nicotine products; to prohibit the sale of other nicotine products to certain persons; to prohibit the advertising and sale of single use vapes; and for connected purposes.

ENACTED by the Legislature of Gibraltar.

PART 1
PRELIMINARY

Short title.

1. This Act may be cited as the Smoke-free Generation, Nicotine Products and Single-use Vapes (Ban) Act 2026.

Commencement.

2. This Act comes into operation on the day appointed by the Minister with responsibility for health by notice in the Gazette and different days may be appointed for different provisions and for different purposes.

PART 2
SMOKE-FREE GENERATION

Interpretation of Part.

3. In this Part-

"licence to sell tobacco" means a licence to sell tobacco issued under the Tobacco Act 1997 or any other Act;

"relevant person" means a person who-

(a) was born on or after 1 January 2009 and is a resident of Gibraltar; or

(b) is not a resident of Gibraltar and is under the age of 18 years,

"tobacco" includes tobacco of every description whether manufactured or not;

"tobacco product" means any product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed or consumed in any other way.

Prohibition of sale of tobacco products to relevant persons.

4.(1) A person who sells a tobacco product to a relevant person is guilty of an offence and is liable on summary conviction to a fine up to level 5 on the standard scale.

(2) Without prejudice to subsection (1), if a tobacco product is sold to a relevant person on licensed premises, the licensee of those premises is also guilty of an offence punishable in accordance with section 13.

(3) It is a defence for a person ("P") charged with the commission of an offence under this section by reason of P's own conduct to prove that–

(a) P believed that the person to whom the tobacco was sold was born before 1 January 2009 and that person produced as evidence of their age–

(i) a passport,

(ii) an identity card, or

(iii) a driver's licence, or

(b) the person produced to P, as evidence of their residence being outside Gibraltar, an official document issued by the authorities in a State that-

(i) contains that person's picture; and

(ii) that person's residential address; and

(c) that evidence produced for the purposes of paragraphs (a) or (b) would have convinced a reasonable person.

(4) Where P is charged with an offence under this section by reason of the act or default of some other person, it is a defence that P exercised all due diligence to avoid committing it including the training, monitoring and supervision of staff.

(5) For the purposes of this section, "licensee" means the holder of a licence to sell tobacco products.

Access to tobacco products.

5.(1) No person operating a place of business wherein tobacco products are sold or offered for sale may sell, permit to be sold or display for sale any tobacco products unless they are stored for sale-

(a) behind a counter in an area accessible only to the personnel of that business; or

(b) in a locked container.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of up to level 5 on the standard scale.

Procuring tobacco products.

6.(1) Any person who procures a tobacco product for a relevant person is guilty of an offence and is liable on summary conviction to a fine up to level 3 on the standard scale.

(2) It is a defence for a person ("P") charged with the commission of an offence under this section by reason of P's own conduct to prove that–

(a) P believed that the person to whom the tobacco was sold was born before 1 January 2009 and that person produced as evidence of their age–

(i) a passport,

(ii) an identity card, or

(iii) a driver's licence; or

(b) the person produced to P, as evidence of their residence being outside Gibraltar, an official document issued by the authorities in a State that-

(i) contains that person's picture, and

(ii) that person's residential address; and

(c) that evidence produced for the purposes of paragraphs (a) or (b) would have convinced a reasonable person.

Notice in retail premises.

7.(1) A notice displaying the following statement–

"It is illegal to sell tobacco products to, or to procure tobacco products for, anyone who was born on or after 1 January 2009 and is a resident of Gibraltar.",

must be exhibited at every premises at which tobacco products are sold by retail, and must be so exhibited in a prominent position where the statement is readily visible to persons at the point of sale of the tobacco product.

(2) The dimensions of the notice to be exhibited in accordance with subsection (1) must be at least 297 millimetres by 420 millimetres and the statement must be such that no character is less than 36 millimetres high.

Failure to comply with section 7.

8.(1) Where–

(a) any person carries on a business involving the sale of tobacco products by retail at any premises; and

(b) no notice is exhibited at those premises in accordance with section 7(1); or

(c) the notice exhibited does not conform with the requirements of section 7(2),

that person is guilty of an offence and is liable on summary conviction to a fine up to level 4 on the standard scale.

(2) Where any such offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly.

Vending machines: prohibition of sale.

9.(1) The sale of tobacco products by vending machine is prohibited.

(2) Where a vending machine is found to be offering tobacco products in contravention of subsection (1) the owner of any such machine and the owner or occupier of the premises at which any such machine is so kept are each guilty of an offence and liable on summary conviction to a fine up to level 4 on the standard scale.

(3) Where any such offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly.

Court may impose conditions.

10.(1) Where a complaint is made to the Magistrates' Court in connection with section 9 regardless of whether the complaint is made out or not, the court may order the owner of the vending machine or the owner or occupier of the premises where the vending machine is located to take such steps as may be specified in the order to prevent the further use of the vending machine for the sale of tobacco products.

(2) In making an order under subsection (1) the court may, if it deems it appropriate, order the removal and bar from re-entry of that and any other vending machines from the premises for such periods as it deems fit.

(3) A person who does not comply with an order under this section is guilty of an offence and is liable on summary conviction to a term of imprisonment not exceeding 6 months or to a fine up to level 5 on the standard scale or both.

Protection of young persons

Consumption of tobacco product in a public place.

11.(1) Where a constable has reason to believe that a person is under 18 years old and is or has been consuming a tobacco product in a public place, the constable may require the person concerned to surrender anything in that person's possession which the constable reasonably believes to be a tobacco product as the case may be.

(2) Anything surrendered to a constable under subsection (1) may be disposed of by that constable in such manner as the constable deems appropriate.

(3) A person who fails without reasonable excuse to comply with a requirement imposed on that person by subsection (1) is guilty of an offence and is liable on summary conviction to a fine up to level 1 on the standard scale.

Prohibition on toy or candy tobacco.

12.(1) A person must not-

(a) import or manufacture; or

(b) sell or supply, display for sale or distribute,

sweets, snacks, toys and other non-tobacco items or objects in the form of tobacco, or which imitate tobacco.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of up to level 5 on the standard scale.

Fixed fines and repeat offenders

Fixed fines for licensees.

13.(1) A licensee convicted of an offence under section 4 is liable on summary conviction–

(a) in respect of a first offence, to a fine fixed at £5,000;

(b) in respect of a second offence, to a fine fixed at £10,000; and

(c) in respect of a third or subsequent offence, to a fine fixed at £20,000.

Suspension, revocation of licences.

14.(1) Where a person is convicted of a second offence, the Magistrates' Court, in addition to any other penalty it may impose under this Part, must consider whether to temporarily suspend or revoke a licence to sell tobacco products.

(2) After hearing representations as to whether a licence ought to be temporarily suspended or revoked the Magistrate's Court may either–

(a) suspend a licence for a specified period of time;

(b) revoke under subsection (1) a licence.

(3) Where a person is convicted of a third or subsequent offence the Magistrates' Court, in addition to any other penalty it may impose under this Part, must–

(a) suspend a licence for a specified period of time; or

(b) revoke a licence.

PART 3
SINGLE-USE VAPES

Meaning of single-use vape.

15.(1) In this Part a single use vape is a vape which is not designed or intended to be re-used and includes any vape which is-

(a) not refillable;

(b) not rechargeable; or

(c) not refillable and not rechargeable.

(2) A vape is not refillable unless it is designed to include-

(a) a single use container which is separately available and can be replaced by an individual user in the normal course of use; or

(b) a container which can be refilled by an individual in the normal course of use.

(3) A vape is not rechargeable if it is designed to contain-

(a) a battery which cannot be recharged; or

(b) a coil which is not separately available and not intended to be replaced by an individual user in the normal course of use, including any coil which is contained in a single-use cartridge or pod which is not separately available and cannot be replaced by an individual user in the normal course of use.

(4) For the purposes of this section-

"container" means a cartridge, pod, tank, capsule or any other receptacle designed to hold a vaping substance and to be used with a vape;

"medical device" means any instrument, apparatus, appliance, software, material or other article, whether used alone or in combination, together with any accessories, including the software intended by its manufacturer to be used specifically for diagnosis or therapeutic purposes or both and necessary for its proper application, which-

(a) is intended by the manufacturer to be used for human beings for the purpose of-

(i) diagnosis, prevention, monitoring, treatment or alleviation of disease,

(ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury or handicap,

(iii) investigation, replacement or modification of the anatomy or of a physiological process, or

(iv) control of conception; and

(b) does not achieve its principal intended action in or on the human body by pharmacological, immunological or metabolic means, even if it is assisted in its function by such means,

and includes devices intended to administer a medicinal product or which incorporate as an integral part a substance which, if used separately, would be a medicinal product and which is liable to act upon the body with action ancillary to that of the device;

"medicinal product" means-

(a) any substance or combination of substances presented as having properties of preventing or treating disease in human beings; or

(b) any substance or combination of substances that may be used by or administered to human beings with a view to-

(i) restoring, correcting or modifying a physiological function by exerting a pharmacological, immunological or metabolic action, or

(ii) making a medical diagnosis;

"separately available" means available for purchase by an individual user;

"vape" means a device which-

(i) vaporises substances, other than tobacco, for the purpose of inhalation through a mouthpiece (whether or not it also vaporises tobacco), and

(ii) is not a medical device or a medicinal product;

"vaping substance" means a substance, other than tobacco, that is intended to be vaporised or aerolised with a vape;

"vaporises" includes aerosolises (and "vaporised" is to be construed accordingly).

Prohibition on sale of single-use vapes

16. A person who sells a single-use vape is guilty of an offence and is liable on summary conviction to a fine up to level 5 on the standard scale.

Prohibition on the advertising of single-use vapes.

17.(1) It shall be an offence for any person to publish, print, distribute, procure, offer for sale, or otherwise make available any advertisement for single-use vapes.

(2) It shall be an offence for any person to place any other form of advertisement in any public place, or in any place visible from any public place, or in any club or commercial premises whatsoever in order to advertise single-use vapes.

(3) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine up to level 4 on the standard scale.

Corporate liability under this Part.

18. Where an offence under this Part which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director or manager, of the body corporate or any person purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

PART 4
NICOTINE PRODUCTS

Interpretation of Part.

19. In this Part-

"herbal smoking product" means a product consisting wholly or partly of vegetable matter and intended to be smoked but not containing tobacco;

"medical device" means any instrument, apparatus, appliance, software, material or other article, whether used alone or in combination, together with any accessories, including the software intended by its manufacturer to be used specifically for diagnosis or therapeutic purposes or both and necessary for its proper application, which-

(a) is intended by the manufacturer to be used for human beings for the purpose of-

(i) diagnosis, prevention, monitoring, treatment or alleviation of disease,

(ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury or handicap,

(iii) investigation, replacement or modification of the anatomy or of a physiological process, or

(iv) control of conception; and

(b) does not achieve its principal intended action in or on the human body by pharmacological, immunological or metabolic means, even if it is assisted in its function by such means,

and includes devices intended to administer a medicinal product or which incorporate as an integral part a substance which, if used separately, would be a medicinal product and which is liable to act upon the body with action ancillary to that of the device;

"medicinal product" means-

(a) any substance or combination of substances presented as having properties of preventing or treating disease in human beings; or

(b) any substance or combination of substances that may be used by or administered to human beings with a view to-

(i) restoring, correcting or modifying a physiological function by exerting a pharmacological, immunological or metabolic action, or

(ii) making a medical diagnosis;

"oral nicotine product" has the meaning given in section 29;

"nicotine product" has the meaning given by section 20;

"tobacco product" has the meaning given in section 3;

"vape" means-

(a) a device which-

(i) vaporises substances, other than tobacco, for the purpose of inhalation through a mouthpiece (whether or not it also vaporises tobacco), and

(ii) is not a medical device or a medicinal product; or

(b) an item which is intended to form part of a device within paragraph (a) (including anything intended to be attached to it with a view to imparting flavour);

"vaping product" means-

(a) a vape; or

(b) a vaping substance;

"vaping substance" means a substance, other than tobacco, that is intended to be vaporised by a vape;

"vaporises" includes aerosolises (and "vaporised" is to be construed accordingly).

Meaning of nicotine product.

20.(1) In this Part "nicotine product" means-

(a) a device which is intended to enable nicotine to be delivered into the human body;

(b) an item which is intended to form part of a device within paragraph (a);

(c) nicotine, or any substance containing nicotine, which is intended to be delivered into the human body; or

(d) an item containing anything within paragraph (c).

(2) The following are not "nicotine products" for the purposes of subsection (1)-

(a) a tobacco product;

(b) a herbal smoking product;

(c) any device which is intended to be used for the consumption of tobacco products or herbal smoking products;

(d) a vaping product;

(e) a medical device;

(f) a medicinal product;

(g) an oral nicotine product.

Offence of selling nicotine products to under 18s.

21.(1) A person who sells a nicotine product to a person under the age of 18 years (the "relevant person") is guilty of an offence and is liable on summary conviction to a fine up to level 5 on the standard scale.

(2) It is a defence for a person ("P") charged with the commission of an offence under this section by reason of P's own conduct to prove that–

(a) P believed that the relevant person was aged 18 or over; and

(b) the relevant person produced as evidence of their age–

(i) a passport;

(ii) an identity card; or

(iii) a driver's licence; and

(c) that evidence would have convinced a reasonable person.

(3) Where P is charged with an offence under this section by reason of the act or default of some other person, it is a defence that P exercised all due diligence to avoid committing it including the training, monitoring and supervision of staff.

Notice in premises where nicotine products are sold.

22.(1) A notice displaying the following statement–

"It is illegal to sell nicotine products to, or procure nicotine products for, anyone under the age of 18 in circumstances prohibited by law.",

must be exhibited at every premises in which nicotine products are sold, and shall be so exhibited in a prominent position where the statement is readily visible to persons at the point of sale of the nicotine product.

(2) The dimensions of the notice to be exhibited in accordance with subsection (1) must be at least 297 millimetres by 420 millimetres and the statement shall be such that no character shall be less than 36 millimetres high.

Failure to comply with section 22.

23.(1) Where–

(a) any person carries on a business involving the sale of nicotine products at any premises; and

(b) no notice is exhibited at those premises in accordance with section 22; or

(c) the notice exhibited does not conform with the requirements of section 22,

that person shall be guilty of an offence and liable on summary conviction to a fine up to level 4 on the standard scale.

(2) Where any such offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Use of nicotine products by persons under 18 years in public places.

24.(1) Where a constable has reason to believe that a person under 18 years is or has been using, or intends to use a nicotine product in a public place, the constable may require the person concerned to surrender anything in that person's possession which the constable reasonably believes to be a nicotine product.

(2) A constable may dispose of anything surrendered to him under subsection (1) in such manner as the constable deems appropriate.

(3) A person who fails without reasonable excuse to comply with a requirement imposed on him by subsection (1) is guilty of an offence and liable on summary conviction to a fine up to level 1 on the standard scale.

Notice on vending machine.

25.(1) A notice displaying the following statement–

"This machine is only for the use of people aged 18 or over."

shall be exhibited on every automatic machine for the sale of nicotine products which is kept available for use as such at any premises, and shall be so exhibited in such a way that the statement is readily visible to persons using the machine.

(2) The dimensions of the notice to be exhibited in accordance with subsection (1) shall be at least 60 millimetres by 100 millimetres and the statement shall be such that no character shall be less than 6 millimetres high.

Failure to comply with section 25.

26.(1) Where–

(a) a person is the owner of any such machine which is so kept or the owner or occupier of the premises at which any such machine is so kept; and

(b) no notice is exhibited on the machine in accordance with section 25; or

(c) the notice exhibited does not conform with the requirements of section 25,

that person shall be guilty of an offence and liable on summary conviction to a fine up to level 4 on the standard scale.

(2) Where any such offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part

of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Permitting use of vending machines.

27. Where a person under the age of 18 years obtains a nicotine product from an automatic vending machine in contravention of the provisions of this Act, the owner or occupier of the premises where the vending machine is located may each be proceeded against for the purposes of section 21 of this Act.

Court may impose conditions.

28.(1) Where a complaint is made to the Magistrates' Court in connection with section 27 regardless of whether the complaint is made out or not, the court may order the owner of the vending machine or the owner or occupier of the premises where the vending machine is located to take such steps as may be specified in the order to prevent the further use of the vending machine by persons under 18 years of age.

(2) In making an order under subsection (1) the court may, if it deems it appropriate, order the removal and bar from re-entry of that and any other vending machines from the premises for such periods as it deems fit.

(3) A person who does not comply with an order under this section is guilty of an offence and is liable on summary conviction to a term of imprisonment not exceeding 6 months or to a fine up to level 5 on the standard scale or both.

PART 5
ORAL NICOTINE PRODUCTS

Interpretation of Part.

29. In this Part-

"oral nicotine product" means a pouch, sachet, packet, strip, pearl, pellet or similar product-

(a) containing nicotine, whether naturally occurring or synthetic;

(b) which does not contain tobacco;

(c) which is intended to be placed in the mouth for the absorption of nicotine; and

(d) which is not a medicinal product;

"tobacco" has the meaning given in section 3;

"medicinal product" has the meaning given in section 19.

Prohibition on importation and sale of oral nicotine product.

30.(1) It shall be unlawful for any person to import, sell, offer for sale, or possess for the purpose of sale any oral nicotine product.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

PART 6
MISCELLANEOUS

Regulations.

31. The Minister with responsibility for health may by regulations-

(a) amend section 15 (meaning of single use vape);

(b) amend section 20 (meaning of nicotine product);

(c) amend the definition of "oral nicotine product" in section 29 (interpretation);

(d) make such other consequential amendments as may be required as a result of any amendments made further to paragraphs (a), (b) and (c).

Amendments to other enactments.

32. The enactments listed in the Schedule are repealed or amended as set out in the Schedule.

Transitional and savings provisions.

33.(1) Proceedings for an offence under any enactment that is repealed or otherwise amended by this Act, that had commenced before the commencement of this Act, must continue as if that enactment had not been repealed or amended.

(2) If proceedings for an offence committed under any of the repealed Acts have not been commenced at the commencement of this Act, if there is an equivalent offence under this Act, proceedings must be brought under this Act.

(3) Notwithstanding section 16, a person may, during the transitional period, sell, offer for sale, expose for sale, or possess for the purpose of sale any single-use vape if the product was lawfully imported into Gibraltar before the date of commencement of section 16.

(4) Notwithstanding section 30, a person may, during the transitional period, sell, offer for sale, expose for sale, or possess for the purpose of sale any oral nicotine product if the product was lawfully imported into Gibraltar before the date of commencement of section 30.

(5) For the purposes of this section-

"oral nicotine product" has the meaning given in section 29;

"single-use vape" has the meaning given in section 15;

"transitional period" means-

(a) in relation to subsection (3), the period of 3 months beginning with the date of the commencement of section 16; and

(b) in relation to subsection (4), the period of 3 months beginning with the date of the commencement of section 30.

SCHEDULE
Amendments To Other Enactments

Section 32

Children Young Persons (Alcohol, Tobacco, Vaping Products and Gaming) Act 2006

1. The provisions of the Children Young Persons (Alcohol, Tobacco, Vaping Products and Gaming) Act 2006 listed in the first column of the table below are repealed or otherwise amended as set out in the second column-

Provision	*Amendment*
The long title	omit ", tobacco"
Section 1	omit ", tobacco"
Section 2	in the definition "licensed premises" omit paragraph (b)
	omit the definition "licence to sell tobacco"
	omit the definition "tobacco"
The heading to Part II	for "Tobacco and vaping" substitute "Vaping"
Section 9	in the heading omit "tobacco or"
	in subsection (1) omit "tobacco or"
	subsection (1A) is repealed
	in subsection (2B) omit "tobacco or"
Section 10	in the heading for "Consumption of tobacco or use" substitute "Use"
	in subsection (1)- paragraph (a) is repealed; and in the tailpiece omit "which contains, or which the constable reasonably believes to contain tobacco or"
Section 10A	in the heading omit "tobacco or"
	in subsection (1) omit "tobacco or" on both occasions those words appear
Section 10B	this section is repealed
Section 11	in the heading omit "tobacco or"
	in subsection (1) omit "tobacco or"
Section 12	subsection (1) is repealed
	in subsection (2) for "subsections (1) and (1A)" substitute "subsection (1A)"
Section 13	in subsection (1)(a) omit "tobacco or"
Section 14	in subsection (1) omit "tobacco or"
Section 16	omit "tobacco or"
Section 17B	After section 17A insert the following section- "**Single-use vapes.**

	17B. Nothing in this Part permits the sale of single-use vapes contrary to the provisions in Part 3 of the Smoke-free Generation, Nicotine Products and Single-use Vapes (Ban) Act 2026".

Tobacco Act 1997.

2. In the Tobacco Act 1997-

(a) in section 6(6)-

(i) in paragraph (d) for "The Drugs (Misuse) Act" substitute "Part 21 Crimes Act 2011";

(ii) in paragraph (g) for "Section 9 of the Children and Young Persons (Alcohol, Tobacco and Gaming) Act 2006" substitute "Section 4 or 9 of the Smoke-free Generation, Nicotine Products and Single-use Vapes (Ban) Act 2026.";

(b) in section 7(1)(d) for "The Drugs (Misuse) Act" substitute "Part 21 Crimes Act 2011".

EXPLANATORY MEMORANDUM

Part 2 of the Bill provides for there to be a smoke-free generation. Clause 4 prohibits the sale of tobacco products to persons that are born on or after 1 January 2009 and are residents of Gibraltar.

Clauses 5 to 14 largely restate the provisions in Children and Young Persons (Alcohol, Tobacco and Gaming) Act 2006 that relate to tobacco.

Part 3 of the Bill relates to single-use vapes. Clause 16 prohibits the sale and clause 17 prohibits advertising of single-use vapes.

Part 4 of the Bill restricts the sale of nicotine products to persons who have attained 18 years of age. Restrictions on sale are coupled with notice requirements and provisions that apply to vending machines.

Part 5 of the Bill prohibits the importation, sale, offer to sell, or possession for the purposes of sale of oral nicotine products that are not medicinal products.

The Bill includes transitional provisions permitting the continued sale of lawfully imported single-use vapes and oral nicotine products for a period of three months following the commencement of the relevant prohibition, in order to allow existing stock to be exhausted.

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