



Dear Local Business Owner/Manager:

On June 9, 2016, California became the second state to change its tobacco minimum-age sales law to 21 years old for tobacco, e-cigarettes and vaping products.* **It is now illegal to sell both tobacco products and electronic smoking devices to persons under 21 years of age.**

Anyone who sells tobacco must post new **STAKE Act** signage at or near where tobacco products and/or electronic smoking devices are sold. We have provided you with new legal tobacco signs that will help you comply with the law. Please replace all outdated signs with the new signs. Attached are some additional merchant resources, including the following:

1. New California Tobacco Laws Summary Sheet
2. What is the STAKE Act?
3. ID Verification Sheet for Tobacco Sales in California
4. Tobacco Laws – Merchant Reminders Checklist
5. Tobacco Retailers: Things to Remember
6. STAKE Act Signage Information Sheet
7. What is a “tobacco product” under California Law?
8. STAKE Act Age of Sale Warning Sign Sticker
9. We Check ID Window Cling

These resources are available for your convenience online on the California Department of Public Health, California Tobacco Control Program website at the following URL:
<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/Pages/Tobacco21.aspx>

Tobacco retailers are responsible for knowing and complying with all federal, state, and local laws regarding the sale and distribution of tobacco products.

Thank you for complying with California tobacco sales laws. If you should have any questions regarding this matter, please feel free to contact the California Tobacco Control Program at (916) 449 – 5500.

Sincerely,

San Joaquin County Public Health Services
Health Promotion and Chronic Disease Prevention Unit

***On December 20, 2019, the President signed legislation to amend the Federal Food, Drug, and Cosmetic Act, and raise the federal minimum age of sale of tobacco products from 18 to 21 years. It is now illegal for a retailer to sell any tobacco product – including cigarettes, cigars and e-cigarettes – to anyone under 21, *with no exemption for military personnel*. The California Tobacco Control Branch will be updating the materials available on their web page in the near future to reflect the change in federal law.**

New California Tobacco Laws

Effective June 9, 2016

Minimum Legal Age

- Age of sale for tobacco products raised from 18 to 21.

Electronic Cigarettes

- Electronic cigarettes now considered tobacco products.
- Cannot be used in restaurants, theaters, bars and other places where smoking has long been banned.
- Cannot be marketed to minors.

Smoking in the Workplace

- Ban on smoking in workplaces now includes warehouses, gambling clubs, motel lobbies, covered parking lots and other public areas left out of the existing law.

Tobacco Use in Schools

- All schools required to be tobacco-free, including charter schools, public school facilities and offices.

Effective January 1, 2017

Cigarette and Tobacco Product Licensing

- Annual CA Department of Tax and Fee Administration tobacco licensing fee program established.
- Licensing fee for tobacco retailers raised from a one-time \$100 charge per location to \$265 annually.
- Annual fee for distributors and wholesalers increased from \$1,000 to \$1,200.

Questions?

Please contact the California Tobacco Control Program at (916) 449 – 5500, or visit: <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/Pages/Tobacco21.aspx>

What is the STAKE Act?

STAKE Act

The “**Stop Tobacco Access to Kids Enforcement Act**” or **STAKE Act**¹ prohibits the giving, furnishing or selling of tobacco products (e.g. cigarettes, cigars) including tobacco paraphernalia (e.g., zig-zags, blunt wraps) to minors (under 21 years of age).

Tobacco Laws & Minors

- It is illegal for a minor to possess, purchase or receive tobacco products or paraphernalia.²
- Self-service of tobacco products is illegal. Cigarettes and tobacco paraphernalia must be kept locked or behind the counter where they cannot be reached by children or adults. Tobacco stores have some exceptions.³
- Cigarette vending machines are prohibited.⁴
- Identification must be checked for anyone who appears to be under 27 years old.⁵

Flavored Tobacco

- Cigarettes and their component parts (including the tobacco, filter, or paper) must not contain any flavoring with the exception of menthol and tobacco flavors.⁶

Electronic Cigarettes

- In California, it is illegal to sell or give electronic cigarettes (including vape pens and hookah pens) to minors.⁷

Packaging

- Cigarettes must be sold in packs of 20 or more – it is illegal to sell single cigarettes.⁸
- It is illegal to sell loose tobacco packages of less than 0.60 ounces.⁹
- Cigarettes must be in original packages.¹⁰

Licensing

- A valid tobacco retail license must be displayed with your current address on it. The Board of Equalization issues these and requires proof that your tobacco stock taxes have been paid.
- Every point of sale (cash register) must have a STAKE Act sign. You may put one on the door of the cigarette cabinet, but you still need the sign posted at **each cash register**. The easiest option is to use the free official California version.

For more information, call: **1-800-527-5443** or visit:

<https://www.cdph.ca.gov/Programs/CEH/DFDCS/Pages/FDBPrograms/STAKEProgram.aspx>

1. CA Penal Code 308(a).

2. CA Penal Code Section 308(b).

3. CA Bus. & Prof. Code Section 22962.

4. 421 Code of Federal Regulations Section 1140.14, 1140.16.

5. 521 United States Code Section 333, 372, 387a-1, 21 Code of Federal Regulations Section 1140.14.

6. 921 United States Code Section 333, 372, 387g.

7. CA Health & Safety Code § 119405.

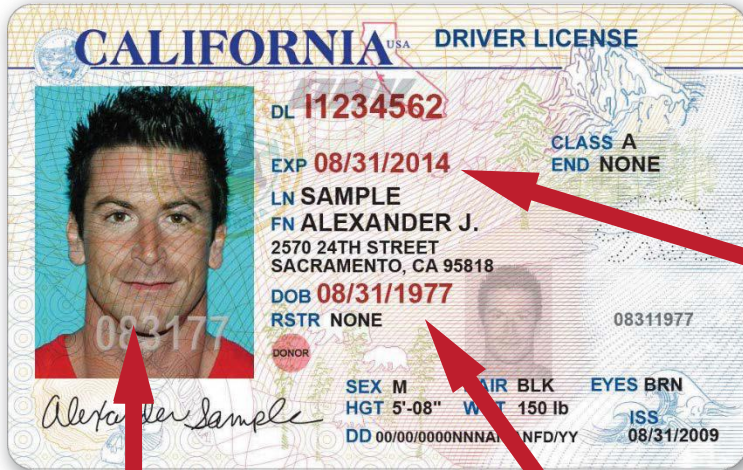
8. United States Code Section 333, 372, 387a-1, 21 Code of Federal Regulations Section 1140.16.

9. CA Penal Code Section 308.3.

10. CA Penal Code Section 308.2

ID Verification for Tobacco Sales in California

21 or Over



1. Check the **picture** first. See that it matches the person.

2. Check the **date of birth (DOB)**. Make sure the person is at least 21 years old.

3. Check the **expiration date**. Make sure the ID has not expired.

Under 21



Active Duty United States Armed Forces ID: Common Access Card (CAC) 18 or Over



Check **DOB** on back of card. Make sure the person is at least 18 years old.

Tobacco Laws – Merchant Reminders Checklist

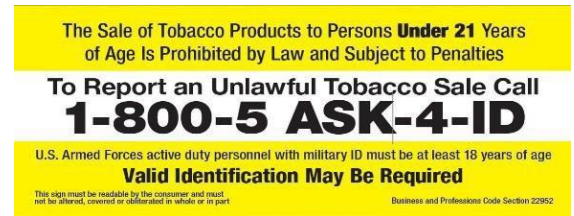
Photo ID

- Penalties for a tobacco sale to anyone under the age of 21 under the California STAKE Act are up to \$6,000.
- Employees are required to ask for a valid government issued photo ID from anyone who looks younger than age 27 (driver's license, state ID, passport, or military ID).
- Here is a sample driver's license ID sticker to remind employees to check for IDs. The red line indicates the year the person turns 21.



STAKE Act signs

- Must be posted at every register.
- Penalties for not posting the STAKE Act are up to \$500.
- Under the STAKE Act, the storeowner, not the employee, pays the fine.



Licensing

All tobacco retailers must be licensed annually by the CA Department of Tax and Fee Administration (CDTFA)

- A current CDTFA license must be displayed where it is visible to the public. For more information, contact 1-800-400-7115.
- Not posting the state license may result in a \$500 penalty.



Tobacco products out of public reach

- All tobacco products and paraphernalia must be locked or kept behind the counter, out of the public's reach.

E-Cigarette displays out of public reach

- It is illegal to sell e-cigarettes to anyone under the age of 21.
- Keeping e-cigarettes out of the public's reach prevents children and teens from having easy access to these products.



Tobacco Retailers: Things to Remember

Self-Service Displays



Self-service displays allow customers to access tobacco products without help from a clerk. Self-service tobacco displays are against the law.

Behind the Counter Tobacco Display



Putting tobacco products behind the counter is a smart way to protect your inventory and make sure your merchandise is not stolen.

Locked Tobacco Display



Locked tobacco displays are the best way to prevent items from being stolen.

The Sale of Tobacco Products to Persons **Under 21** Years of Age Is Prohibited by Law and Subject to Penalties

To Report an Unlawful Tobacco Sale Call
1-800-5 ASK-4-ID

U.S. Armed Forces active duty personnel with military ID must be at least 18 years of age
Valid Identification May Be Required

This sign must be readable by the consumer and must not be altered, covered or obliterated in whole or in part

Business and Professions Code Section 22952

Every business that sells tobacco must post a STAKE Act age-of-sale warning sign where tobacco sales take place, such as near a cash register. Posting this sign is required by law.

Cigarettes



It is **illegal** to sell cigarettes individually.

Smokeless Tobacco



The legal age to buy any tobacco product is **21** years and up.

Cigars



E-Cigarettes (also known as Hookah Pens and Vapes)

Selling e-cigarettes to anyone under **21** is **against the law**.



CA Department of Tax and Fee Administration Tobacco Retailer License

CALIFORNIA STATE BOARD OF EQUALIZATION
CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003
RETAILER'S LICENSE

LICENSE NUMBER: _____

BUSINESS MAILING ADDRESS: _____

LOCATION ADDRESS: _____

EFFECTIVE DATE: _____

THIS LICENSE HAS BEEN ISSUED TO YOU UNDER "DURATION" BEGINNING WITH SECTION 23070 OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE. NOT VALID AT ANY OTHER BUSINESS ADDRESS.

IS HEREBY AUTHORIZED TO ENGAGE IN THE SALE OF CIGARETTES AND TOBACCO PRODUCTS. THIS LICENSE IS VALID FOR THE EFFECTIVE DATE OR UNTIL SUSPENDED, REVOKED, OR CANCELLED. LICENSE IS NOT TRANSFERABLE. FOR GENERAL TAX QUESTIONS PLEASE TELEPHONE OUR TAXPAYER INFORMATION SECTION AT 916-424-7115 (TFF) 7115. FOR INFORMATION ON YOUR RIGHTS, CONTACT THE TAXPAYER RIGHTS INQUIRY OFFICE AT 916-324-2794 OR 916-324-2798. BOC-442-LR REV. 3-0-11

Tobacco retailers **must display** the Cigarette and Tobacco Products Retailer's License **where the public can easily read it**. Failure to do so is a fine.

As of June 9, 2016, penalties for not posting an **UPDATED STAKE ACT** age-of-sale warning sign are up to \$500.

ALLOWED ✓

An Age-of-sale warning sign must be posted at **EACH register**. A sign stating that selling tobacco products to anyone under 21 years of age is illegal and subject to penalties must be posted at each cash register. The sign must include the “1-800-5 ASK-4-ID” phone number. (B&P Code Section 22952(b) and PC Section 308(b)).

A STAKE Act Age of Sale Warning Sign posted at EACH CASH REGISTER **complies with California Law.**



NOT ALLOWED (UP TO \$500 FINE) ✗

This Age of Sale Warning Sign **is no longer valid.**

Please discontinue use of this sign!
This Age of Sale Warning Sign **does NOT comply with current California Law.**

You risk being fined up to \$500



A STAKE Act Age of Sale Warning Sign with a “We Card Sign” posted at **EACH CASH REGISTER** **complies with California Law.**



The We Card Sign provided by the tobacco industry **alone does NOT comply with California Law.**

You risk being fined up to \$500



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<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/Pages/Tobacco21.aspx>

What is a “ tobacco product” under California law?

California state law expanded the definition of tobacco products. A tobacco product is (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, (2) any electronic vaping device (whether or not it contains nicotine), or (3) any component, part, or accessory of a tobacco product, whether or not sold separately. For example, e-cigarettes, atomizers, vaping tanks or mods, and “e-liquid” or “e-juice” are tobacco products. But products like nicotine patches that the U.S. Food & Drug Administration has approved as cessation products or for other therapeutic purposes are not included. [Business and Professions Code Section 22950.5 (d)]

Tobacco Products Include:



Cigarettes



Cigars



Little Cigars/Cigarillos



Smokeless Tobacco



Electronic Cigarettes



Vape Pens



E-liquids



Hookah



Vape Tanks/Mods



Vape Atomizer



Vaporizers



E-hookah

NOTICE TO EMPLOYEES

Effective June 9, 2016, California Law prohibits tobacco product sales (including e-cigarettes) to anyone under 21 years of age. U.S. Armed Forces active duty military personnel with military ID must be at least 18 years of age. To comply with California law, the following policy is effective immediately:

THIS STORE WILL NOT SELL TOBACCO PRODUCTS TO ANYONE UNDER 21 YEARS OF AGE.

A tobacco product is: (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption; (2) any electronic smoking device (whether or not it contains nicotine); or (3) any component, part, or accessory of a tobacco product, whether or not sold separately. For example, atomizers, vaping tanks or mods, and “e-liquid” or “e-juice” are tobacco products. A tobacco product does not include any product that the U.S. Food & Drug Administration has approved as a cessation product or for other therapeutic purposes in which the product is marketed and sold solely for such an approved purpose. For example, nicotine patches are not tobacco products. [Business and Professions Code Section (B&P) Section 22950.5 (d)]

SELLING TOBACCO PRODUCTS TO ANYONE UNDER 21 YEARS OF AGE CAN RESULT IN A FINE OR PENALTY.

BEFORE SELLING ANY TOBACCO PRODUCT, YOU MUST CHECK THE ID OF ANYONE WHO APPEARS TO BE UNDER 27 YEARS OF AGE.

- A valid ID is one is issued by a federal, state, county or municipal government agency that contains the person’s picture, name, date of birth, description, and it must be not be expired.
- A valid military ID is issued by the U.S. Armed Forces indicates that the person is on Active Duty and contains the person’s picture, name, date of birth, and must not be expired.

If a customer complains about this policy, please point to the age-of-sale warning sign and explain that California law prohibits the sale of tobacco products to anyone under 21 years of age.

Failure to adhere to this policy will result in disciplinary action.

Signature

Date