



Minimum Sale Age and Electronic Smoking Devices

A Summary for Retailers

21

Two new California laws immediately affect tobacco retailers, including vape shops. They include changes to the Stop Tobacco Access to Kids Enforcement (STAKE) Act and California Penal Code Section 308.

As of June 9, 2016, retailers must comply with the following laws.

1. Retailers can sell tobacco products or paraphernalia only to individuals who are at least 21 years old.¹
2. The laws that apply to the sale of traditional tobacco products like cigarettes also apply to the sale of electronic smoking devices like e-cigarettes.²

**NEW
CA
LAW**

**The sale of
tobacco products
including e-cigs
is prohibited to
persons under 21.**

Learn more at tobaccofreeca.com

For free help in quitting call

1-800-NO BUTTS

Retailer Requirements

TOBACCO SALES

It is **ILLEGAL** to sell tobacco products or paraphernalia to any person under 21 years of age. Tobacco products include electronic smoking devices, atomizers, vaping tanks or mods, and e-liquids.

- Retailers can accept only a valid, unexpired government-issued photo ID (driver's license, state ID, passport, military ID).
- Exception: Active duty military personnel who are at least 18 years old are exempt, but they must show a valid, unexpired ID card issued by the United States Armed Forces.

WARNING SIGNS

Under the STAKE Act, retailers **MUST** post the new Age-of-Sale Warning Sign, which states that the minimum sale age is 21 years.

SELF-SERVICE DISPLAYS

It is **ILLEGAL** to have a self-service display of tobacco products or paraphernalia in your store (including electronic smoking devices, atomizers, vaping tanks or mods, and e-liquids). A self-service display is any display that allows customers to access items without help from the retailer.

- Exception: A tobacco store may have self-service displays of cigars in packages of 6 or more in the original wrapping, pipe tobacco, snuff, chewing tobacco, and dipping tobacco. This exception does not apply to electronic smoking devices or e-liquids, or their components, parts, or accessories. A tobacco store is a store that (1) generates more than 60% of its gross annual revenue from the sale of tobacco products and paraphernalia; (2) does not sell alcohol or food for consumption on the premises; and (3) prohibits minors from entering unless that person is accompanied by his or her parent or legal guardian.

Federal law states that retailers *MUST* check ID for tobacco product purchasers who appear to be younger than 27 years old.

NEW LICENSING REQUIREMENTS

By January 1, 2017, any retailer that sells electronic smoking devices must apply to the State Board of Equalization (BOE) for a license.³ The new licensing requirement applies only to retail locations that do not already have a state license to sell tobacco products.

Beginning January 1, 2017, existing tobacco retailers are subject to an annual \$265 license renewal fee. For questions regarding licensing requirements, please contact BOE Customer Service at 1-800-400-7115.



What are tobacco products and tobacco paraphernalia?

A TOBACCO PRODUCT IS

- any product containing, made, or derived from tobacco or nicotine that is intended for human consumption;
- any electronic smoking device (whether or not it contains nicotine); or
- any component, part, or accessory of a tobacco product, whether or not sold separately.

For example, atomizers, vaping tanks or mods, and e-liquids are tobacco products. Tobacco product does not include any product that the United States Food & Drug Administration (FDA) 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.

TOBACCO PARAPHERNALIA INCLUDES

cigarette papers or wrappers, pipes, cigarette rolling machines, and other instruments or products designed for the smoking or ingestion of tobacco products. For example, atomizers, vaping tanks or mods, and e-liquids are also tobacco paraphernalia.

Tobacco retailers are responsible for knowing and complying with all federal, state, and local laws regarding the sale and distribution of tobacco products. This summary does not include all federal, state, and local laws that apply to tobacco retailers.

For more information please visit:

www.cdph.ca.gov/programs/Pages/STAKEProgram.aspx

1. Senate Bill No. 7, 2015-16 2d Extraordinary Sess., Amending Cal. Bus. & Prof. Code § 22958(a) (civil penalties) and Cal. Penal Code § 308(a) (civil and criminal penalties) (Ca. 2016), available at https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520162SB7.
2. Senate Bill No. 5, 2015-16 2d Extraordinary Sess., Amending Cal. Bus. & Prof. Code §§ 22950.5(c)-(d) (Ca. 2016), available at https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520162SB5.
3. Cal. Bus. & Prof. Code §§ 22973.3, 22980.2; Assembly Bill No. 11, 2015-16 2d Extraordinary Sess., Amending Cal. Bus. & Prof. Code §§ 22973(a)-(e) (Ca. 2016), available at http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520162AB11.

