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State of California—Health and Human Services Agency
California Department of Public Health



GAVIN NEWSOM
Governor

November 8, 2022

Dear Tobacco Retailer/Wholesaler/Distributor:

NEW TOBACCO LAW THAT AFFECTS CALIFORNIA RETAILERS

Effective upon certification of the vote, the California Health and Safety Code (HSC) Section 104559.5 prohibits the sale of most flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, as well as tobacco product flavor enhancers in retail stores and vending machines in California. This letter contains a summary of the law and information about online resources to help you learn about and comply with the new law.

SUMMARY OF NEW STATE TOBACCO LAW

HSC Section 104599.5:

- Prohibits a tobacco retailer, or any of the tobacco retailer's agents or employees, from selling, offering for sale, or possessing with the intent to sell or offer for sale most flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, as well as tobacco product flavor enhancers.
- Defines a “flavored tobacco product” as any tobacco product that contains an ingredient that imparts a “characterizing flavor.”
- Defines a “characterizing flavor” as a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. This may include but is not limited to tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, dessert, menthol, mint, wintergreen, herb, or spice.
- Defines a “tobacco product flavor enhancer” as a product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to a tobacco product.
- The law does not apply to flavored premium cigars with a wholesale price of \$12 or more and flavored loose-leaf pipe tobacco. Flavored

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shisha/hookah tobacco may only be sold in licensed stores that only allow people 21 or older on the premises at any time.

- Licensed stores must also operate in accordance with all state or local laws relating to the sale of tobacco and consumption of tobacco on the premises (for hookah retailers that permit consumption of tobacco on the premises).

Under this new tobacco law, a tobacco retailer, their agents, or employees who violates this law will be guilty of an infraction and fined \$250 for each violation.

Please visit the California Department of Public Health (CDPH) website at <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/Pages/TobaccoRetailersResources.aspx> for more detailed information.

REMINDER: CALIFORNIA LAW PROHIBITS TOBACCO SALES TO PEOPLE UNDER AGE 21

The Stop Tobacco Access to Kids Enforcement (STAKE) Act, prohibits the sale and furnishing of tobacco products to persons under the age of 21 (Business and Professions Code Division 8.5). A “tobacco product” is any product containing, made or derived from tobacco or nicotine that is intended for human consumption, an electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, and any tobacco product component, part, or accessory, whether or not they contain nicotine or are sold separately. For example, atomizers, tobacco rolling papers, vaping tanks or mods, and e-liquids are all tobacco products [Business and Professions Code Section 22950.5 (d)(1)].

MATERIALS TO HELP YOU COMPLY WITH THE LAW

CDPH has developed the following resources to assist your transition with implementing the law and made them available on the CDPH website at <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/Pages/TobaccoRetailersResources.aspx>.

- Frequently Asked Questions (FAQ): California’s Flavored Tobacco Sales Law
- California’s Flavored Tobacco Sales Law Factsheet
- Tobacco Control Laws that Affect California Retail Businesses 2021
- California Retailers and Tobacco Law Training

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

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Local jurisdictions may have more restrictive ordinances. If a local ordinance is more restrictive than state law regarding sales of flavored tobacco products, then retailers in that jurisdiction must abide by the stronger local ordinance.

Thank you for complying with California tobacco sales laws. If you have any questions, please contact the California Tobacco Control Program at (916) 449-5500 or CTCPinbox@cdph.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Tomás Aragón". The signature is written in a cursive, flowing style.

Tomás J. Aragón, MD, DrPH
Director and State Public Health Officer
California Department of Public Health