

City, State, and Federal Laws Every Tobacco Retailer Should Know

City of Gilroy Laws

Tobacco Retail License Required (Ordinance #2014-14)

- Any business within the city that sells tobacco products, including electronic smoking devices, is required to obtain and maintain a valid Tobacco Retailer's Permit, and comply with all requirements under this local city ordinance. Some of these requirements include:
 - No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.
 - Persons engaged in tobacco retailing shall not permit smoking inside or in any adjacent outdoor area owned, leased, or operated in the permitted premises. In addition, no person engaged in tobacco retailing shall permit smoking within twenty (20) feet of any doorway, window, opening, or other vent into the permitted premises.
 - Prohibits issuance of new tobacco retail permits to retailers that would be operating within 1000 feet of a school (excluding those operating at the time the ordinance went into effect).

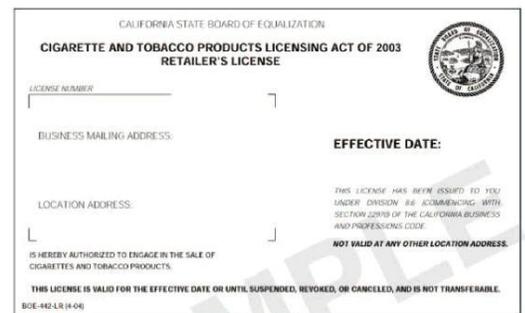
Tobacco Retail License Fines & Penalties (Ordinance #2014-14)

	1 st Violation	2 nd Violation within 5 years	3 rd Violation within 5 years
Selling Tobacco Without a Permit	No permit for 30 days	No permit for 1 year	No permit for 5 years
Selling Tobacco Product or Paraphernalia to a Minor	Fine up to \$1,000	Fine up to \$2,500	Fine up to \$5,000
	Permit suspension for up to 30 days	Permit suspension for up to 60 days	Possible revocation of permit

California Laws

Selling Tobacco

- Definition of "tobacco product" now includes any electronic smoking device.** This definition includes any component, part, or accessory, including cartridges and solutions, whether or not they contain nicotine, or whether they are sold separately. For example, electronic smoking devices, atomizers, vaping tanks or mods, and e-liquids are tobacco products (CA Business and Professions [B&P] Code Section 22950.5(d)).
- Each retailer must obtain and annually renew a California Cigarette and Tobacco Products License from the Board of Equalization (BOE).** By January 1, 2017, any retailers that sells electronic smoking devices must apply for the BOE license, if they do not already have a valid license. Additionally, existing tobacco retailers and newly licensed electronic smoking device vendors are subject to a \$265 annual fee for license renewals. For questions regarding licensing requirements, please contact the BOE Customer Service at 1-800-400-7115. The license must also be displayed where it is visible to the public. (B&P Code Section 22973.3)
- Minimum sale age for tobacco products.** Retailers can sell tobacco products and paraphernalia only to individuals who are at least 21 years old. There is one exception: the minimum sale age remains 18 for active duty military personnel with an identification card issued by the United States Armed Forces (B&P Code Section 22958 and Penal Code (PB) Section 308(a)).
- It's against the law to sell single cigarettes.** (PC 308.2 & 308.3) Cigarettes must be sold in sealed and properly labeled packaging.
- It is against the law to sell, offer for sale, distribute or import bidis** (except where minors under the age of 21 are not allowed). (PC 308.1) Bidis are hand-rolled cigarettes containing tobacco wrapped in temburu/tendu leaf.



Posting Signs

- **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 “1800-5 ASK-4-ID” phone number (B&P Code Section 22952(b) and PC Section 308(b)).
***NOTE: The We Card sign provided by the tobacco industry does not meet the state law requirements.*



Displaying Tobacco

- **Tobacco self-service displays are against the law.** Retailers cannot have self-service displays of tobacco products or paraphernalia (including electronic smoking devices, e-liquids, and components, parts, or accessories). A self-service display is a display of tobacco products and paraphernalia that allows access to the product by customers without the help from a clerk (B&P Code Section 22962).
 - However, a tobacco store may have self-service displays of cigars in packages of six or more in the original wrapping, pipe tobacco, snuff, chewing tobacco, and dipping tobacco (B&P Code Section 22962 (c)).
 - A tobacco store is defined as a store that generates more than 60% of its gross annual revenue from the sale of tobacco products and paraphernalia, does not sell alcohol or food for consumption on the premises, and prohibits minors from entering unless that person is accompanied by his or her parent or legal guardian (B&P Code Section 22962 (a)(4)).

Advertising

- **No more than 33% of the square footage of windows and clear (glass) doors of an alcohol retailer may have advertising signs of any sort, including tobacco** (California Business and Professions Code 25612-25169). The law applies only to retailers with an off-sale premises license to sell alcoholic beverages.
- **Storefront signs advertising tobacco may not be more than 14 square feet** (Master Settlement Agreement).

Federal Laws

The Family Smoking Prevention and Tobacco Control Act (the “2009 FDA Law”) gives the U.S. Food and Drug Administration authority to regulate products that contain tobacco. The law contains a number of restrictions on tobacco sales and marketing, sets product standards, and requires the tobacco industry to report certain information to the FDA (Family Smoking Prevention and Tobacco Control Act).

Selling Tobacco:

- **Checking ID.** Retailers are required to check ID for anyone who looks younger than 27 years of age that attempts to purchase tobacco products, including electronic smoking devices (21 United States Code Sections 333, 372, 387a-1, 387(d)).
- **No sale of flavored cigarettes.** Retailers may not sell flavored cigarettes, cigarette tobacco, or roll-your-own cigarette tobacco, other than menthol, including in the “component parts” of the product (filter, paper, etc.).
- **No breaking apart a package to sell or distribute** in a quantity smaller than the smallest package size.
- **No sales of cigarette packages that contain fewer than 20 cigarettes.**
- **No tobacco vending machines or self-service displays;** retailers may only sell in a direct, face-to-face exchange.
- **No giveaways of free tobacco products.** Retailers may not give away free samples of tobacco products, including electronic smoking devices, and any of the products components or parts.

Additional Resources

- State Tobacco Laws: http://www.changelabsolutions.org/sites/default/files/2016_CA_Law_Booklet_FINAL_201611.pdf
- Federal Tobacco Laws: <http://www.fda.gov/TobaccoProducts/>
- Santa Clara County Tobacco-Free Communities Program: www.sccphd.org/tobaccofree

Fact Sheet provided by the Santa Clara County Department of Public Health, Tobacco Free Communities Program.
Sobrato Center for Non-profits - San Jose, 1400 Parkmoor Avenue, Suite 120B, San Jose CA 95126