



# Tobacco Laws

Sources: Change Lab Solutions <http://www.changelabsolutions.org/>  
 Contra Costa County Office of Education

## SCHOOLS & STUDENTS

Policy	Description	Enforcement/Penalty
<b>SCHOOLS</b>  United States Code Section 6083	It is illegal under federal law to permit smoking within any indoor facility utilized for kindergarten, elementary, or secondary education or library services for children.	<b>Enforcement:</b> The U.S. Department of Education is authorized to enforce this law. A school may use its general power over its property to enforce no-smoking rules against visitors and its general power over its terms of employment to enforce no-smoking rules against employees. A school may use its normal disciplinary powers to enforce no-smoking rules against students. <b>Penalty:</b> Civil penalty of up to \$1,000 for each violation and/ or may be subject to an administrative compliance order.
<b>STUDENT POSSESSION AND USE</b>  California Education Code Section 48901	No elementary or secondary school shall permit its students to smoke or use tobacco or nicotine products while the students are on campus, attending school-sponsored activities, or under the supervision and control of school district employees.	<b>Enforcement:</b> Not specified except to say that the governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking. <b>Penalty:</b> Not specified.
<b>TOBACCO-FREE CAMPUS POLICIES</b>  California Health and Safety Code Section 104420(n)(2)	Each school district and county office of education that receives Proposition 99 tobacco control funding (TUPE) must adopt and enforce a tobacco-free campus policy. The policy shall prohibit the use of tobacco products at all times in district owned/leased buildings, on district property, and in district vehicles.	<b>Enforcement:</b> The California Department of Education monitors the school districts and county offices of education that receive Proposition 99 funding. <b>Penalty:</b> Any school district or county office of education that does not have a tobacco-free policy on July 1 of any given year is not eligible to apply for Proposition 99 funds (TUPE) for that fiscal year

## TOBACCO & MINORS

Policy	Description	Enforcement/Penalty
<p><b>TOT LOTS AND PLAYGROUNDS</b></p> <p>California Health and Safety Code Section 104495</p>	<p>Smoking of tobacco products is prohibited within 25 feet of a playground or tot lot sandbox area. The disposal of tobacco-related waste, such as cigar and cigarette butts, in these areas is also prohibited. A playground is defined as a park or recreational area.</p>	<p><b>Enforcement:</b> Local law enforcement agencies have the general authority to enforce this law under California Penal Code Section 830.1.</p> <p><b>Penalty:</b> Infraction and subject to a fine of \$250 per violation.</p>
<p><b>SMOKING IN VEHICLES WITH CHILDREN</b></p> <p>California Health and Safety Code Sections 118947–118949</p>	<p>It is illegal to smoke or possess a lighted pipe, cigar, or cigarette containing tobacco or any other plant in any motor vehicle in which there is a minor (under 18 years of age), regardless of whether the vehicle is in motion or at rest.</p>	<p><b>Enforcement:</b> A law enforcement officer may not stop a vehicle for the sole purpose of determining whether the driver is violating this prohibition.</p> <p><b>Penalty:</b> Infraction punishable by a fine not exceeding \$100 per violation.</p>
<p><b>SALES TO MINORS:</b></p> <p>PENAL CODE 308 California Penal Code Section 308(a)</p>	<p>It is unlawful for any person, firm, or corporation to sell, give, or in any way furnish to a minor any tobacco product or paraphernalia if that person, firm, or corporation knows or should otherwise have grounds to know that the recipient is a minor. This law may be enforced against a business owner or an employee.</p>	<p><b>Enforcement:</b> A city attorney, county counsel, or district attorney may bring a civil action to enforce the law. Local law enforcement agencies have the general authority to enforce this law.</p> <p><b>Penalty:</b> Misdemeanor or a civil action punishable by a fine of \$200 for 1<sup>st</sup> offense, \$500 for 2<sup>nd</sup> offense, and \$1,000 for 3<sup>rd</sup> offense.</p>
<p><b>ID CHECK REQUIREMENT</b></p> <p>THE TOBACCO CONTROL ACT 21 United States Code Sections 333, 372, 387a-1, 387f(d) 21 Code of Federal Regulations Section 1140.14(b)</p>	<p>Tobacco retailers must verify that a purchaser of cigarettes or smokeless tobacco is 18 years of age or older through a photo identification card containing the individual's date of birth.</p>	<p><b>Enforcement:</b> The U.S. Department of Health and Human Services (HHS) is authorized to enforce this provision with the help of other federal agencies and state governments.</p> <p><b>Penalty:</b> Civil penalty of up to \$15,000 for each violation and up to \$1 million for multiple violations ruled on in a single proceeding.</p>

## PACKAGING & ADVERTISING

<p><b>SINGLE CIGARETTES</b></p> <p>California Penal Code Section 308.2</p>	<p>No person may sell one or more cigarettes, other than in a sealed and properly labeled package. A sealed and properly labeled package.</p>	<p><b>Enforcement:</b> Local law enforcement agencies have the general authority to enforce this.</p> <p><b>Penalty:</b> Civil penalty of \$200 for 1<sup>st</sup> violation, \$500 for a 2<sup>nd</sup> violation, and \$1,000 for each subsequent violation</p>
<p><b>MINIMUM PACKAGE SIZE</b></p> <p>California Penal Code Section 308.3</p>	<p>Cigarettes may not be manufactured, distributed, sold, or offered for sale in packages of fewer than 20 cigarettes. Roll-your-own tobacco may not be manufactured, distributed, sold, or offered for sale in a package containing less than 0.60 ounces of tobacco.</p>	<p><b>Enforcement:</b> A civil action to enforce the law may be brought by the state Attorney General, a district attorney, a county counsel, or a city attorney. Local law enforcement agencies have the general authority to enforce this law.</p> <p><b>Penalty:</b> Civil penalty of \$200 for 1<sup>st</sup> violation, \$500 for 2<sup>nd</sup> violation, and \$1,000 for each subsequent violation.</p>
<p><b>“LIGHT,” “LOW,” AND “MILD” TOBACCO PRODUCTS</b></p> <p>THE TOBACCO CONTROL ACT 21 United States Code Sections 333, 372, 387k</p>	<p>Descriptors similar to and including “light,” “low,” and “mild” are prohibited in all advertising, labeling, and marketing of cigarettes and smokeless tobacco products.</p>	<p><b>Enforcement:</b> The U.S. Department of Health and Human Services is authorized to enforce this provision with the help of other federal agencies and state governments.</p> <p><b>Penalty:</b> Civil penalty for intentionally purporting to meet tobacco product standards of up to \$250,000 for each violation and up to \$1 million for multiple violations ruled on in a single proceeding.</p>
<p><b>Ban on Flavored Cigarettes or Cigarette Components</b></p> <p>THE TOBACCO CONTROL ACT 21 United States Code Sections 333, 372, 387g</p>	<p>Cigarettes and their component parts (including the tobacco, filter, or paper) must not contain any artificial or natural flavor (other than tobacco or menthol) or an herb or spice. <i>Exception: Tobacco flavor and menthol are excluded from this provision. This provision does not apply to tobacco products other than cigarettes.</i></p>	<p><b>Enforcement:</b> The U.S. Department of Health and Human Services is authorized to enforce this provision with the help of other federal agencies and state governments.</p> <p><b>Penalty:</b> Civil penalty of up to \$15,000 for each violation and up to \$1 million for multiple violations ruled on in a single proceeding.</p>
<p><b>OUTDOOR ADVERTISING</b></p>	<p>Tobacco companies are prohibited from engaging in outdoor advertising of tobacco</p>	<p><b>Enforcement:</b> The state Attorney General (AG) is authorized to enforce these provisions.</p>

<p>Master Settlement Agreement</p>	<p>products, defined as (1) billboards; (2) signs and placards in arenas, stadiums, shopping malls, and video game arcades; and (3) any other tobacco advertisements that are outdoors, or on the inside surface of a window but facing outward. <i>Exception: The MSA and STMSA do not restrict: Advertisements that are 14 square feet or smaller, and are either outside a tobacco retail store but on store property, or on the window of a tobacco retail store facing outward.</i></p>	<p><b>Penalty:</b> The AG may seek a court order to enforce these provisions or stop a violation of the provisions. If such an order is violated, the AG may pursue monetary compensation, civil contempt charges, or criminal sanctions. The parties must first attempt to resolve alleged violations through discussion.</p>
<p><b>STOREFRONT ADVERTISING</b></p> <p>California Business and Professions Code Sections 25612.5(c)(7), 25617, 25619</p>	<p>No more than 33 percent of the square footage of windows and clear (e.g., glass) doors of an alcohol retailer may have advertising signs of any sort, including tobacco.</p>	<p><b>Enforcement:</b> This law may be enforced by the California Department of Alcoholic Beverage Control and by local law enforcement agencies. <b>Penalty:</b> Misdemeanor or 6 months in jail.</p>
<p><b>BLUNT WRAPS ADVERTISING</b></p> <p>California Business and Professions Code Sections 22958(a), 22962 (STAKE Act) California Penal Code Section 308</p>	<p>No person or business may place advertising for blunt wraps lower than four feet above the floor. No person or business offering blunt wraps for sale may place blunt wrap advertising within two feet of a candy, snack, or nonalcoholic beverage display. This law may be enforced against a business owner only and not against an employee.</p>	<p><b>Enforcement:</b> The state Attorney General, a city attorney, a county counsel, or a district attorney may bring a civil action to enforce this law. <b>Penalty:</b> Civil penalty of \$400-\$600 for 1<sup>st</sup> violation; \$900-\$1,000 for 2<sup>nd</sup> violation within a five-year period; \$1,200-\$1,800 for 3<sup>rd</sup> violation within a five-year period; \$3,000-\$4,000 for 4<sup>th</sup> violation within a five-year period; and \$5,000- \$6,000 for a 5<sup>th</sup> or subsequent violation within a five-year period.</p>
<p><b>CARTOON CHARACTERS</b></p> <p>Master Settlement Agreement</p>	<p>The settling tobacco companies are prohibited from using cartoons in tobacco advertising, promoting, labeling, and packaging.</p>	<p><b>Enforcement:</b> The state Attorney General (AG) is authorized to enforce these provisions. <b>Penalty:</b> The AG may seek a court order to enforce these provisions or stop a violation of the provisions. If such an order is violated, the AG may pursue monetary compensation, civil contempt charges, or criminal sanctions.</p>

<p><b>YOUTH TARGETING</b></p> <p>Master Settlement Agreement</p>	<p>This law prohibits paid commercial advertising for tobacco (e.g., tobacco product brand names, trademarks, or copyrighted slogans) and alcohol in video games intended for either private use or use in a public establishment, and intended primarily for use by any person under the age of 18 years.</p>	<p><b>Enforcement:</b> Local law enforcement agencies have the general authority to enforce this law.</p> <p><b>Penalty:</b> Violators are guilty of a misdemeanor.</p>
<p><b>TELEVISION/RADIO CIGARETTE ADVERTISING</b></p> <p>Code Sections 1335, 1338, 1339</p>	<p>This law prohibits advertising cigarettes or little cigars (defined by weight) on any medium of electronic communication subject to the jurisdiction of the U.S. Federal Communications Commission (FCC) (such as television and radio). <i>Exception: This law does not apply to regular size cigars.</i></p>	<p><b>Enforcement:</b> The U.S. Attorney General may seek an injunction in federal court against violators to prevent future violations of this law.</p> <p><b>Penalty:</b> Misdemeanor punishable by a fine of not more than \$10,000.</p>
<p><b>TELEVISION/RADIO SMOKELESS TOBACCO ADVERTISING</b></p> <p>Code Sections 4402, 4404, 4405</p>	<p>This law prohibits advertising smokeless tobacco on any medium of electronic communication subject to the jurisdiction of the U.S. Federal Communications Commission (FCC)</p>	<p><b>Enforcement:</b> The U.S. Attorney General may seek an injunction in federal court against violators to prevent future violations of this law.</p> <p><b>Penalty:</b> Misdemeanor punishable by a fine of not more than \$10,000.</p>
<p><b>Ban on Misleading Consumers About U.S. FOOD AND DRUG ADMINISTRATION (FDA) Endorsements</b></p> <p>THE TOBACCO CONTROL ACT 21 United States Code Sections 331 (tt), 333, 372</p>	<p>It is illegal to make any express or implied statement to consumers in tobacco product labeling or through the media or advertising that would mislead consumers into believing that a tobacco product is: 1. Approved by the FDA; 2. Endorsed by the FDA; 3. Deemed safe by the FDA; or 4. Less harmful due to FDA regulation.</p>	<p><b>Enforcement:</b> The U.S. Department of Health and Human Services is authorized to enforce this provision with the help of other federal agencies and state governments. <b>Penalty:</b> Civil penalty of up to \$15,000 for each violation and up to \$1 million for multiple violations ruled on in a single proceeding.</p>
<p><b>PRODUCT PLACEMENT</b></p> <p>Master Settlement</p>	<p>The settling tobacco companies may not pay for product placement in movies, television,</p>	<p><b>Enforcement:</b> Local law enforcement agencies have the general authority to enforce this law under California Penal</p>

Agreement	theater, video games, music videos, concerts, or other performances.	Code Section 830.1. <b>Penalty:</b> Violators are subject to a fine of up to \$200 for 1 <sup>st</sup> violation; \$500 for 2 <sup>nd</sup> violation; and \$1,000 for 3 <sup>rd</sup> or subsequent violation.
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## E-CIGARETTES

Policy	Description	Enforcement/Penalty
<b>Electronic Cigarettes</b>  California Health and Safety Code Section 119405	It is illegal to sell or otherwise furnish an electronic cigarette (e-cigarette) to a person under 18 years of age.	<b>Enforcement:</b> Local law enforcement agencies have the general authority to enforce this law under California Penal Code Section 830.1.  <b>Penalty:</b> Violators are subject to a fine of up to \$200 for 1 <sup>st</sup> violation; \$500 for 2 <sup>nd</sup> violation; and \$1,000 for 3 <sup>rd</sup> or subsequent violation.
<b>Tobacco-Free Schools Policy (LOCAL)</b>	All of our TUPE Consortium Districts (Antioch Unified, Byron Union, Mt. Diablo Unified, Pittsburg Unified, and West Contra Costa Unified), as well as the Contra Costa County Office of Education prohibit the use of e-cigarettes on all district owned or leased property. Please see district policy for specific language and enforcement procedures.	