

Focus Area 27: Tobacco Use

Objective 27-15. Increase the number of States that suspend or revoke State retail licenses for violations of laws prohibiting the sale of tobacco to minors. Target = 51 states [State Data Source: State Tobacco Activities Tracking and Evaluation (STATE) System, CDC, NCCDPHP, OSH]

In September 1994, California's Stop Tobacco Access to Kids Enforcement (STAKE) Act was signed into law creating Business & Professions Code 22950 - 22960 to address the increase in tobacco sales to minors and fulfill the 1992 federal mandate (Section 1926 of Title XIX of the federal Public Health Service Act, commonly called the Synar Amendment). The Synar Amendment required states to pass and enforce laws that prohibit the sale of tobacco to individuals under 18 years of age. It also required that federal alcohol and substance abuse block grant funding be applied to enforcing state law in a manner that could reasonably be expected to reduce the illegal sales rate of tobacco products to minors.

The STAKE Act created a new statewide enforcement program to take regulating action against businesses that illegally sell tobacco to minors. Authority for enforcement and responsibility for implementation of the program was delegated to the Department of Health Services (now the Department of Public Health), Food & Drug Branch (FDB). The Act required DHS to implement an enforcement program to reduce the illegal sale of tobacco products to minors, and to assess civil penalties against the store owner for violations. Suspension or revocation of retail business licenses for violations of the STAKE Act were not addressed. California Penal Code Section 308(a) specifies that:

- It is unlawful to knowingly sell, give, or in any way furnish cigarettes or tobacco products to persons under 18 years of age. In the case of vending machines, the person who authorizes the installation or placement of a tobacco vending machine is liable for any sale to a minor;
- Each offense is subject to either criminal action as a misdemeanor or to civil action, punishable by a fine of \$200 for the first offense, \$500 for the second offense, and \$1,000 for the third offense;
- A minor who purchases, receives or possesses any tobacco products may be punished by a fine of \$75 or 30 hours of community service;
- Businesses that sell tobacco products must post a warning sign at each point of sale stating that selling tobacco products to minors is illegal and subject to penalties. Warning signs must include a toll-free telephone number (1-800-ASK-4-ID) that customers may use to report observed tobacco sales to youth under the age of 18;

- Any business that fails to post such a sign shall, upon conviction, be punished by a fine of ten dollars (\$10) for the first offense and fifty dollars (\$50) for each succeeding violation of this provision of this provision, or by imprisonment for not more than 30 days; and

- A city or county may not adopt an ordinance or regulation inconsistent with this action.

Some California communities have taken additional steps to further stem illegal tobacco sales by issuing revocable licenses to businesses that sell cigarettes, cigars and chewing tobacco. In those communities, tobacco retailers caught selling to minors are fined and can ultimately have their licenses to sell tobacco suspended. Over 60 other communities in California are using this approach, and all have seen a decline in rates of sales of tobacco and tobacco products to minors: Berkeley: rates dropped from 38.0% to 5.8%; Elk Grove: rates dropped from 17.0% to 10.0%; Sacramento: rates dropped from 27.0% to 7.0%; San Luis Obispo: rates dropped from 17.0% to 2.0%. In addition, Yolo County passed its own ordinance in August of 2006, requiring a license for all vendors in unincorporated jurisdictions of the County.

For more information on California's laws prohibiting the sale of tobacco to minors, please visit:

<http://www.cdph.ca.gov/programs/Tobacco/Pages/default.aspx>

<http://www.cdph.ca.gov/programs/Pages/STAKEBackground.aspx>

and the CDC's State Tobacco Activities Tracking and Evaluation (STATE) System Web site at: <http://apps.nccd.cdc.gov/StateSystem/index.aspx>

For more information on Healthy People 2010 objective 27-15, please visit:

<http://www.healthypeople.gov/Document/HTML/Volume2/27Tobacco.htm>

And the DATA2010 Web site at: <http://wonder.cdc.gov/data2010/>