



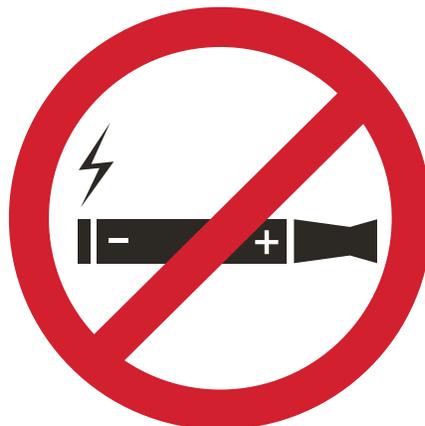
Smoke-free Protections in the Workplace and Electronic Smoking Devices

A Summary for Employers and Owner-Operated Businesses

Two new California laws immediately affect employers and owner-operated businesses. They include changes to California Labor Code section 6404.5, California's Clean Indoor Air Law.

As of June 9, 2016, employers and owner-operated businesses must comply with the following laws.

1. Certain areas and workplaces previously exempt under the Clean Indoor Air Law must now be smoke-free.¹
2. Electronic smoking devices cannot be used anywhere cigarette smoking is prohibited under state law.²



Additional Areas Must be Smoke-free, *Including Use of Electronic Smoking Devices*

SMOKING IS PROHIBITED IN THE FOLLOWING PLACES

(which were previously exempt under the law):

- ⊘ Owner-operated businesses (even if the owner-operator of the business works alone with no other employees, independent contractors, or volunteers)
- ⊘ Small businesses (five or fewer employees)
- ⊘ Warehouses
- ⊘ Breakrooms
- ⊘ The following areas of hotels, motels, and similar transient lodging establishments:
 - All areas of the lobby
 - All areas of meeting and banquet rooms
 - 80% of guestrooms (previously, only 35% of guestrooms were required to be smoke-free)
- ⊘ Covered parking lots

EMPLOYER AND OWNER-OPERATED BUSINESS REQUIREMENTS

It is **ILLEGAL** for an employer or owner-operated business to allow any person to smoke in an enclosed space (with only certain exemptions).

- Smoking includes the use of an electronic smoking device, whether or not it contains nicotine. For example, the use of e-cigarettes and vape pens is prohibited.
- Smoking includes marijuana smoking, including medical marijuana.

Violators are subject to penalties set forth in the Clean Indoor Air Law. To avoid a violation, employers and owner-operated businesses should post clear and prominent No Smoking signs.



Remaining Exemptions

THE CLEAN INDOOR AIR LAW CONTAINS A FEW EXEMPTIONS FOR PLACES NOT REQUIRED TO BE SMOKE-FREE UNDER STATE LAW.

- Private residences, except for licensed family daycare homes
- Cabs of motor trucks or truck tractors, only if nonsmoking employees are not present
- Theatrical production sites, only if smoking is integral to the story
- Medical research or treatment sites, only if smoking is part of research and treatment
- Patient smoking areas in long-term health facilities
- Retail or wholesale tobacco shops, which are business establishments that have the main purpose of selling tobacco products and smoking accessories
- Private smokers' lounges, which are enclosed areas in or attached to a retail or wholesale tobacco shop that are dedicated to the use of tobacco products

The exemptions for a retail or wholesale tobacco shop and private smokers' lounge do not apply to businesses that sell alcohol.³ These exemptions may apply to a vape shop only if it meets the definition of "retail or wholesale tobacco shop" or "private smokers' lounge."

Employers and owner-operated businesses may adopt their own smoke-free policies that cover areas not protected by state law. For example, a restaurant can voluntarily make its outdoor dining area smoke-free.

Employers and owner-operated businesses are responsible for knowing and complying with local smoke-free laws which may be stricter than state law. Local laws may include other smoke-free requirements. Contact your local public health department with questions about local smoke-free laws.

For more information about California's Clean Indoor Air Law, contact the California Tobacco Control Program at (916) 449-5500, or visit www.tobaccofreeca.com.

1. Assembly Bill No. 7, 2015-16 2d Extraordinary Sess., Amending Cal. Labor Code §§ 6404.5(a)-(m), (Ca. 2016), available at https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520162AB7.
2. Senate Bill No. 5, 2015-16 2d Extraordinary Sess., Amending Cal. Bus. & Prof. Code §§ 22950.5(c)-(d) and Cal. Labor Code §§ 6404.5(l)-(m) (Ca. 2016), available at https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520162SB5.
3. 94 Ops.Cal.Atty.Gen. 46 (Dec. 21, 2011).