

Smokefree protections in the workplace and electronic smoking devices: a summary for employers and owner-operated businesses

The California Clean Air Law, originally enacted in 1995, has been updated to close exemptions as well as expand coverage under the law.

As of January 1, 2024, employers and owner-operated businesses must comply with the following law:

- 100% of hotels and motels must be smokefree.

Smoking is prohibited in the following places - including electronic cigarettes and vaping devices

Examples of areas where smoking is prohibited include but are not limited to:

- 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
- Hotels, motels, and similar transient lodging establishments:
 - All areas of the lobby
 - All areas of meeting and banquet rooms
 - 100% of guestrooms (previously, only 80% of guestrooms were required to be smokefree)
- 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 cannabis smoking.
- 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

California’s Clean Indoor Air Law still contains some exemptions to smokefree places.

Exemptions include:

- 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 product 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 food and/or alcohol. These exemptions may apply to a vape shop only if it meets the definition of retail or wholesale tobacco shop or private smoker’s lounge.

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

Employers and owner-operated businesses are responsible for knowing and complying with local smokefree laws which may be stricter than state law. Local laws may include other smokefree requirements. Contact your local public health department with questions about local smokefree laws. For more information about California’s Clean Indoor Air Law, contact the California Tobacco Prevention Program at CTPPInbox@cdph.ca.gov, or visit undo.org.

Citations

1. Assembly Bill No. 7, 2015-16 2d Extraordinary Sess., Amending Cal. Labor Code §§ 6404.5(a)-(m), (Ca. 2016), available at http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0001-0050/abx2_7_bill_20160504_chaptered.htm.
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. Senate Bill No. 626, 2023. Amending Cal. Labor Code § 6404.5, available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB626.
4. 94 Ops. Cal. Atty. Gen. 46 (Dec. 21, 2011).