

Legislative Mandate for Tobacco Control - Proposition 99 and Proposition 56

Proposition 99

In November 1988, California voters approved the [Tobacco Tax and Health Protection Act of 1988, also known as Proposition \(Prop\) 99](#). This initiative increased the state cigarette tax by 25 cents per pack and added an equivalent amount on other tobacco products. As shown in Table 1 below, Prop 99 revenues are deposited into six accounts by a formula and are used for specified purposes (Revenue and Taxation Code Section 30122(b), 30123, and 30124):

Table 1: List of Prop 99's Six Accounts

Prop 99 Account	Purpose	Percent
Health Education Account (HEA)	Prevent and reduce tobacco use	20%
Hospital Services Account	Health care services for low income patients served by hospitals	35%
Physician Services Account	Health care services for low income patients served by physicians	10%
Research Account	Tobacco-related disease research	5%
Resources Account	Protect, restore, enhance fish and wildlife habitat; enhance state and local park and recreation resources	5%
Unallocated Account	Available for any of the above purposes	25%

The HEA funds both community- and school-based health education programs to prevent and reduce tobacco use and is jointly administered by the California Tobacco Control Program (CTCP) and the California Department of Education (CDE). Currently, CTCP receives approximately two-thirds of HEA funds and CDE receives approximately the other one-third. CTCP is responsible for supporting a statewide comprehensive tobacco control program, one of the largest and most successful public health interventions of its kind ever initiated, nationally or internationally. CTCP provides funding for 61 Local Lead Agencies (LLA), competitively selected community-based organizations, a statewide media campaign, and an extensive evaluation of the entire program.

The enabling legislation for Prop 99 includes Assembly Bill (AB) 75 (Chapter 1331, Statutes of 1989), AB 99 (Chapter 278, Statutes of 1991), AB 816 (Chapter 195, Statutes of 1994), AB 3487 (Chapter 199, Statutes of 1996), Senate Bill (SB) 99 (Chapter 1170, Statutes of 1991), SB 960 (Chapter 1328, Statutes of 1989), SB 493 (Chapter 194, Statutes of 1995); the annual State Budget; Health and Safety Code Sections 104350-104480, 104500-104545; and Revenue and Taxation Code Sections 30121-30130. The enabling legislation, the various codes, and the

annual State Budget, provide legislative and funding authority for programs administered by CTCF to:

- Conduct health education interventions and behavior change programs at the state level, in the community and in other non-school settings.
- Apply the most current research findings and recommendations regarding tobacco use prevention.
- Give priority to programs that demonstrate an understanding of the role community norm change has in influencing behavioral change regarding tobacco use.

Proposition 56

Almost three decades after Prop 99’s passage, in November 2016, the voters of California overwhelmingly passed [Prop 56, the California Healthcare, Research and Prevention Tobacco Tax Act of 2016](#). Prop 56 increased the cigarette tax from \$0.87 to \$2.87 per pack, taking California’s ranking from 37th to 9th in the nation. The initiative increased the tax on other tobacco products by an equivalent amount, including electronic cigarettes for the first time. With 64.4% of voters voting in favor of Prop 56, Californians sent a strong message to end the state’s tobacco epidemic. Prop 56 revenues are distributed to state agencies to pay for implementation costs (Table 2), with the remaining revenues distributed to other state agencies by a formula (Table 3), all of which are to be used for specified purposes (Revenue and Taxation Code Section 30130.55 and 30130.57):

Table 2: Prop 56 Revenue Distribution for Implementation Costs

State Agency	Purpose	Percent or Fixed Dollar Amount
Board of Equalization (BOE)	Reimbursement for expenses incurred in administering the Prop 56 tax	5%
California State Auditor	Biennial audit of agencies receiving Prop 56 funds	\$400,000/year
University of California (UC)	To increase the number of physicians trained and working in California	\$40,000,000/year
California Department of Public Health (CDPH), Oral Health Program	Education, prevention and treatment of dental diseases, including those caused by tobacco use	\$30,000,000/year
Department of Justice/Office of the Attorney General; BOE; CDPH, Stop Tobacco Access to Kids Enforcement (STAKE) Program	Funds distributed to these three state agencies are to be used for tobacco-related law enforcement	\$48,000,000/year

Table 3: Prop 56 Distribution of Remaining Revenue After Implementation Costs

State Agency	Purpose	Percent
Department of Health Care Services	Increase funding for health care services by improving payments for Medi-Cal health care, treatment and services	82%
CTCP	Bolster existing comprehensive tobacco control program efforts, established by Prop 99, to prevent and reduce tobacco use At least 15% of funds distributed to CTCP must be used to accelerate and monitor the decline in tobacco-related disparities with the goal of eliminating them	11.05%
CDE	Bolster existing school-based efforts, established by Prop 99, to prevent and reduce tobacco use At least 15% of funds distributed to CDE must be used to accelerate and monitor the decline in tobacco-related disparities with the goal of eliminating them	1.95%
UC	Medical research of cancer, heart and lung tobacco-related diseases	5%

Other Significant Legislation Relating to the California Tobacco Control Program

SB X2-7 (Ed Hernandez, Chapter 8, Statutes of 2016) – Illegal Underage Sales

Increased the minimum age of sale for tobacco products, including electronic cigarettes, from 18 to 21 years of age, making California the second state in the nation to take this action to prevent tobacco initiation by young people (following Hawaii).

SB X2-5 (Mark Leno, Chapter 7, Statutes of 2016) – Electronic Cigarettes

All electronic cigarettes, whether or not they contain nicotine, are treated as “tobacco products” under the state’s smoke-free, underage sales, and tobacco retailer licensing laws.

AB X2-7 (Mark Stone, Chapter 4, Statutes of 2016) – Secondhand Smoke

Closed exemptions in California’s Smoke-free Workplace Law. As a result smoking (including use of electronic cigarettes) in the previously exempted workplaces is prohibited: hotel lobbies, meeting rooms and banquet rooms; warehouses; employee breakrooms; and small businesses with five or fewer employees; owner-operated businesses; covered parking lots. In addition, the amount of hotel/motel guestrooms where smoking is prohibited increased from 35 percent

to 80 percent. This legislation led to the Centers for Disease Control and Prevention to classify California as a 100% smoke-free state.

AB X2-9 (Tony Thurmond, Chapter 5, Statutes of 2016) – Tobacco-free Schools

Requires all public K-12 school campuses, including charter schools, to be tobacco-free (including electronic cigarettes).

AB X2-11 (Adrin Nazarian, Chapter 6, Statutes of 2016) – Tobacco Licensing Fees

Increased licensing fees on tobacco retailers, including vape shops, from \$100 one-time only to \$265 annually; and on distributors from \$1,000 per year to \$1,200 per year.

AB 2770 (Adrin Nazarian, Chapter 699, Statutes of 2016) – Tobacco Licensing Act

Beginning July 1, 2019, prohibits BOE from diverting revenues from tobacco tax funded programs, including Prop 99, to fund the costs of administering the California Cigarette and Tobacco Products Licensing Act of 2003.

AB 846 (Juan Vargas, Chapter 342, Statutes of 2003) – Secondhand Smoke

Prohibits smoking within 20 feet of main entrances, exits, and operable windows of any building owned and occupied or leased and occupied by the state, a county, a city, a city and county, or a California Community College district.

AB 1830 (Dario Frommer, Chapter 685, Statutes of 2002) – Internet Sales/Taxation Prohibits the distribution or sale of tobacco products directly or indirectly to any person under the age of 18 years through the United States Postal Service or through any other public or private postal or package delivery service at locations, including, but not limited to, public mailboxes and mailbox stores.

SB 1766 (Deborah V. Ortiz, Chapter 686, Statutes of 2002) – Internet Sales/Taxation

Provides intent language that the Legislature facilitates the collection of all applicable state surtaxes and sales or use taxes on cigarettes sold to residents of California over the Internet or by mail order, and prohibits the retail sale of cigarettes in California unless the sale is a vendor-assisted, face-to-face sale.

SB 757 (Deborah V. Ortiz, Chapter 376, Statutes of 2001) – Illegal Youth Sales

Clarifies and enhances the Stop Tobacco Access to Kids Enforcement (STAKE) Act and authorizes the Department of Health Services to make targeted sting inspections of retail sites where minors are being sold tobacco products.

AB 188 (Juan Vargas, Chapter 150, Statutes of 2001) – Secondhand Smoke

Prohibits smoking within a playground or tot lot sandbox area.

AB 1595 (Carole Midgen, Chapter 693, Statutes of 1999) – Warning Labels

Requires each manufacturer or importer of cigars to place, or cause to be placed, one of 3

specified warning labels on each retail package of cigars packaged for sale after September 1, 2000, and shipped for distribution in California.

AB 3037 (Sal Canella, Chapter 989, Statutes of 1996) – Secondhand Smoke
Smoke-free workplaces, bars, and restaurants.

AB 13 (Terry Friedman, Chapter 310, Statutes of 1994) – Secondhand Smoke
Prohibits smoking in enclosed workplaces.

SB 1927 (Tom Hayden, Chapter 1009, Statutes of 1994) – Illegal Youth Sales
Enacted the STAKE Act.

AB 615 (Mike Gotch, Chapter 335, Statutes of 1993) – Secondhand Smoke
Prohibits smoking in day care facilities.

SB 376 (Frank Hill, Statutes of 1991) – Advertising
Restricts tobacco advertising billboards within 500 feet of any school and restricts tobacco vending machines, tobacco sampling and promotion, tobacco sales to minors, smoking in public places and smoking in the workplace.

SB 99 (Diane E. Watson, Chapter 1170, Statutes of 1991) – Enabling Legislation
Includes guidelines for Local Lead Agencies, as well as extending local tobacco education programs to July 1, 1994 and developing a tobacco control program for the provision of tobacco education to pregnant and postpartum women and other target groups.

AB 99 (Phillip Isenberg, Chapter 278, Statutes of 1991) – Enabling Legislation
Extends the contracts created in Assembly Bill 75 (1989) through July 1994 and specifies that the funds allocated for tobacco use and prevention programs be allocated prospectively, to the counties, on a quarterly basis.

AB 75 (Phillip Isenberg, Chapter 1331, Statutes of 1989) – Enabling Legislation
Enabling Prop 99 legislation.