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Dear Retailer:

NEW TOBACCO LAWS THAT AFFECT CALIFORNIA RETAILERS

As of December 20, 2019, the federal minimum age of sale for tobacco products is 21. The new federal minimum age of sale applies to all retail establishments and persons with no exceptions, including military personnel. The United States (U.S.) Food and Drug Administration (FDA) has also issued guidance prioritizing enforcement against certain unauthorized flavored electronic smoking devices. The FDA will enforce a prohibition against the sale of flavored cartridge based electronic cigarettes (e-cigarettes) other than those with tobacco or menthol flavor. This letter contains information, materials, and online resources to help you learn about and comply with the new law.

SUMMARY OF TOBACCO RETAIL LAWS IN CALIFORNIA

Below is a brief summary of California’s tobacco laws for retailers and recent changes. Visit the California Department of Public Health, California Tobacco Control Program website for more detailed information: www.cdph.ca.gov/Tobacco21.

Topic	Summary of Laws	Effective Date	Specific Changes
Minimum Age of Sale for Tobacco Products	Retailers can sell tobacco products and paraphernalia only to individuals who are at least 21 years old, no exemptions. [Business & Profession (B&P) Code Section 22958, Penal Code (PC) Section 308(a)(1)(A)(i), and 21 United States Code Section 387f(d)]	December 20, 2019	Military personnel are no longer exempt according to Federal law.
Age-of-Sale Warning Sign	A sign stating that selling tobacco products to anyone under 21 years of age is illegal and subject to penalties must be posted at each point of sale. The sign must include the “1-800-5ASK-4-ID” phone number. [B&P Code Section 22952(b), PC Section 308(b), and 21 United States Code Section 387f(d)]	December 20, 2019	A new federal code has been added to the Age of Sale Warning sign: 21 U.S.C Section 387f(d). The sign no longer contains language exempting military personnel.



Check ID	Retailers must check the ID of anyone who looks younger than 27 years of age. [21 Code of Federal Regulations 1140.14(a)(2)]	December 20, 2019	None at this time. In December 2019, Congress provided the FDA with authority to update its regulations to require retailers to check the ID for anyone who looked younger than 30 years of age, but at this time, no change has been adopted.
Enforcement: STAKE Act	The California Department of Public Health, Food and Drug Branch has primary responsibility for enforcing the Stop Tobacco Access to Kids Enforcement (STAKE) Act. This law prohibits tobacco sales to persons under the age of 21 in California and makes such sales punishable by civil penalties against the store owner, not the clerk. Penalties range from \$400-\$600 for a first violation and increase incrementally for repeated violations up to \$6,000 and the revocation of a license for a fifth violation within a five-year period. [B&P Code Section 22958(a)(b)]	Existing Operative Law	The Food and Drug Branch are now conducting inspections for STAKE Act compliance. This includes posting of the new Age of Sale Signage, properly checking IDs, and minor decoy operations.
Enforcement: FDA	The FDA is enforcing federal T21 law in California. Fines and penalties may range from \$297 to \$11,904 and may include a no-tobacco sale order. This prohibits the sale of tobacco products for a specified period or permanently [Family Smoking Prevention and Tobacco Control Act Section 103(q)(2)(A)]	December 19, 2020	FDA's enforcement of federal T21 law will generally be carried out using the same process. FDA will continue to conduct compliance check inspections of tobacco product retailers to determine a retailer's compliance with federal laws and regulations.

Enforcement: FDA	The FDA will also prioritize enforcement for flavored, cartridge-based electronic smoking devices on the market without premarket authorization. [Family Smoking Prevention and Tobacco Control Act Section 910]	January 2, 2020	The sale of these products is illegal. Companies that do not cease manufacture, distribution and sale of these unauthorized tobacco products risk FDA regulatory actions ranging from warning letters to injunction, seizure and/or civil money penalty actions.
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ENCLOSED MATERIALS TO HELP YOU COMPLY WITH THE LAW

- New California Tobacco Laws: Minimum Sale Age (21) and Electronic Smoking Devices: A Summary for Retailers
- Two (2) updated STAKE Act age-of-sale warning signs which meet signage requirements under state law
- One (1) “We check ID” window cling
- ID Verification for Tobacco Sales in California
- What is a ‘tobacco product’ under California law?

RESOURCES AVAILABLE FOR DOWNLOAD

The following resources are available for download at: www.cdph.ca.gov/Tobacco21

- Frequently Asked Questions (FAQ) for Retailers
- Tips for Retailers: How to Comply with California Law and Avoid Fines & Penalties
- Order Form for age-of-sale warning signs

Tobacco retailers are responsible for knowing and complying with all federal, state and local laws regarding the sale and distribution of tobacco products. Please refer to the FAQ for Retailers to find out more about local retail laws.

Thank you for complying with California tobacco sales laws. If you should have any questions regarding this matter, please feel free to contact the California Tobacco Control Program at (916) 449-5500.

Sincerely,



for

Sonia Y. Angell, MD, MPH
State Public Health Officer & Director