

**CALIFORNIA DEPARTMENT OF EDUCATION
FREQUENTLY ASKED QUESTIONS ABOUT NEW TOBACCO CONTROL
LAWS**

Description of Laws

What laws were signed by Governor Brown and what impact do they have on schools?

The five laws signed by Governor Brown are as follows:

- **Senate Bill 5 (Leno):** Can be viewed on the California Legislative Information Web page at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162SB5.

Provisions of the Law:

Defines the term smoking for purposes of the Stop Tobacco Access to Kids Enforcement (STAKE) Act; expands the definition of a tobacco product to include electronic cigarettes (e-cigarettes); and, extends current restrictions and prohibitions against the use of tobacco products to e-cigarettes. Requires all cartridges for e-cigarettes and solution for filling or refilling an e-cigarette to be in childproof packaging. Establishes an annual e-cigarette retailer licensing fee of \$265 per location.

Impact on Schools:

For the purpose of California *Education Code (EC)* Section 48901, “smoking” has the same meaning as in California *Business and Professions Code (BPC)* Section 22950.5 and “tobacco product” means a product or device as defined in *BPC* Section 22950.5. This prohibits the use and possession of all tobacco products, including e-cigarettes, by students while on school grounds or participating in any school-sponsored activities off school property.

- **Senate Bill 7 (Hernandez):** Can be viewed on the California Legislative Information Web page at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162SB7.

Provisions of the Law:

Raises the minimum legal smoking age from eighteen to twenty-one; conforms existing law regarding the purchase, sale, and enforcement of tobacco and tobacco products to reflect the new age limit; and, clarifies that these provisions are not intended to prohibit a local standard from imposing a more restrictive legal

age to purchase or possess tobacco products. Deletes existing penalties applicable when a person under eighteen years of age purchases, receives, or possesses certain tobacco products. Specifies that the provisions of this bill do not apply to active duty military personnel who are eighteen years of age or older, and that an identification card issued by the United States Armed Forces will be considered proof of age for this purpose.

Impact on Schools:

The deletion of penalties applicable to youth possessing tobacco products means local law enforcement and school resource officers may no longer cite youth for possession and use of tobacco products off school grounds. Schools may still discipline students for use and possession off school grounds under *EC* Section 48901, if the student is participating in a school-sponsored activity.

- **Assembly Bill 7 (Mark Stone):** Can be viewed on the California Legislative Law Web page at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162AB7.

Provisions of the Law:

Removes many exemptions in existing law that allow tobacco smoking in certain indoor workplaces and expands the prohibition on smoking in a place of employment to include owner-operated businesses.

Impact on Schools:

This law has no impact on schools.

- **Assembly Bill 9 (Thurmond):** Can be viewed on the California Legislative Law Web page at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162AB9.

Provisions of the Law:

Clarifies charter school eligibility for Tobacco-Use Prevention Education (TUPE) Program funds; requires the California State Department of Education (CDE) to require all school districts, charter schools, and county offices of education receiving TUPE funds to adopt and enforce a tobacco-free campus policy that includes a prohibition on e-cigarettes; prohibits the use of tobacco and nicotine products in any county office of education, charter school, or school district-owned or leased building, on school or district property, and in school or district vehicles; and, requires all schools, districts, and offices of education to post a sign reading "Tobacco Use is Prohibited" at all entrances.

Impact on Schools:

All local educational agencies would be required to prohibit the use of all tobacco products and e-cigarettes by students, staff, and visitors at all times on all local educational agency (LEA) property. The LEAs are required to post signs stating, "Tobacco Use is Prohibited" at all entrances to LEA property.

- **Assembly Bill 11 (Nazarian):** Can be viewed on the California Legislative Law Web page at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162AB11.

Provisions of the Law:

Updates the Cigarette and Tobacco Products Licensing Program under the Board of Equalization by increasing licensing, distributor, and wholesaler fees.

Impact on Schools:

This law has no impact on schools.

Where can I view the text of the new laws?

Each of the bill numbers listed above are hyperlinked to the California Legislative Law Web page specifically related to that bill.

Policy and Enforcement

Are only electronic devices that are using nicotine prohibited for use by students, staff, and visitors?

For students, *EC* Section 48901 would prohibit the use and possession of any electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device.

For staff and visitors, *Health and Safety Code (HSC)* sections 104420 and 104559 prohibits the use of nicotine delivery devices. The content of the liquid is inconsequential to the prohibition as it is the device, not the liquid that is prohibited.

Do all LEAs need to adopt policies prohibiting tobacco use?

Any LEA that accepts funds from the CDE for the purpose of preventing tobacco use by youth are required to adopt policies that prohibit the use of all tobacco products (*HSC* Section 104420 [n][2]). Those LEAs not accepting such funding are not specifically required to adopt policies, but must prohibit the use of all tobacco products (*HSC*

Section 104559). It is recommended that all LEAs adopt such policies to establish authority for such prohibitions.

Does the definition of smoking and tobacco products as cited in *BPC* Section 22950.5 apply to *HSC* sections 104420(n)(2) and 104559?

HSC sections 104420 and 104559 do not reference *BPC* Section 22950.5. As a result, the definitions for smoking and tobacco products are as they are written in those sections of the *HSC*. However, California School Boards Association (CSBA) sample policies make reference to the *BPC* definitions and local educational agencies may adopt the language from the *BPC* as part of their policies.

To whom does the prohibition of tobacco products apply?

The prohibition regarding the use of all tobacco products and e-cigarettes on school property applies to students, staff, visitors, contractors, and those using school property for community events.

What must the school policy say?

The Tobacco-Free School Policy must state the use of all tobacco products, including e-cigarettes are prohibited at all times on all district property, owned or leased, and in all district vehicles. Refer to the CSBA Sample Policies provided on the CDE's Tobacco Free Policies and Regulations Web page at <http://www.cde.ca.gov/ls/he/at/tobfreepolicyregs.asp> .

How do schools enforce the policy?

The enforcement procedures are determined by the local educational agencies and are usually included in board adopted administrative regulations tied to the adopted policies. Enforcement policies should differentiate between students, staff, visitors, and civic use permit holders.

Does the policy apply to community groups using school property?

The Tobacco-Free School Policies apply to anyone on school property. Civic use permits should include language alerting those seeking to use school property that the use of all tobacco products and e-cigarettes are prohibited as a condition to the permit.

Is it still against the law for youth to possess or use tobacco products off school property?

SB 7 deleted the penalties formerly found under *Penal Code* Section 308 (b) for possession and use of tobacco products by youth. However, schools may still

discipline students for use and possession off school grounds under *EC* Section 48901, if the student is participating in a school-sponsored activity.

Are there sample school policies and enforcement procedures available?

Yes. Please visit the CDE Tobacco-Free School District Certification Web page at <http://www.cde.ca.gov/ls/he/at/tobaccofreecert.asp> for sample policies and administrative regulations provided by the CSBA.

Signage

Does the CDE have signs available that meet the requirements of the law?

The CDE does not have signs available. The CDE recommends LEAs contact local sign shops for the design and purchase of signs that meet the requirements of *HSC* Section 104420(n)(2) and Section 104559. Additional suggested sources are included below in the Sign Resources section of this document.

A few tips when looking or designing signs:

- The words “Tobacco Use is Prohibited” or some permutation of that statement must appear on the sign. Signs that simply state, “No smoking” do not meet the requirements of the *HSC*.
- If the sign specifies where the use of tobacco is prohibited, it must state **on** facility property, not **in** the facility or **in** buildings only.
- The sign may include the prohibition of other activities as well.
- Signs that read “Tobacco-Free School” are acceptable as long as the sign explains what is meant by “Tobacco Free” (i.e.; includes the phrase “Tobacco Use is Prohibited”).

What must the signs say?

Signs must state “Tobacco use is prohibited.” Variations of that wording is acceptable such as, “The use of tobacco products is prohibited.” This wording may be included in signs that prohibit many activities.

Do the signs need to specifically prohibit both cigarettes and e-cigarettes?

Signs do not need to specifically prohibit e-cigarettes. However, schools are encouraged to include such language as new signs are posted to replace damages or missing signs.

Where do signs need to be posted?

Signs must be posted at all entrances to LEA property.

Our facility is located in a leased storefront of a strip mall. Does we need to inform our landlord that the entire strip mall must prohibit the use of tobacco products in order for us to continue our lease?

No. You only have control of the space you are leasing and cannot impose these requirements on the landlord for the entire property. In this case, you should post a sign at the storefront entrance to your leased space. Visitors should also be reminded that there is no use of tobacco products within 20 feet of any entrances to your shop.

What funds are available to assist LEAs in purchasing signs?

If LEAs are receiving TUPE grant funds, they may use these funds to purchase signs. LEAs not receiving TUPE funds may use Local Control Assistance Plan funds or submit claims to the State Controller's Office for reimbursement for costs incurred (*Government Code* Section 17561). See the [State Controller](#) for more information.

Tobacco-Free Certification

What does it mean to be certified as tobacco-free?

LEAs that are certified as tobacco-free have to meet all the requirements of HSC Section 104420(n)(2). This includes the following:

- The LEA's Tobacco-Free School Policy prohibits the use of tobacco products any time in agency owned or leased buildings, on agency property, and in agency vehicles. The agency has established written procedures to enforce this policy.
- The LEA's Tobacco-Free School Policy prohibits the use of electronic cigarettes and other aerosol emitting devices.
- The LEA's policy and enforcement procedures have been communicated clearly to agency personnel, parents, students, and the larger community.
- Permanent signs stating, "Tobacco Use is Prohibited" are prominently displayed at all entrances to all agency properties/locations.
- Information about tobacco cessation support programs is made available and encouraged for students and staff.

How does an LEA become certified as tobacco free?

LEAs interested in becoming a certified tobacco-free LEA should contact the TUPE Coordinator at their COE. A list of the TUPE Coordinators is located on the CDE County Office of Education TUPE Coordinators Web page at <http://www.cde.ca.gov/ls/he/at/countycoordinators.asp>.

A copy of the certification form and instructions is available on the CDE Tobacco-Free School District Certification Web page at <http://www.cde.ca.gov/ls/he/at/tobaccofreecert.asp>.

Do all LEAs need to be certified as tobacco-free?

LEAs must be certified as tobacco-free only if they intend to apply for TUPE funds from the CDE. See below for information regarding TUPE funding opportunities.

Funding Opportunities

TUPE funds support health education efforts aimed at the prevention and reduction of tobacco use by youth. The TUPE Program (grades six through twelve) is funded through a competitive application process.

Tier 1 funding consideration to local educational agencies is based on projects that propose to enforce the LEA's adopted tobacco free policies and administer the California Healthy Kids Survey. More information from past Tier 1 funding opportunities may be viewed on the CDE Request for Applications Tobacco-Use Prevention Education: Grades 6-12 Cohort L Tier 1 Web page at <http://www.cde.ca.gov/fg/fo/r8/tupetier161216rfa.asp>.

Tier 2 funding consideration to local educational agencies is based on projects that propose to implement research-validated prevention programs for the general student population, provide youth development activities for both general and priority populations, and provide intervention and cessation services to students currently using tobacco. More information from past Tier 2 funding opportunities may be viewed on the CDE Request for Applications Tobacco-Use Prevention Education: Grades 6-12 Cohort L Tier 2 Web page at <http://www.cde.ca.gov/fg/fo/r8/tupetier261216rfa.asp>.

Signage Resources

This list is not meant to be an exclusive or comprehensive list of resources for the procurement of signs to meet *HSC* requirements. LEAs are encouraged to check with local sign manufacturers as well.

Tobacco Education Clearinghouse of California (TECC) is funded by the California Department of Public Health, California Tobacco Control Program. Access the TECC Web page at <http://www.tobaccofreecatalog.org/>. These signs will only be available for purchase through December 31, 2016.



Emedco is a national manufacturer and distributor of signs and identification products for the workplace. Access the Emedco Web page at <http://www.emedco.com/tobacco-products-prohibited-sign-43979.html>