

Tobacco Retailer Laws: Morgan Hill

It is illegal to:

- Sell tobacco products to anyone under the age of 21.

“Tobacco product” includes: cigarettes, cigars, little cigars or cigarillos, smokeless tobacco, hookah, electronic smoking devices with or without nicotine, and any products for use with electronic smoking devices (such as e-liquids with or without nicotine).

- Sell the following flavored products: non-nicotine e-cigarettes, vapes, or other devices that delivers other vaporized liquids and sold in combination with flavored e-juice, pods, or cartridges, cigarettes including menthol, little cigars or cigarillos, smokeless tobacco products, hookah/shisha, blunt wraps, loose-leaf roll-your-own tobacco, tobacco rolling papers, or tobacco product flavor enhancers. Examples of flavors include but are not limited to fruit, mint, menthol, candy, alcohol, and spice. The law does not apply to flavored loose leaf pipe tobacco, and premium cigars.¹
- Sell single cigarettes.
- Sell tobacco products through a self-service display (an open display that the public can access without the help of a clerk).
- Sell tobacco products through a vending machine.
- Allow clerks under 21 years of age to sell tobacco products.
- Give away free or low-cost cigarettes or smokeless tobacco products, or coupons for such products.

Advertising

- Cover more than 25% of windows with advertising or signs of any sort.

Tobacco Retailers are required to:

Tobacco Retailer Permit

- Get a permit (also known as a license) to sell tobacco products from both:
 1. The California Department of Tax and Fee Administration AND
 2. The City of Morgan Hill

Two permits are required for each retail location. The permit must be renewed each year and displayed at the store.

Tobacco Sales

- Check ID for anyone who appears to be under the age of 27.
- Post a sign, at EACH register, saying that it's illegal to sell tobacco products to anyone under age 21. Free STAKE Act signs are available from the California Department of Public Health: <https://bit.ly/3hiL6Sa>

NOTE: The We Card sign provided by the tobacco industry does not meet the state law requirements.

Penalties

Retailers who sell tobacco without a permit/license or who violate any local, state, or federal tobacco control laws are subject to the following penalties:

| | 1st Violation | 2nd Violation within 5 years | 3rd Violation within 5 years | 4th or Subsequent Violation within 5 years |
|---|-------------------------------|-------------------------------------|-------------------------------------|---|
| Selling Tobacco Without a Permit | N/A | No permit for 1 year | No permit for 5 years | N/A |
| Selling Tobacco Products to an individual under 21 | Permit suspension for 30 days | Permit suspension for 90 days | Permit suspension for 1 year | Permit subject to revocation |

Additional Resources

For additional information, please visit www.sccphd.org/tobaccofree or contact the Santa Clara County Tobacco-Free Communities Program at tobaccoprevention@phd.sccgov.org or (408) 885-4456.

References

Morgan Hill Municipal Code Chapter 5.64, section 18.88.100; California Business & Professions Code Divisions 8.5 and 8.6; California Health & Safety Code section 118950 and 104559; California Penal Code sections 308, 308.2, 308.3; Code of Federal Regulations, Title 21, Part 1140; 85 Federal Register 23973.

¹ Premium cigars must be handmade; have a tobacco leaf wrapper; have a wholesale price of no less than \$12; not have a filter, tip, or non-tobacco mouthpiece; be capped by hand, and contain more than one-half ounce of aged fermented tobacco. Loose-leaf pipe tobacco does not include any tobacco product sold and/or used for making cigarettes, including roll-your-own cigarettes. Tobacco product flavor enhancers include any product that adds flavoring to a tobacco product, even if the product does not have tobacco or nicotine in it.

Fact sheet provided by the Santa Clara County Department of Public Health, Tobacco-Free Communities Program for educational purposes only.

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