

2022 Tobacco Retailer Laws: County of Santa Clara (Unincorporated Areas)

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 electronic cigarette products that can be used to vape nicotine, such as e-cigarettes, vape pens, tanks, mods, and nicotine liquids or substances that can be used in any e-cigarette product devices.
 - 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, cigars, 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.¹ Examples of flavors include but are not limited to fruit, mint, menthol, candy, alcohol, and spice.
 - Sell single cigarettes.
 - Sell tobacco products through a self-service display (an open display of tobacco products that is accessible to the public without clerk assistance.)
 - 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 15% of windows and clear doors with advertising or signs of any sort.
- ### Smoking
- Smoke or use electronic smoking devices in retail outlets or within 30 feet of doorways, windows, openings or vents.

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 County of Santa Clara

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

Tobacco Permit Eligibility

- Permits cannot be issued to a new tobacco retail outlet within 1,000 feet of a school or within 500 feet of other tobacco retailers. Existing tobacco retailers are allowed to continue operating in these locations unless the retailer doesn't renew the permit on time or the business adds or changes owners.
- Permits cannot be issued to a location with a licensed pharmacy.

Tobacco Sales

- Check ID prior to selling tobacco products to any person, regardless of appearance.
- 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.

Inspections

As a condition of the tobacco permit, businesses must consent to inspection by the County of all areas and records; and comply with any impound or seizure order issued by the County.

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	Each Additional Violation Within 5 Years
Tobacco Sales Violations for Permitted Retailers	No permit for up to 30 days Fine up to \$1,000	No permit for 180 days Fine up to \$2,500	Permit is permanently revoked Fine up to \$5,000
Tobacco Sales Violations for Unpermitted Retailers	Ineligible for a permit for 30 days Fine up to \$2,500	Ineligible for a permit for 1 year Fine up to \$5,000	Permanently ineligible for a permit Fine up to \$10,000

In addition to the penalties outlined in the table above, any businesses serving a suspension of their tobacco permit must post a County issued public notice at their business during the entire suspension period.

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

Santa Clara County Municipal Code, Chapter XXII, section B13-82; California Business & Professions Code Divisions 8.5 and 8.6; California Health & Safety Code section 118950 and 104559.5; California Penal Code sections 308, 308.2, 308.3; Code of Federal Regulations, Title 21, Part 1140.

¹ 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.