

Tobacco Retailer Laws: San Jose

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 San Jose

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 under age 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.

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 tobacco products: e-cigarettes or vapes that deliver nicotine or another vaporized liquid, e-juice, pods, or cartridges, cigarettes including menthol, little cigars or cigarillos, smokeless tobacco products, 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 hookah and shisha, 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 and clear doors with advertising or signs of any sort.

Penalties

Retailers who violate any local, state, or federal tobacco control laws are subject to penalties, such as fines and the suspension of their tobacco retail license. If a retailer is found selling tobacco products to persons under age 21, they will be fined \$2,500 for each violation. For repeated violations, the City may revoke the retailer's Tobacco Retail License, and the retailer may no longer be able to legally sell tobacco products.

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

San Jose Municipal Code Chapter 6.87, section 23.02.1060.; 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; United States Code Title 21, sections 321, 387f, 387g; 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; and be capped by hand. Flavored shisha/hookah tobacco may only be sold in licensed stores that only allow people 21 or older on the premises at any time. 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. Loose-leaf pipe tobacco does not include any tobacco product sold and/or used for making cigarettes, including roll-your-own cigarettes.

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

Last Updated December 13, 2022