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# SALES OF CIGARETTES AND TOBACCO PRODUCTS IN CALIFORNIA

LICENSE REQUIREMENTS  
FOR RETAILERS

**CALIFORNIA STATE  
BOARD OF EQUALIZATION**

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## What is a cigarette?

A cigarette<sup>1</sup> is defined as a rolled product for smoking of any size or shape that:

- Is made of any tobacco, flavored or not, and
- Has a wrapper made of paper or another material.

*Exception:* Products wrapped in tobacco or with a cover made mostly of tobacco are not cigarettes when they weigh more than three pounds per thousand sticks. (These products are considered tobacco products.)

## What is a tobacco product?

“Tobacco products”<sup>2</sup> include, but are not limited to:

1. All forms of cigars (except “little cigars,” which are considered cigarettes for tax purposes),
2. Smoking tobacco (including shisha), chewing tobacco and snuff, and
3. Any other articles or products made of, or containing, at least 50 percent tobacco.

Tobacco products do not include cigarettes.

## What is the expanded definition of a tobacco product?

As of June 9, 2016, California state law expanded the definition of a tobacco product,<sup>3</sup> for retail licensing purposes, to include the items listed below. These items are not subject to excise tax imposed by the Cigarette and Tobacco Products Tax Law.<sup>4</sup>

1. Any product containing, made, or derived from nicotine that is intended for human consumption.
2. Any electronic smoking or vaping device that delivers nicotine or other vaporized liquids.
3. Any component, part, or accessory of a tobacco product, whether or not sold separately.

Examples include, but are not limited to, eCigarettes, atomizers, vaping tanks or mods, and eLiquid or eJuice.

A tobacco product does not include a product that the U.S. Food & Drug Administration has approved as cessation products or for other therapeutic purposes (for example, nicotine patches), and it does not include medical cannabis products.

## Who is required to have a license?

Retail sellers of cigarettes and tobacco products in California must have a valid California Cigarette and Tobacco Products Retailer’s License prior to purchasing



<sup>1</sup> Revenue and Taxation Code [section 30003](#).

<sup>2</sup> Revenue and Taxation Code [sections 30121](#) and [30131.1](#).

<sup>3</sup> Business & Professions Code [section 22950.5\(d\)](#).

<sup>4</sup> [Part 13](#) (commencing with [section 30001](#)) of Division 2 of the Revenue and Taxation Code.

tax-paid products from California licensed distributors or wholesalers and prior to making retail sales of cigarettes or other tobacco products to consumers (Cigarette and Tobacco Products Licensing Act of 2003).<sup>5</sup>

Effective January 1, 2017, retail sellers of any products that fall under the expanded definition of a tobacco product are required to obtain a California Cigarette and Tobacco Products Retailer's License even though these products are not currently subject to excise taxes. Similarly, retailers of these products must also conspicuously display the license at their retail location(s) in a manner visible to the public.

A separate license is required for each location or vending machine from which retail sales of cigarettes or tobacco products are made. You must obtain a separate license for any new location you add that requires a license.

An initial license application fee per location is required. Beginning January 1, 2017, an annual license renewal fee will also apply. For fee rates, please visit our website at [www.boe.ca.gov/sptaxprog/tax\\_rates\\_stfd.htm](http://www.boe.ca.gov/sptaxprog/tax_rates_stfd.htm).

*Note:* You must obtain a distributor's license before you purchase untaxed cigarettes or tobacco products from an out-of-state seller who does not have a license issued under the Cigarette and Tobacco Products Licensing Act of 2003. A wholesaler's license is also required if you purchase tax-paid cigarettes or tobacco products for resale to other retailers. A distributor/wholesaler license is not required for distributing or wholesaling any products that fall under the expanded definition of a tobacco product. The current fee rate for a distributor or wholesaler license can be found at [www.boe.ca.gov/sptaxprog/tax\\_rates\\_stfd.htm](http://www.boe.ca.gov/sptaxprog/tax_rates_stfd.htm).

## **Can a mobile seller get a retailer's license for sales of cigarettes and other tobacco products?**

No. A "mobile location" does not meet the definition of a retail location. If you operate from a catering truck, lunch wagon, or other mobile facility, you do not qualify for a California Cigarette and Tobacco Products Retailer's License and, therefore, cannot sell cigarettes or tobacco products from your truck, wagon, or other mobile facility in California. For more information on this topic, please see our notice at [www.boe.ca.gov/pdf/Mobile\\_Seller\\_Letter.pdf](http://www.boe.ca.gov/pdf/Mobile_Seller_Letter.pdf).

## **When does my license expire?**

The retailer's license is valid for 12 months from the date of issuance and must be renewed annually. If you add another retail location, your license will be renewed for that location based on a 12-month period. This 12-month period would begin in the month you obtained your license for your first retail location. We will send you an email and paper renewal reminder notice prior to the expiration of your license. You must complete and submit the renewal application online



<sup>5</sup> Division 8.6 (commencing with Section 22970) of the Business and Professions Code.

with the Board of Equalization (BOE) to maintain your Cigarette and Tobacco Products Retailer's License. Effective January 1, 2017, payment of the renewal fee is required along with your renewal application. If you fail to renew your license timely, your license will expire. Please remember, you may not sell cigarettes and/or tobacco products without a valid Cigarette and Tobacco Products Retailer's License.

## How do I apply for and renew my license?

You can apply for and also renew your license using our online services at [www.boe.ca.gov](http://www.boe.ca.gov). If you do not have a computer, our online services are available in our field offices. Please contact our Customer Service Center at 1-800-400-7115 (TTY: 711), Monday through Friday from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays, if you have any questions or would like more information about how to apply for or renew your license online.

## How do I pay?

You can make your payment online directly from your bank account or by credit card, paper check, or money order. For more information, visit our website at [www.boe.ca.gov/elecsrv/payment.htm](http://www.boe.ca.gov/elecsrv/payment.htm).

## I have a seller's permit. Am I still required to obtain this retailer's license?

Yes. This licensing requirement is in addition to other permits and licenses we issue. You must apply for and maintain a California seller's permit to be issued a Cigarette and Tobacco Products Retailer's License and to renew the license each year.

The state license is required by the Cigarette and Tobacco Products Licensing Act of 2003. This law does not replace any local cigarette and tobacco products retail license you may also be required to obtain. Additionally, some local jurisdictions have policies that cap the number or restrict the density of tobacco retailers. Before completing and submitting an application for a Cigarette and Tobacco Products License or license renewal, retailers are advised to check with their local health department for any local tobacco licensing requirements, which may be more restrictive.

## RESPONSIBILITIES OF LICENSE HOLDERS

What are my responsibilities as a holder of a retailer's license?

- Conspicuously display your license at each retail location so that it is visible to the public.

*Note:* The following requirements do not apply to any products under the expanded definition of a tobacco product at this time.

- Keep complete and legible cigarette and tobacco products invoices at each licensed location for at least one year after the date of purchase. The invoices must be kept at the same location as the inventory.
- Keep purchase invoices for cigarettes and tobacco products for four years.
- Allow our staff or law enforcement officers to review your cigarette and tobacco products purchase invoices upon request.
- Purchase and sell only those cigarettes and roll-your-own tobacco (RYO) authorized for sale in California as listed on the Office of the Attorney General's California Tobacco Directory (Directory), [oag.ca.gov/tobacco/directory](http://oag.ca.gov/tobacco/directory).

For more details regarding your responsibilities, the BOE offers instructor-led seminars for retailers selling cigarettes and tobacco products. See [www.boe.ca.gov](http://www.boe.ca.gov) for schedules.

## Sell-off period

A distributor or wholesaler is required to notify a licensed retailer when the California Attorney General is recommending removal of a tobacco manufacturer or brand family from the Directory.

A licensed retailer is allowed to possess, transport, and sell tax-stamped cigarettes or tax-paid RYO removed from the Directory for no more than 60 days from the effective date of the manufacturer or brand family's removal from the Directory. After the 60-day sell-off period, the cigarettes and RYO tobacco are subject to seizure and destruction.

## Purchase invoice requirements

The invoices you receive from distributors and/or wholesalers must be legible and include the information below. Again, these requirements do not currently apply to any products under the expanded definition of a tobacco product.

- The name, address, telephone number, and license number of the distributor or wholesaler from whom you purchased the cigarettes or tobacco products.
- The amount of California excise taxes due to the BOE by the distributor on the cigarettes or tobacco products listed on the invoice.

*Note:* A licensed distributor who is also a licensed retailer or manufacturer may include this statement instead of providing the amount of excise taxes due to the BOE: "All California cigarette and tobacco product taxes are included in the total amount of this invoice."

- An itemized list of the cigarettes or tobacco products purchased. Cigarettes must be listed by the brand and style names, flavor, filter, and/or packaging when applicable, number of cartons or packs sold, and the sales price. Tobacco products must be listed by brand, type (such as pipe, cigars, or RYO tobacco), flavor, packaging (such as pouches, tins, or boxes), quantity sold, and sales price.

- Your name, address, and Cigarette and Tobacco Products Retailer's License number.
- The date you purchased the cigarettes or tobacco products.

## **Cigarettes and tobacco products transferred between stores**

Generally, the transfer of cigarettes and tobacco products is not permitted—this is not a restriction for any products under the expanded definition of a tobacco product. However, if you own more than one store and licenses are held by the same legal entity, you may be allowed to transfer cigarettes and tobacco products between stores belonging to the same legal entity. When transferring cigarettes and tobacco products, legible transfer records and copies of the original purchase invoice must be kept at each location involved in the transfer. Such transfer records, which must be prepared at the time of transfer, must include the address of each store, the purchase invoice date, the purchase invoice number, the supplier's name and license number on the invoice, a detailed description of the items transferred including type of packaging, flavor and/or style, and the quantity transferred. Sales transactions between retailers are prohibited.

## **ENFORCEMENT**

**License Display.** If you do not conspicuously display your license at each retail location where you sell cigarettes or tobacco products, you are subject to a penalty of \$500.

**Records.** You must keep and maintain legible, accurate, and complete records, including purchase invoices for your resale stock of cigarettes and tobacco products (except products under the expanded definition of a tobacco product), for four years. The most recent twelve months of invoices must be kept at the retail location for at least one year after the date of purchase. Failure to maintain records and provide them upon request to BOE staff or a law enforcement agency may result in a misdemeanor citation punishable by a fine of up to \$5,000 and/or imprisonment for up to one year in a county jail.

**Inspections.** BOE staff has authority to inspect any location where cigarettes or tobacco products are sold, produced, or stored, or at any site where there is evidence of illegal activities (Revenue and Taxation Code section 30435). Consequently, our staff and law enforcement officers can inspect retail locations and seize any untaxed cigarettes and/or tobacco products, including cigarettes without stamps, with stamps from other states, or with counterfeit tax stamps. Any person who refuses to allow an inspection is guilty of a misdemeanor and is subject to a fine. Any retailer in possession of untaxed cigarettes or tobacco products is subject to fines and penalties, such as suspension of the license.

*Exception:* All products included in the expanded definition of a tobacco product are exempt from the inspection activities

noted above, with the exception of possession and display of a valid license. For more information about our inspections and your rights, see publication 152, *Cigarette and Tobacco Product Inspections* at [www.boe.ca.gov/pdf/pub152.pdf](http://www.boe.ca.gov/pdf/pub152.pdf).

**Suspension or revocation of license.** During the suspension period or after the effective date of the revocation of a license, you are prohibited from selling, gifting, or displaying for sale cigarettes or tobacco products.

Additionally, a retailer whose license was suspended is required to post the *Notice of Suspension* at the retail location where the infraction/violation occurred for the duration of the suspension period. A retailer whose license is revoked is required to post the *Notice of Revocation* at the retail location subject to the revocation for a 30-day period from the effective date of the revocation. Failure to post the suspension or revocation notices will result in a \$1,000 penalty for each offense.

Continued sales or gifting of cigarettes or tobacco products during a suspension period or after the effective date of revocation is a misdemeanor and will result in the seizure and forfeiture of all cigarettes and tobacco products in the person's possession.

A person who continues to display cigarettes or tobacco products for sale after receiving a notice of suspension or revocation is also subject to a civil penalty of \$1,000 for each offense.

**Illegal purchases.** It is illegal for retailers to purchase cigarettes or tobacco products (except products under the expanded definition of a tobacco product) from another retailer or any seller who is not licensed under the California Cigarette and Tobacco Products Licensing Act of 2003. If you make an illegal purchase, your cigarettes or tobacco products may be seized, your license may be suspended or revoked, and you may be subject to fines, imprisonment, or both.

To verify the license of a California cigarette and tobacco products distributor or wholesaler, visit our website at <https://efile.boe.ca.gov/boewebservices/verification.jsp>. You may also verify a license using mobile devices at <https://efile.boe.ca.gov/m/svs>.

**Illegal sales.** It is illegal for retailers to sell cigarettes or tobacco products in this state without a seller's permit and a Cigarette and Tobacco Products Retailer's License or when their license has been suspended or revoked under the Cigarette and Tobacco Products Licensing Act of 2003. If you make illegal sales of cigarettes or tobacco products, our staff or law enforcement agencies may seize all of your cigarettes and tobacco products and they will not be returned to you.

**FOR MORE INFORMATION**  
go online [www.boe.ca.gov](http://www.boe.ca.gov)  
or call our Customer Service Center  
1-800-400-7115 ▪ TTY:711



To contact your Board of Equalization Member, see  
[www.boe.ca.gov/members/board.htm](http://www.boe.ca.gov/members/board.htm).

#### **Taxpayers' Rights Advocate**

Call toll-free 1-888-324-2798 for help with disagreements  
you have not been able to resolve through normal channels.

*Note:* This publication summarizes the laws and regulations  
in effect at the publication date as noted on the cover.  
However, changes in the law or regulations may have  
occurred since that time. If there is a conflict between the  
publication and the law or regulations, decisions will be  
based on the law and regulations and not this publication.