CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

SALES OF CIGARETTES AND TOBACCO PRODUCTS IN CALIFORNIA

LICENSE REQUIREMENTS FOR RETAILERS
What is a cigarette?
A cigarette\(^1\) 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 (for example, cigars) are not cigarettes when they weigh more than three pounds per thousand sticks. Instead, these products are considered tobacco products.

What is a tobacco product?
“Tobacco products”\(^2\) include, but are not limited to:

1. All forms of cigars (including little cigars);
2. Smoking or pipe tobacco (including shisha), chewing tobacco and snuff;
3. Any product containing, made of, or derived from any amount of tobacco that is intended for human consumption;
4. Any product containing, made of, or derived from any amount of nicotine that is intended for human consumption and sold with or without a delivery device or system (for example, eLiquid with nicotine);
5. Electronic cigarettes or any device or delivery system sold in combination with nicotine for a single price; and
6. Any component, part, or accessory of an electronic cigarette that is used during the operation of the device when sold in combination with nicotine (for example, a battery used in the operation of the device sold with nicotine for a single price).

These items are subject to the tobacco products tax imposed by the Cigarette and Tobacco Products Tax Law\(^3\) upon the first distribution in this state.

For more information on the cigarette and tobacco products taxes, please refer to publication 93, *Cigarette and Tobacco Products Taxes*, located at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov).

Tobacco products do not include cigarettes or any product that the U.S. Food and Drug Administration has approved as cessation products or for other therapeutic purposes (for example, nicotine patches).

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1 Revenue and Taxation Code section 30003.
2 Revenue and Taxation Code sections 30121 and 30131.1.
3 Part 13 (commencing with section 30001) of Division 2 of the Revenue and Taxation Code.

What is the expanded definition of a tobacco product for retail licensing purposes?
As of June 9, 2016, California state law expanded the definition of a tobacco product,\(^4\) for cigarette and tobacco products retail licensing purposes, to include:

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

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

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 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).\(^5\)

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. In addition, retailers of these products must 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 also applies. For fee rates, please visit the California Department of Tax and Fee Administration (CDTFA) website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov).

*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 required if you purchase tax-paid cigarettes or tobacco products for resale to other retailers. A distributor’s or a wholesaler’s license is required for distributing or wholesaling any products that fall under the expanded definition of a tobacco product when the product is distributed in combination with nicotine. The current fee rates for a distributor’s or a wholesaler’s license can be found on [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov).

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* Business and Professions Code section 22950.5(d).
* Division 8.6 (commencing with section 22970) of the Business and Professions Code.
Can a mobile seller get a retailer’s license for sales of cigarettes and other tobacco products?

Yes. A mobile location does not meet the statutory 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 License. The local government (such as the city, county, or city council) may require a different license or permit to operate your mobile facility. If you continue to sell cigarettes or tobacco products from your truck, wagon, or other mobile facility in California, for more information on this topic, visit www.cdtfa.ca.gov.

When does my license expire?

The retailer’s license is valid for a 12–month period from the date of issuance, is not transferable, cannot be prorated, and must be renewed annually. If you add another retail location, your license will be renewed based on a 12-month period beginning in the month the retailer’s license for the first retail location was obtained. CDTFA will send you a renewal mailing two months prior to the expiration of the license, which includes the information below. You must complete and submit the renewal application online with the CDTFA to maintain eligibility for the cigarette and Tobacco Products Retailer’s License. Effective January 1, 2017, payment of the renewal fee is required simultaneously with your renewal application. If you fail to renew your license and pay the renewal fee 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 the CDTFA’s online services at www.cdtfa.ca.gov. If you do not have a computer, the information is available in the CDTFA’s offices. Please contact the Customer Service Center at 1-800-400-7115 (TTY: 711), Monday through Friday from 8:00 a.m. to 5:30 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 my license and/or renewal fees?

You can make your payment online directly from your bank account or credit card, paper check, or money order. For more information, visit the CDTFA’s website at www.cdtfa.ca.gov.

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

Yes. The cigarette and tobacco products licensing requirement is in addition to other permits and licenses issued by the CDTFA. 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 of, or restrict the density of tobacco retailers within a geographical area. Before completing and submitting an application for a Cigarette and Tobacco Products License, you are required to work with their local health department for any local tobacco licensing requirements, which may be more restrictive.

RESPONSIBILITIES OF RETAILER’S 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.

▪ Keep complete and legible cigarette and tobacco products invoices at each licensed location for at least one year after the date of the sale. These invoices must be kept at the same location as the inventory.

▪ Keep purchase invoices for cigarettes and tobacco products for four years.

▪ Allow CDTFA 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 Excise Tax Directory (Director) reg.cagov/tobaccodirectory.

For more details regarding your responsibilities, the CDTFA offers instructor-led seminars for retailers selling cigarette and tobacco products. See www.cdtfa.ca.gov.

Sell-off period. A distributor or wholesaler is required to notify its licensed retailers when the California Attorney General recommends removal of a tobacco manufacturer or brand family from the Directory. A licensed retailer is allowed to possess, transport, and sell unopened, stamped cigarettes or tax-paid RYO removed from the Directory for no more than 60 days from the date of the manufacturer or brand family’s removal from the Directory. After the 60-day sell-off period, the cigarettes and RYO are subject to destruction and destroyed by the CDTFA.

Purchase invoice requirements. The invoices you receive from distributors and/or wholesalers must be legible and include the information below:

▪ 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 cigarette and tobacco products taxes due to the CDTFA by the distributor on the cigarettes or tobacco products listed on the invoice.

Note: A licensed distributor who is also a licensed retailer must submit the invoice information required to provide the amount of cigarette and tobacco products taxes due to the CDTFA: “All California cigarette and tobacco products purchased were subject to 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. Needleless for cigarettes or tobacco products. 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. However, if you own more than one retail location that is located within the same city limits, you may be allowed to transfer cigarettes and tobacco products between stores belonging to the same legal entity. When transferring retail location purchase invoices and 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, and the description of the items transferred including type of packaging, flavor and/or style, and the quantity transferred.

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 for each offense.

Records. You must keep and maintain legible, accurate, and complete records, including purchase invoices for your resale stock of cigarettes and tobacco products (including products under the trademark or brand name of a tobacco product when purchased in combination with nicotine). For more details regarding your responsibilities, the CDTFA offers instructor-led seminars for retailers selling cigarette and tobacco products. See www.cdtfa.ca.gov.

Illegal purchases. It is illegal for retailers to purchase cigarettes or tobacco products (including products under the extended definition of a tobacco product when purchased in combination with nicotine) 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 retailer, you may verify a license using mobile devices at www.cdtfa.ca.gov.

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 California Cigarette and Tobacco Products Licensing Act of 2003. If you make illegal sales of cigarettes or tobacco products, CDTFA staff or law enforcement agencies may seize all of your cigarettes and tobacco products, which will not be returned to you.
FOR MORE INFORMATION

go online www.cdtfa.ca.gov

or call the

CDTFA Customer Service Center

1-800-400-7115 ▪ TTY:711

Taxpayers’ Rights Advocate

Call toll-free 1-888-324-2798 for help with problems you have not been able to resolve through normal channels (such as speaking to a supervisor).

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.