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SALES OF CIGARETTES AND TOBACCO PRODUCTS IN CALIFORNIA

LICENSE REQUIREMENT FOR RETAILERS

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RETAIL LICENSING REQUIREMENT

Who is required to have a license?

Retail sellers of cigarettes and tobacco products in California must have a California Cigarette and Tobacco Products Retailer's License prior to purchasing or selling cigarettes or tobacco products.

A separate license is required for each location or vending machine from which cigarettes or tobacco products are sold at retail. Whenever you add a new location that requires a license, you must obtain a separate license for that location.

Note: You must obtain a distributor's license before you purchase cigarettes or tobacco products from an out-of-state seller who does not have a license issued under this law. You must obtain a wholesaler's license if you purchase tax-paid cigarettes or tobacco products for resale. The fee for each license is \$1,000 a year for each of your locations.

How much does a retailer's license cost?

There is a one-time fee of \$100 for *each* location or vending machine from which you sell cigarettes or tobacco products at retail.

How do I renew my license?

The license is valid for one year and must be renewed annually. You will be mailed a renewal application prior to the expiration of your license. You must complete and return the renewal application on or before the due date to the Board of Equalization (BOE) in order to maintain your cigarette and tobacco products license. There is no additional charge to renew a license. However, you will be required to pay a reinstatement fee of \$100 *per location* to reactivate a license that is not renewed on time.

How do I apply?

Complete and submit BOE-400-LR, *Application for Retailer's Cigarette and Tobacco Products License*. You can download the application from our website at www.boe.ca.gov/pdf/boe400lr.pdf or call our Taxpayer Information Section at 800-400-7115.

Include a check payable to the BOE with your application. You may also pay by credit card. For other payment options, go to our website at www.boe.ca.gov. The license fee is \$100 for each retail location where you sell cigarettes or tobacco products.

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.

The state license required by this law does not replace any local cigarette and tobacco products retail license you may also be required to maintain.

RESPONSIBILITIES OF LICENSE HOLDERS

As a holder of a retailer's license, you must:

- 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 purchase.**
- **Keep purchase invoices for cigarettes and tobacco products for four years (see Purchase invoice requirements below).**
- Allow our staff or law enforcement officers to review your cigarette and tobacco products purchase invoices upon request.
- Sell only those cigarettes listed on the Attorney General's California Tobacco Directory, <http://oag.ca.gov/tobacco/directory>.

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 Tobacco Directory. A licensed retailer is allowed to possess, transport, and sell tax-stamped cigarettes 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 are subject to seizure and destruction.

Purchase invoice requirements

The invoices you receive from sellers licensed under the Cigarette and Tobacco Products Licensing Act of 2003 must be readable and include the following information:

- The name of the distributor or wholesaler from whom you purchased the cigarettes or tobacco products.

- The address, telephone number, and license number of the distributor or wholesaler.
- The amount of California excise taxes the distributor or wholesaler owes on the sale of the cigarettes or tobacco products.
- A distributor who is also a retailer or manufacturer may include this statement instead: "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.
- Your name, address, and cigarette/tobacco license number.
- The date of the sale documented on the invoice.

Cigarettes and tobacco products transferred between stores

Generally, the transfer of cigarettes and tobacco products are not permitted. 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 on the invoice, including type of packaging, flavor, and or style, and the amounts of items transferred. Failure to provide such documentation when requested can result in the seizure of the claimed transferred product.

ENFORCEMENT

Records. You must keep and maintain legible, accurate, and complete records, including properly completed purchase invoices at each licensed location for at least one year after the date of purchase. If you do not, you are subject to a misdemeanor punishable by a fine of up to \$5,000 or imprisonment for up to one year in a county jail, or both.

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

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 (RTC) § 30435) and cigarettes/tobacco products tax violations referred to in section 30165.1 of the RTC. 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. Also, any retailer in possession of untaxed cigarettes or tobacco products is subject to fines and penalties.

Suspension or revocation of license. During the suspension period or after the effective date of 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 subject to the suspension for the duration of the suspension. 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 notice 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 effective date of revocation is a misdemeanor and will result in the seizure and forfeiture of all cigarettes and tobacco products in the possession of the person.

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

Illegal purchases. It is illegal for retailers to purchase cigarettes or tobacco products 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 licensed 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 by mobile web 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 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 which will not be returned to you.



For more information . . .

Go online

www.boe.ca.gov

Or call our Information Center

800-400-7115

TTY: 711

To contact your Board of Equalization Member, see www.boe.ca.gov.

Taxpayer's Rights Advocate

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

Note: This brochure summarizes the law and regulations in effect as of the publication date. While the information in this brochure is general, the law is complex and subject to change. If there is a conflict between the brochure and the law or regulations, decisions will be based on the law and regulations.

(See publication 4A, *California Cigarette and Tobacco Products Licensing Act of 2003*.)