



Special Notice

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New Legislation Affects the Cigarette and Tobacco Products Licensing Act of 2003

The following legislative bills affecting the Cigarette and Tobacco Products Licensing Act of 2003 (Licensing Act) become effective January 1, 2011.

Assembly Bill 2733 (AB 2733) (Stats. 2010, Ch. 607) amends Business and Professions Code (BPC) section 22980.2 and added section 22980.4 to prohibit a license holder from gifting or displaying for sale, cigarettes or tobacco products during a period of suspension or after revocation of a license. This legislation also added section 22980.5 that requires a suspended or revoked retailer to post a notice of that suspension or revocation at each public entrance and each cash register.

Gifted or Displaying for Sale. Continued sales or gifting of cigarettes or tobacco products *after the effective date of suspension* constitutes a violation of the Licensing Act and shall result in the *revocation of the license*. Continued gifting of cigarettes and tobacco products without a valid license or after a notification of suspension or revocation constitutes a violation of the Licensing Act, is a misdemeanor, and *will result in the seizure and forfeiture of all cigarettes and tobacco products in the possession of the person*. In addition, a person who, after receiving a notice of suspension or revocation, continues to display cigarettes or tobacco products for sale would be subject to a civil penalty of \$1,000 for each offense.

"Displaying for Sale" is the placement of cigarettes or tobacco products in a vending machine or in retail stock for the purpose of selling or gifting the cigarettes or tobacco products. For purposes of this definition, the clear and easily visible display of cigarettes or tobacco products would create a rebuttable presumption that either was displayed with the intent to sell.

"Gifting" is any transfer of title or possession without consideration, exchange, or barter, in any manner or by any means, of cigarettes or tobacco products that were purchased for resale under a license issued according to the Licensing Act if the transfer occurs while the license is suspended or after the effective date of its revocation.

Post a Notice of Suspension or Revocation. BPC Section 22980.5 requires a suspended or revoked retailer to post a notice of suspension or revocation at each public entrance and each cash register. A retailer whose license is suspended is required to post the notice 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 at the retail location that was the subject of the revocation for a 30-day period from the effective date of the revocation. A violation of these provisions will subject the suspended or revoked retailer to a \$1,000 penalty.

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Assembly Bill 2496 (AB 2496) (Stats. 2010, Ch. 265) in part, amends California Revenue and Taxation Code section 30165.1 to require a distributor or wholesaler to notify a retailer when the California Attorney General is recommending removal of a tobacco manufacturer or brand family from the Tobacco Directory (the Directory) for cause. Other provisions affecting retailers include:

Time Frame for Seizure. Provides retailers relief of any financial hardship resulting from the loss of cigarette and tobacco product inventory when it becomes illegal to sell a product because it has been removed from the Directory. Permits a licensed retailer to possess, transport, and sell 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 before products become subject to seizure and destruction.

Acquiring Products Not on the Directory. Amends section 22980.1(g) of the BPC to prohibit an importer, distributor, wholesaler, distributor functioning as a wholesaler, or a retailer, from purchasing, obtaining, or otherwise acquiring any package of cigarettes to which a stamp or meter impression is affixed in violation of the Tobacco Directory Law. Failure to comply with these provisions is a misdemeanor subject to penalties according to section 22981 of the BPC.

Inspection Authority. Expands the BOE's inspection authority to any site where there is evidence of activities that violate the Tobacco Directory Law and expands the legal actions BOE may impose on any person for violations of selling, acquiring, and possessing cigarettes not included in the Directory.