

CALIFORNIA CODE OF REGULATIONS

Title 17. Public Health

I Division 1. State Department of Health Services

I Chapter 4. Preventive Medical Service

§ 6901. Definitions.

- (a) "Decoy" means a person under 21 years of age participating in an inspection carried out by the Department to determine compliance with California law prohibiting the sale of a tobacco product to a person under 21 years of age.
- (b) "Department" means the California Department of Public Health or a local law enforcement agency that has entered into an enforcement delegation contract with the California Department of Public Health.
- (c) "Inspection" means a law enforcement activity conducted by the Department in which a decoy, under the direct supervision of a regularly employed peace officer, attempts to purchase a tobacco product at a retail site.
- (d) "Person" means any individual, partnership, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this state, other governmental agency within the state, and any representative agent, or agency of any of the foregoing.
- (e) "Retail site" means any outlet that provides tobacco products for sale to consumers including, but not limited to, an establishment, vending machine, vehicle, mobile unit, stationary mobile unit, booth, stand, or concession.
- (f) "Sale" means the transfer or exchange for consideration or otherwise furnishing of a tobacco product to a consumer for the purpose of consumption or use, and not for re-sale.
- (g) "Seller" means the owner of any retail business or any employee of the retail business authorized to make sales of tobacco products to consumers.
- (h) "Tobacco product" shall read as defined by Section 22950.5 of the Business and Professions Code.
- (i) "Valid identification" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license or an identification card issued to a member of the Armed Forces, which contains the name, date of birth, description, and photograph of the individual.
- (j) "Vending machine" means any mechanical device, the operation of which depends upon the insertion of money, trade checks, tokens or other things representative of value and which dispenses or vends tobacco products.

Note: Authority cited: Sections 22950.5(a), 22950.5(d), 22952(b) and 22952(d), Business and Professions Code; and Section 208, Health and Safety Code. Reference: Sections 22950.5(a), 22950.5(d), 22951, 22952(b), 22952(c), 22952(d)(1)-(d)(7), 22954, 22956, 22957 and 22958 Business and Professions Code.

HISTORY

1. New section filed 12-20-89 as an emergency; operative 12-20-89 (Register 89, No. 52). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-19-90.
2. Repealed by operation of Government Code 11346.1(g) filed 1-22-91 (Register 91, No. 19).
3. Amendment of subchapter 14 heading, deletion of article 1 heading and new section filed 12-22-95 as an emergency; operative 12-22-95 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-20-96 or emergency language will be repealed by operation of law on the following day.

4. Amendment of subchapter 14 heading, deletion of article 1 heading and new section refiled 4-17-96 as an emergency, including amendment of Note; operative 4-17-96 (Register 96, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-19-96 or emergency language will be repealed by operation of law on the following day.
 5. Amendment of subchapter 14 heading, deletion of article 1 heading and new section refiled 8-12-96 as an emergency; operative 8-12-96 (Register 96, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-10-96 or emergency language will be repealed by operation of law on the following day.
 6. Editorial correction of Note and of History 4 and History 5 (Register 96, No. 50).
 7. Amendment of subchapter 14 heading, deletion of article 1 heading and new section refiled 12-10-96 as an emergency, including amendment of Note; operative 12-10-96 (Register 96, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-9-97 or emergency language will be repealed by operation of law on the following day.
 8. Certificate of Compliance as to 12-10-96 order, including amendment of subchapter heading and subsection (b), transmitted to OAL 1-8-97 and filed 2-3-97 (Register 97, No. 6).
 9. Change without regulatory effect amending subsections (a)-(b), repealing subsection (d), relettering subsections and amending newly designated subsection (h) and Note filed 8-11-2016 pursuant to section 100, title 1, California Code of Regulations (Register 2016, No. 33).
- This database is current through 2/2/18 Register 2018, No. 5
17 CCR § 6901, 17 CA ADC § 6901

§ 6902. Warning Sign; Identification.

(a) At each retail site that sells or furnishes tobacco products a sign shall be conspicuously posted so that it is likely to be read by a consumer during a sale at each cash register, vending machine or any other point at which sales occur. The sign shall meet the following specifications:

(1) Contain the following words with initial letters capitalized in the following manner: The Sale of Tobacco Products to Persons Under 21 Years of Age Is Prohibited by Law and Subject to Penalties. U.S. Armed Forces active duty personnel with military ID must be at least 18 years of age. Valid Identification May Be Required. To Report an Unlawful Tobacco Sale Call 1-800-5ASK-4-ID. Business and Professions Code Section 22952.

(2) Be square in shape and no smaller than 5.5 inches high by 5.5 inches wide (30.25 square inches) or be rectangular in shape and no smaller than 3.66 inches high by 8.5 inches wide (31.11 square inches). A sign may be larger; however, the sign shall be proportionate to one set of the dimensions set forth in this subdivision.

(3) Be printed in ink that is of high contrast from the color of the background material. (Examples are black ink on white paper or dark blue ink on yellow paper.)

(4) Located at least one-third inch from the top and sides, the following required words shall be no smaller than 20 point medium or bold Helvetica or Futura type face: "The Sale of Tobacco Products to Persons Under 21 Years of Age Is Prohibited by Law and Subject to Penalties. U.S. Armed Forces active duty personnel with military ID must be at least 18 years of age. Valid Identification May Be Required." Located at least one-third inch from the sides, the following required words shall be no smaller than 30 point medium or bold Helvetica or Futura type face and in all cases 6 point size larger than all other text: "To Report an Unlawful Tobacco Sale Call 1-800-5ASK-4-ID." Located at least one-quarter inch from the sides

and bottom, the required legal citation "Business and Professions Code Section 22952" shall be no smaller than 12 point medium or bold Helvetica or Futura type face.

(b) The seller shall request valid identification from any individual who attempts to purchase a tobacco product if that individual reasonably appears to the seller to be under 21 years of age.

Note: Authority cited: Section 22952(b), Business and Professions Code. Reference: Sections 22952(b), 22956 and 22958, Business and Professions Code.

HISTORY

1. New section filed 12-22-95 as an emergency; operative 12-22-95 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-20-96 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 4-17-96 as an emergency; operative 4-20-96 (Register 96, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-19-96 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 8-12-96 as an emergency; operative 8-12-96 (Register 96, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-10-96 or emergency language will be repealed by operation of law on the following day.

4. Editorial correction of subsection (a)(1) (Register 96, No. 50).

5. New section refiled 12-10-96 as an emergency; operative 12-10-96 (Register 96, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-9-97 or emergency language will be repealed by operation of law on the following day.

6. Certificate of Compliance as to 12-10-96 order transmitted to OAL 1-8-97 and filed 2-3-97 (Register 97, No. 6).

7. Change without regulatory effect amending subsections (a)(1), (a)(4) and (b) and amending Note filed 8-11-2016 pursuant to section 100, title 1, California Code of Regulations (Register 2016, No. 33).

This database is current through 12/16/16 Register 2016, No. 51

17 CCR § 6902, 17 CA ADC § 6902

§ 6903. Inspections; Decoys.

(a) The Department shall conduct inspections using decoys who shall present the appearance of an individual under 21 years of age. For purposes of verifying that a decoy appears to be under 21 years of age at the time of the inspection, a photograph or video recording of the decoy shall be taken prior to and on the same day as the inspection and shall be retained by the Department.

(b) A decoy, if requested, shall present valid identification.

(c) A decoy shall be supervised by a regularly employed peace officer at all times during the inspection.

(d) Within 2 working days of a sale of tobacco to a decoy during an inspection, the peace officer who originally accompanied and supervised the decoy during the inspection, shall return to the retail site, advise the seller of the inspection and violation, and identify the decoy to the seller by means of a photograph taken the same day as the inspection.

(e) The Department may use video recording equipment, including video, audio, photographic and other audio/visual recording equipment, to record and document an inspection.

(f) Inspections of retail sites may be conducted: (1) on the basis of random selection in a given geographic area; or (2) in response to reports of violations of Penal Code section 308 subsection (a) or of Business and Professions Code section 22958; or (3) in response to reports of unlawful sales over the toll-free telephone number authorized by subdivision (b) of section 22952 of the Business and Professions Code.

Note: Authority cited: Section 22952(d), Business and Professions Code. Reference: Sections 22952(b), 22952(c), 22952(d)(1)-(7) and 22958, Business and Professions Code; and Section 308, Penal Code.

HISTORY

1. New section filed 12-22-95 as an emergency; operative 12-22-95 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-20-96 or emergency language will be repealed by operation of law on the following day.
 2. Editorial correction of subsection (f) (Register 96, No. 16).
 3. New section refiled 4-17-96 as an emergency; operative 4-20-96 (Register 96, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-19-96 or emergency language will be repealed by operation of law on the following day.
 4. New section refiled 8-12-96 as an emergency; operative 8-12-96 (Register 96, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-10-96 or emergency language will be repealed by operation of law on the following day.
 5. Editorial correction of subsection (e) (Register 96, No. 50).
 6. New section refiled 12-10-96 as an emergency; operative 12-10-96 (Register 96, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-9-97 or emergency language will be repealed by operation of law on the following day.
 7. Certificate of Compliance as to 12-10-96 order, including amendment of subsection (d), transmitted to OAL 1-8-97 and filed 2-3-97 (Register 97, No. 6).
 8. Change without regulatory effect amending subsection (b) filed 2-25-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 9).
 9. Change without regulatory effect amending subsection (a) filed 8-11-2016 pursuant to section 100, title 1, California Code of Regulations (Register 2016, No. 33).
- This database is current through 12/16/16 Register 2016, No. 51
17 CCR § 6903, 17 CA ADC § 6903

§ 6904. Defenses.

Failure to comply with the procedures set forth in Subdivision (d) of Section 22952 of the Business and Professions Code and Title 17, California Code of Regulations, Section 6903 shall be a defense to any action brought pursuant to the STAKE Act (Division 8.5 of the Business and Professions Code).

Note: Authority cited: Section 22952(d), Business and Professions Code. Reference: Sections 22952(d)(1)-(8), Business and Professions Code.

HISTORY

1. New section filed 12-22-95 as an emergency; operative 12-22-95 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-20-96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4-17-96 as an emergency; operative 4-20-96 (Register 96, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-19-96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 8-12-96 as an emergency; operative 8-12-96 (Register 96, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-10-96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12-10-96 as an emergency; operative 12-10-96 (Register 96, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-9-97 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 12-10-96 order, including amendment of section, transmitted to OAL 1-8-97 and filed 2-3-97 (Register 97, No. 6).

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17 CCR § 6904, 17 CA ADC § 6904

§ 6905. Annual Report of Tobacco Retail Sites.

(a) Each cigarette or tobacco products distributor or wholesaler and each cigarette vending machine operator as required in Business and Professions Code section 22954 shall, within 45 days after the end of the calendar year, annually file a report listing the retail sites, including dealers as defined in Revenue and Taxation Code section 30012, to which it provided tobacco products during the calendar year just ended.

This report of retail sites shall be filed with the Department of Health Services, Tobacco Control Section, 601 North 7th Street, M.S. 555, P.O. Box 942732, Sacramento, CA 94234-7320. The first report shall be submitted for the calendar year beginning January 1, 1995. The annual report shall contain the following:

(1) The name of the cigarette or tobacco products distributor or wholesaler or cigarette vending machine operator company.

(2) The address and telephone number of the company's principal executive office.

(3) The name, title, and address of the representative of the company to whom correspondence regarding this report should be addressed.

(4) The name, title and signature of the official authorized to sign the report on behalf of the company.

(5) A certification made pursuant to Code of Civil Procedure Section 2015.5 by the authorized person whose signature appears on the report as follows:

"I certify under penalty of perjury under the laws of the State of California that the information contained in the report is true and correct:

(6) A list of each retail site's name and the physical location of the retail site to which the company supplied tobacco products or vending machines for the preceding calendar year. The list shall include, on separate lines, the full name, street address, city and zip code of each retail site. For those companies with computer capability, the list of the retail sites is also required to be submitted on a computer diskette as a flat ASCII file, or other format to be specified by the Department of Health Services, on one or more 3 1/2 inch or 5 1/4 inch floppy diskette(s). For those companies without computer capability, submission of the list on a computer diskette is not required. For the second and subsequent year that the company files this report, the company is required to either submit the information required by this subsection or report only changes to the first report. Where a company opts in the second or subsequent year to report only changes to the first or previous report, such second or subsequent report shall include and clearly identify name or address changes of the retail sites, additional retail sites to which it supplies tobacco products or vending machines and retail sites to which it no longer supplies tobacco products or a vending machine.

Note: Authority cited: Section 100275, Health and Safety Code. Reference: Section 22954, Business and Professions Code; Section 30012, Revenue and Taxation Code; and Section 2015.5, Code of Civil Procedure.

HISTORY

1. New section filed 12-22-95 as an emergency; operative 12-22-95 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-20-96 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 4-17-96 as an emergency, including amendment of Note; operative 4-17-96 (Register 96, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-19-96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 8-12-96 as an emergency; operative 8-12-96 (Register 96, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-10-96 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of History 2 and History 3 (Register 96, No. 50).
5. New section refiled 12-10-96 as an emergency; operative 12-10-96 (Register 96, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-9-97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 12-10-96 order transmitted to OAL 1-8-97 and filed 2-3-97 (Register 97, No. 6).

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