

CLIENT NEWS BRIEF

Governor Signs Bill Raising Legal Age to Buy Tobacco Products to 21

Governor Jerry Brown recently approved Senate Bill 7 (SB 7), increasing the age to buy tobacco for smoking, dipping, chewing and "vaping" from age 18 to age 21. The law became effective June 4, 2016.

The new law makes California the second state, besides Hawaii, to increase the age to buy tobacco from 18 to 21.

SB 7 amends provisions of the Business and Professions Code and the Penal Code that govern the sale, possession and use of tobacco products. The bill prohibits persons under the age of 21 from buying tobacco for smoking, dipping, chewing and vaping but offers an exemption for active duty military personnel. Notably, the law also eliminates previously existing criminal penalties for underage persons found in possession of tobacco products.

While SB 7 does not make changes to the Education Code, K-12 school districts and community college districts should be aware of the new law from a policy development and implementation perspective and for its broad application to not only cigarettes, but also to devices used for vaping such as e-cigarettes. School and community college districts may wish to consider updating policies, rules, regulations and handbooks regarding use of tobacco products by students under 21 years of age, as well disciplinary and other consequences for possession and/or use of tobacco products on school grounds.

Education Code sections 48900, subdivision (h), and 48901, respectively, permit K-12 school districts to regulate and impose discipline for possession or use of tobacco products on school grounds. While section 48901 explicitly prohibits "smoking," it does not expressly prohibit the possession or use of vaping products like e-cigarettes. However, section 48901 cites Business and Professions Code section 22950.5, subdivision (c), for the definition of "smoking." Section 22950.5's definition includes "the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking." Thus, consistent with existing law and the intent of SB 7, school districts may bar students from the use or possession of all tobacco products on school grounds, including vaping products like e-cigarettes.

A related bill, Assembly Bill 1594 (AB 1594), is pending before the Legislature. If signed into law, AB 1594 would provide community college districts with direct authority to prohibit smoking, including vaping, on community college campuses.

If you have any questions about SB 7 or would like assistance updating tobacco use policies, please contact the authors of this Client News Brief or an attorney at one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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