

16-15 - The Sale of Tobacco Products

Los Angeles County Sheriff's Department

NEWSLETTER

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THE SALE OF TOBACCO PRODUCTS

On June 9, 2016, Penal Code section 308 was revised with regard to the selling, giving, or furnishing tobacco. An important part of this legislative change is that now the law strictly pertains to the **sale**, and not the purchase of, tobacco products.

Penal Code section 308 states:

*Every person, firm, or corporation that knowingly . . . **sells, gives, or in any way furnishes to another person who is under 21 years of age** any tobacco, cigarette, or cigarette papers, or blunt wraps, or any tobacco paraphernalia, or tobacco product. . .*

A violation of 308 PC is a misdemeanor offense. The law criminalizes the act of selling or giving tobacco products to minors, *not the minors' possession of it*. Persons under 21 **cannot** be fined, jailed, or otherwise punished for having tobacco, but they may violate another law such as smoking in a public building (i.e. movie theater, restaurant, etc.)

Vaporizers, vape liquid, and other electronic smoking paraphernalia are now considered tobacco products under California law. E-cigarettes are now prohibited in the same spaces (workplaces, restaurants, bars, movie theaters, etc.) as traditional tobacco products.

Tobacco products are defined in the Business and Professions Code under the following sections:

- 22950.5(d)(1)(A): A product containing, made, or derived from tobacco or nicotine that is intended for human consumption whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means.
- 22950.5(d)(1)(B): An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including electronic cigarette, cigar, pipe, or hookah.
- 22950.5(d)(1)(C): Any component, part, or accessory of a tobacco product, whether or not sold separately.

308(a)(1)(A)(ii) PC exempts those selling, giving, or furnishing tobacco products to active duty military personnel who are 18 years of age or older. An active military identification card should be used as proof of age for the purpose of this exception.

Information regarding the content of this newsletter may be directed to [Field Operations Support Services](#) at (323) 890-5411.

References:

California Legislative Information, Business & Professions Code 22950.5:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC§ionNum=22950.5.

California Legislative Information, Penal Code 308:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=308.