
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair
2025 - 2026 Regular

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Author:	Hadwick	Tax Levy:	No
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Consultant:	Grinnell		

VAPE PRODUCTS: HOUSEHOLD HAZARDOUS WASTE: ADVERTISING

Prohibits the sale, distribution, and advertising of vape products in this state that imitate a product that is not a vape product to conceal the nature of the vape product from parents, teachers, or other adults, among other changes.

Background

Federal law relating to cannabis. Federal law prohibits the manufacture, possession, sale, or distribution of cannabis. In 1970, Congress enacted the Controlled Substances Act (CSA), which sets forth five schedules of specified drugs. For a drug to be designated a Schedule I controlled substance, CSA states the substance must have “a high potential for abuse,” and have “no currently accepted medical use” in the United States. Federal law lists cannabis as a Schedule I controlled substance.

Cannabis licensing. In 1996, California voters approved Proposition 215, known as the Compassionate Use Act of 1996 (CUA). Under CUA, qualified patients with specified illnesses, and their primary caregivers, cannot be prosecuted for possessing or cultivating medical cannabis upon the written or oral recommendation or approval of an attending physician.

The medical cannabis industry remained largely unregulated at the state level until 2015, when the Legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA). MMRSA comprised a package of legislation that comprehensively regulated many aspects of the medicinal use of cannabis, including cultivation, manufacturing, transportation, distribution, sale, and product safety. In 2016, several bills made slight changes to MMRSA, including renaming MMRSA the Medical Cannabis Regulation and Safety Act.

On November 8, 2016, California voters approved Proposition 64 (Prop. 64), the Control, Regulate and Tax Adult Use of Marijuana Act, which legalized commercial adult-use cannabis for adults age 21 and older. The Act allows for the licensure and regulation of both commercial adult-use and medicinal use cannabis activities by various state agencies.

Less than a year later, in June 2017, the Legislature enacted SB 94 (Committee on Budget & Fiscal Review), which integrated MMRSA with the Act to create the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). Among other things, MAUCRSA consolidated the licensure and regulation of both commercial adult-use and medicinal use cannabis activities. It established a system of over 20 license categories, which include distributor, retailer, and microbusiness, among others.

The commercial cannabis regulatory framework is a closed system with each portion of the supply chain requiring licensure. Commercial cannabis activity may only be conducted between licensees, and only licensed cannabis retail businesses can make cannabis sales to consumers. MAUCRSA excluded industrial hemp, so it generally cannot currently be integrated into the cannabis supply chain.

Tobacco Products Licensing. In 2003, the Cigarette and Tobacco Products Licensing Act (AB 71, Horton, 2003) required the Board of Equalization (BOE) to license manufacturers, distributors, wholesalers, importers, and retailers of cigarette or tobacco products who are engaged in business in California. In 2017, the Legislature enacted AB 102 (Committee on Budget), which transferred duties, powers, and responsibilities related to the administration of taxes and fees from BOE to the California Department of Tax and Fee Administration (CDTFA). CDTFA also administers the Cigarette and Tobacco Products Tax.

Under the Licensing Act, retailers, distributors, manufacturers, wholesalers, and importers must have and maintain a license. A person or entity that engages in the business of selling cigarettes or tobacco products in this state either without a valid license or after a license suspension or revocation, and each officer of any corporation that so engages in this business, is guilty of a misdemeanor punishable by a fine not to exceed \$5,000, or imprisonment not exceeding one year in a county jail, or both.

For retailers, there are two kinds of licenses: one for those who sell tobacco products subject to the Cigarette and Tobacco Products Tax, and one for those whose products are *not* subject to that tax, such as retailers of electronic delivery devices not containing or sold with nicotine and certain accessories, such as zero-nicotine vaporized liquids. Licenses are valid for one year and must be renewed annually. Last year, the Legislature increased license fees on both sets of tobacco retailers from \$265 to \$450, for new or renewed licenses applied for on or after July 1, 2026 (AB 573, Rogers). AB 573 also permits CDTFA to increase the license fee, by regulation, to an amount necessary to maintain the Compliance Fund to cover its reasonable costs, not to exceed \$600.

CDTFA may suspend a retailer's license under the Licensing Act or the Cigarette and Tobacco Products Tax Law for a first or subsequent license violation. CDTFA must provide a tobacco product licensee with at least ten days' written notice of a pending suspension or revocation and an opportunity to appeal. Upon a second violation, CDTFA must revoke the license; however, retailers can reapply six months after revocation.

Funds from license fees, along with penalties and fines, are deposited into the Cigarette and Tobacco Products License Fund, which pays for CDTFA's compliance efforts. These compliance efforts include regular inspections of businesses selling cigarettes and tobacco products, including retailers, wholesalers, and distributors, to ensure compliance with cigarette and tobacco product tax and licensing laws. Approximately 29,000 cigarette and tobacco product retail locations are licensed to sell cigarettes and tobacco products in California. CDTFA annually conducts about 3,318 inspections of licensed cigarette and tobacco product retailers to ensure compliance with the Licensing Act and applicable tax laws. When CDTFA discovers that a retailer, or any of its agents or employees, sells or offers to sell unstamped cigarette packages, it can seize the packages. (Similar authority exists for CDTFA to seize cannabis products under specified circumstances). When seized, the law treats the products as forfeited to the state.

Flavored Tobacco Ban. In 2020, the Legislature prohibited the sale of most flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, as well as tobacco product flavor enhancers, in retail locations, including stores and vending machines (SB 793, Hill). Voters upheld the ban in a referendum measure (Proposition 31, 2022). SB 793 provided that violations were punishable as infractions, with a fine of \$250 per violation. The Legislature subsequently enacted three bills to enforce the ban, among other compliance measures.

- AB 935 (Connolly, 2024) made violations of the ban enforceable by the California Department of Public Health (CDPH) and other enforcing agencies through the imposition of civil penalties. AB 935 also required CDTFA, upon notification by CDPH, to impose a \$250 civil penalty and suspend or revoke a retailer’s cigarette and tobacco products license upon a third, fourth, or fifth violation
- AB 3218 (Wood, 2024) requires the California Attorney General to establish and maintain on its website a list of tobacco product brand styles that lack a characterizing flavor, known as the “Unflavored Tobacco List,” and deemed a product not on the list a flavored tobacco product for purposes of the ban. AB 3218 also allowed CDTFA or a law enforcement agency to seize flavored tobacco products from the retailer or wholesaler, issue civil penalties of \$50 per package, and suspend licenses on the second violation, or revoke them on a third violation.
- SB 1230 (Rubio) contained similar authority for CDTFA to seize products. In 2025, CDTFA performed 648 seizures of 809,513 products with a retail value of \$8.5 million. CDTFA expects to issue approximately \$40 million in penalties.

The California Cigarette and Tobacco Products Tax Law. The California Cigarette and Tobacco Products Tax Law imposes a tax of \$2.87 per package of 20 cigarettes. Distributors pay the tax by purchasing tax stamps from CDTFA, which are then affixed to a cigarette package. While a base tax rate of \$0.10 per pack of 20 cigarettes has been in place since 1967, with revenue flowing to the General Fund, the Legislature and voters have adopted four tobacco tax measures directing revenue for specific programs:

- In 1988, voters approved Proposition 99, which imposed a surtax of \$0.25 cents per package and created an equivalent tax on tobacco products. Proceeds from the tax fund health education, disease research, hospital care, fire prevention, and environmental conservation.
- Assembly Bill 478 (Friedman, 1993) added an excise tax of \$0.02 per packet of 20 cigarettes for breast cancer research and early detection services.
- In 1998, California voters approved Proposition 10, which imposed an additional surtax of \$0.50 per pack and created a proportionately larger increase in the tax on tobacco products. The revenues are used to fund early childhood development programs, often called “First 5.”
- In 2016, voters approved Proposition 56, which imposed an additional surtax of \$2 per pack and expanded the definition of “tobacco products” to include electronic cigarettes, also known as e-cigarettes, when sold in combination with nicotine for a single price, and liquids containing nicotine used in those products. The additional tax revenues are deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund, which is used to backfill revenue losses for the above programs that result from reduced consumption due to the increased tax rate. Currently, \$40 million each year in Prop. 56 funds is appropriated to the University of California to increase the number of primary care and emergency physicians trained in California, specifically to sustain,

retain, and expand graduate medical education programs to achieve the goal of increasing the number of primary care and emergency physicians in the State of California based on demonstrated workforce needs and priorities.

Other tobacco products (OTP) are subject to the above taxes, but unlike cigarettes, do not come in packs of 20. CDTFA determines the OTP rate by dividing the tax rate imposed on cigarettes by the average wholesale cost of cigarettes, currently 51.08% for 2025-26. Tobacco products distributors calculate tax due by applying the tobacco products tax rate to the wholesale cost of OTP distributed in California.

E-Cigarette Tax. In 2021, the Legislature enacted the Healthy Outcomes and Prevention Education (HOPE Act), which imposed the California Electronic Cigarette Excise Tax (CECET) at the rate of 12.5% of the retail selling price of electronic cigarettes containing or sold with nicotine (SB 395, Caballero). The tax is imposed on purchasers, but must be collected and remitted by retailers, including out-of-state sellers, and is included in addition to the sales and use tax. SB 395 programmed funds to fund essential safety net services and provide grants to students from disadvantaged backgrounds pursuing an education in the health field to combat the long-term negative impacts of tobacco products.

Hazardous Waste Regulation. The Department of Toxic Substances Control (DTSC) is responsible for protecting public health and the environment by overseeing the state's management of hazardous waste and response to releases of hazardous substances. Current law defines "hazardous waste" as waste, that, because of its quantity, concentration, or physical, chemical, or infectious characteristics:

- Causes, or significantly contributes to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or,
- Poses a substantial present or potential hazard to human health or the environment, due to factors including, but not limited to, carcinogenicity, acute toxicity, chronic toxicity, bio accumulative properties, or persistence in the environment, when improperly treated, stored, transported, disposed of, or otherwise managed.

Additionally, many common household products are also hazardous, and when these products are discarded, they become "household hazardous waste," such as antifreeze, glue and adhesives, pesticides, used oil, batteries, electronic wastes, and household cleaners. In California, persons cannot dispose of this waste in the trash, down the drain, or by abandonment, and must be disposed of through a Household Hazardous Waste Program. Cities and counties must provide services for the collection of these wastes. Facilities processing household hazardous waste must obtain a permit for the operation of a household hazardous waste collection facility, unless it only accepts specified materials.

Vape products disguised as other items frustrate parents and educators, as well as local agencies responsible for disposing of them. The Rural County Representatives of California want to ban such products and erect an enforcement infrastructure, among other changes.

Proposed Law

Assembly Bill 2667 bars a person from marketing, promoting, labeling, branding, advertising, distributing, offering for sale, or selling a vape product in this state that imitates a product that is

not a vape product to conceal the nature of the vape product from parents, teachers, or other adults, specifically:

- Imitating a food or brand of food product commonly marketed to minors, including candy, desserts, and beverages.
- Imitating school supplies commonly used by minors, including erasers, highlighters, pens, and pencils.
- Constructing into clothing and accessories that could be marketed to minors.

Local agencies can enforce the ban by imposing civil liability on a person or entity in violation of the ban of \$1,000 for the first violation, \$2,500 for the second violation, and \$5,000 for the third and any subsequent violations. Local agencies or the state may impose civil liability on a distributor who violates this section in the amount of \$50,000 per violation.

Civil penalties must be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. Those in violation of the ban are also guilty of an infraction, punishable by a fine of up to \$500.

CDTFA must also revoke or suspend the license of a tobacco retailer upon a second violation of the ban. The bill adds authority similar to unstamped cigarettes and untaxed cannabis for either department to seize vape products that violate the bill's prohibition.

The bill provides that the above penalties are in addition to other penalties prescribed by law, or other remedies under the state's unfair competition law. State agency costs are also recoverable by the Attorney General from the person violating the ban.

The bill also makes the following changes for household hazardous waste collection facilities (HHWCFs):

- Authorizes an HHWCF to rely on federal guidance and other provisions for the management of acutely hazardous waste for the purposes of determining how many vape pens and devices are accepted from very small quantity generators.
- Authorizes a public agency, contractor of a public agency, or a registered hazardous waste transporter to transport vape pens and devices from a school that were confiscated from students pursuant to an agreement between the school and local HHWCF.
- Requires DTSC to evaluate opportunities to increase safety and convenience related to the management and disposal of vape pens and devices confiscated from students by a school, ensure the evaluation is consistent with federal Resource Conservation and Recovery Act and identify recommendations that require future legislative action.
- Authorizes a permanent HHWCF to mechanically disassemble vape pens and devices to separate batteries, valves, electronic components, and other parts containing liquids or gases in a manner that does not result in the unauthorized release of hazardous materials after consultation with the certified unified program agency s and local fire authority.
- Requires that the activities that apply to the mechanical disassembly of vape pens and devices are described in the operation plan and included in a permit-by-rule application, and that any personnel involved in the activities receive adequate training to ensure safe management and operations.

State Revenue Impact

According to CDTFA, “Loss of California electronic cigarette excise tax, Cigarette and Tobacco Products taxes, cannabis excise tax, sales and use tax, and licensing fee revenues of an unknown amount due to reduced legal sales of prohibited vape products and increased license suspension and revocation.”

Comments

1. Purpose of the bill. “Manufacturers are deceptively designing and marketing vapes to children. These vapes are disguised as everyday items, like school supplies or clothing. Some have features intentionally designed to increase dependency and addiction, like built-in video games. Schools are increasingly confiscating these vapes, yet they lack practical options to safely manage and dispose of them. Similarly, local household hazardous waste facilities receiving these vapes are unable to identify them and disassemble them, increasing costs and fire hazards. Assembly Bill 2667 cracks down on these dangerous devices by banning disguised and interactive vapes. It also gives schools and local governments the tools to safely manage and dispose of vape waste. This bill protects kids, supports schools, and ensures hazardous materials are handled responsibly.”

2. Enforcement. AB 2667 currently authorizes local agencies to impose civil penalties on advertisers, sellers, and distributors of banned products, and CDTFA can revoke or suspend a retail tobacco license upon violation of the bill’s provisions. However, CDTFA’s tobacco inspection program results in more than 3,000 physical inspections of tobacco retailers each year. Additionally, CDTFA has authority to seize unstamped cigarettes, flavored tobacco, and cannabis products that haven’t been entered into the Track and Trace system or are being offered for sale by an unlicensed retailer. The Committee may wish to consider adding similar authority for CDTFA to enhance enforcement and compliance.

3. Related legislation. The Committee will also consider AB 762 (Irwin) at its 6/24 hearing, which bans the use of disposable, battery-embedded vapor inhalation devices. Earlier this year, the Committee and the Senate approved two measures that also expanded CDTFA’s enforcement of the Cigarette and Tobacco Products Licensing Act:
 - SB 1124 (Archuleta), which requires the CDPH to develop signage for lung cancer screening and requires licensed tobacco retailers to display the signage or be subject to a civil penalty. The measure is currently pending in the Assembly Health Committee.
 - SB 1314 (Menjivar), which enacts the Youth Over Smoke Act, which limits the location and operation of smoke shops, as defined. The measure is currently pending in the Assembly Health Committee.

4. Triple-referred. The Committee on Environmental Quality approved AB 2667 by a vote of 7 to 0 on June 17th. The Committee on Business, Professions, and Economic Development approved the bill on June 22nd by a vote of 10 to 0. The Committee on Revenue & Taxation is considering the measure as the committee of third reference.

Assembly Actions

Assembly Environmental Safety & Toxic Materials Committee:
 Assembly Business & Professions Committee:

7-0
 19-0

Assembly Appropriations Committee:
Assembly Floor:

15-0
76-0

Support and Opposition (6/22/26)

Support: A Voice for Choice Advocacy
Alameda County Office of Education
American Academy of Pediatrics, California
Association of California School Administrators
Breathe California
Breathe Southern California
California Cannabis Operators Association
California Optometric Association
California Product Stewardship Council
Californians Against Waste
City of Sunnyvale
County of Santa Barbara
County of Shasta
Del Norte Solid Waste Management Authority
League of California Cities
Los Angeles Unified School District
National Stewardship Action Council
Parents Against Vaping
Recology
Recyclesmart
Republic Services
Resource Recovery Coalition of California
RethinkWaste
Rural Counties Environmental Services Joint Powers Authority
Rural County Representatives of California
StopWaste
Swana California Chapters Legislative Task Force
Tehama County Solid Waste Management Agency
Western Placer Waste Management Authority
Yuba-Sutter Regional Waste Management Authority
Zero Waste Marin

Opposition: None received.

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