

Introduced by Senator Wieckowski

February 19, 2016

An act to amend Section 22962 of the Business and Professions Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

SB 1470, as introduced, Wieckowski. Tobacco.

Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, imposes civil penalties for a person engaged in the retail sale of tobacco products who sells, offers for sale, or displays for sale of any tobacco product or tobacco paraphernalia by self-service display, except as specified. Existing law makes these penalties inapplicable to the display in a tobacco store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco, as provided, and defines tobacco store to mean a retail business that meets specified requirements, including that it primarily sells tobacco products.

This bill would revise the definition of tobacco store to include the requirement that it primarily sells tobacco products and tobacco paraphernalia, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22962 of the Business and Professions
- 2 Code is amended to read:
- 3 22962. (a) For purposes of this section, the following terms
- 4 have the following meanings:

1 (1) “Self-service display” means the open display of tobacco
2 products or tobacco paraphernalia in a manner that is accessible
3 to the general public without the assistance of the retailer or
4 employee of the retailer.

5 (2) “Tobacco paraphernalia” means cigarette papers or wrappers,
6 blunt wraps as defined in Section 308 of the Penal Code, pipes,
7 holders of smoking materials of all types, cigarette rolling
8 machines, or other instruments or things designed for the smoking
9 or ingestion of tobacco products.

10 (3) “Tobacco product” means any product containing tobacco
11 leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,
12 snuff, chewing tobacco, dipping tobacco, bidis, or any other
13 preparation of tobacco.

14 (4) “Tobacco store” means a retail business that meets all of the
15 following requirements:

16 (A) Primarily sells tobacco ~~products~~: *products and tobacco*
17 *paraphernalia*.

18 (B) Generates more than 60 percent of its gross revenues
19 annually from the sale of tobacco products and tobacco
20 paraphernalia.

21 (C) Does not permit any person under 18 years of age to be
22 present or enter the premises at any time, unless accompanied by
23 the person’s parent or legal guardian, as defined in Section 6903
24 of the Family Code.

25 (D) Does not sell alcoholic beverages or food for consumption
26 on the premises.

27 (b) (1) (A) Except as permitted in subdivision (b) of Section
28 22960, it is unlawful for a person engaged in the retail sale of
29 tobacco products to sell, offer for sale, or display for sale any
30 tobacco product or tobacco paraphernalia by self-service display.
31 A person who violates this section is subject to those civil penalties
32 specified in the schedule in subdivision (a) of Section 22958.

33 (B) A person who violates this section is subject to those civil
34 penalties specified in the schedule in subdivision (a) of Section
35 22958.

36 (2) It is unlawful for a person engaged in the retail sale of blunt
37 wraps to place or maintain, or to cause to be placed or maintained,
38 any blunt wraps advertising display within two feet of candy,
39 snack, or nonalcoholic beverage displayed inside any store or
40 business.

1 (3) It is unlawful for any person or business to place or maintain,
2 or cause to be placed or maintained, any blunt wrap advertising
3 display that is less than four feet above the floor.

4 (c) Subdivision (b) shall not apply to the display in a tobacco
5 store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping
6 tobacco, provided that in the case of cigars they are generally not
7 sold or offered for sale in a sealed package of the manufacturer or
8 importer containing less than six cigars. In any enforcement action
9 brought pursuant to this division, the retail business that displays
10 any of the items described in this subdivision in a self-service
11 display shall have the burden of proving that it qualifies for the
12 exemption established in this subdivision.

13 (d) The Attorney General, a city attorney, a county counsel, or
14 a district attorney may bring a civil action to enforce this section.

15 (e) This section does not preempt or otherwise prohibit the
16 adoption of a local standard that imposes greater restrictions on
17 the access to tobacco products than the restrictions imposed by
18 this section. To the extent that there is an inconsistency between
19 this section and a local standard that imposes greater restrictions
20 on the access to tobacco products, the greater restriction on the
21 access to tobacco products in the local standard shall prevail.