

## **California Law Prohibits the Sale of Menthol Cigarettes and Other Flavored Tobacco Products from Stores and Vending Machines**

### **Health and Safety Code Section 104559.5**

#### **Fact Sheet**

On August 28, 2020, California Governor Gavin Newsom signed Senate Bill (SB) 793 (Chapter 34, Statutes of 2020) into law, and on November 8, 2022, California voters upheld the law via referendum. The new law prohibits the sale of menthol cigarettes and nearly all other flavored tobacco products, including flavored electronic cigarettes (e-cigarettes), as well as tobacco product flavor enhancers, from stores and vending machines in California.

Effective upon certification of the vote, sales of the following tobacco products from retail locations are no longer permitted:

- Flavored e-cigarettes or vapes that deliver nicotine or another vaporized liquid, e-juice, pods, or cartridges
- Menthol cigarettes
- Flavored little cigars and cigarillos
- Flavored smokeless tobacco products
- Flavored blunt wraps
- Flavored loose-leaf roll-your-own tobacco
- Flavored tobacco rolling papers
- Tobacco product flavor enhancers

The law does not apply to flavored premium cigars with a wholesale price of \$12 or more, and flavored loose-leaf pipe tobacco. Flavored shisha/hookah tobacco may only be sold in licensed stores that only allow people 21 or older on the premises at any time.

Licensed stores must also operate in accordance with all state and/or local laws relating to the sale of tobacco and use of tobacco on the premises (for hookah retailers that permit use of tobacco on the premises).

**Penalties:** Retailers or their agents or employees that sell, offer for sale, or possess with the intention of selling, any of the flavored tobacco products covered by the law or tobacco product flavor enhancers will be guilty of an infraction and fined \$250 for each violation.

This law does not include penalties for personal purchase, use, or possession with the intent to use a flavored tobacco product. The penalties in the law only apply to retailers who *sell, offer for sale,* or possess with the intention of selling a

flavored tobacco product or tobacco product flavor enhancer. Compliance with the law lies solely with retailers.

**Compliance:** Retailers are expected to comply with the law and are required to immediately remove the current stock of flavored tobacco products covered by the law and tobacco product flavor enhancers from their shelves.

**Jurisdictions with Existing Local Flavored Tobacco Laws:** All jurisdictions in California must now implement the state law and prohibit the retail sale of flavored tobacco products covered by the law. In jurisdictions that have an existing ordinance related to the sale of flavored tobacco products, the state law replaces an existing local ordinance unless the local ordinance is more restrictive than the state law. If an existing local ordinance is more restrictive than the state law (for example, prohibits the sale of all flavored tobacco products or any of the products not covered in the state law), then retailers in that jurisdiction must continue to abide by the stronger local ordinance. The state law allows for local jurisdictions to continue to pass more restrictive local ordinances that prohibit sales of flavored tobacco products not included in the state law. For example, a jurisdiction may apply these same restrictions to hookah tobacco and prohibit the sale of all hookah tobacco from all stores in that jurisdiction.