



County of San Diego

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WILMA J. WOOTEN, M.D., M.P.H.
PUBLIC HEALTH OFFICER

NOTICE OF 30-DAY TOBACCO RETAIL LICENSE SUSPENSION

Date

Name of Business Owner
Store Name/DBA
Street Address
City, State, Zip

Dear Business Owner:

You are receiving this notice because your store was observed and documented selling a tobacco product to a minor during a visit on Date.

Grounds for License Suspension

The license suspension is for a first violation based on the following sections of the San Diego County Code:

- **Section 21.112(a)(2):** A license may be suspended if “the licensee committed an illegal act or allowed any of its agents or employees to commit an illegal act, while engaging in the activity for which the license was issued or used or allowed any agent or employee to use the license to its terms”.
- **Section 21.2603(c):** “LAWFUL BUSINESS OPERATION. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license is issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to tobacco products, tobacco retailing, or on-premises tobacco use.”
- **Section 21.2603(e):** “MINIMUM LEGAL AGE OF SALE AND GIFT. No tobacco retailer shall sell or gift a tobacco product to a person under the age of legal age of purchase for tobacco products.”
- **Section 21.2608**
 - (a): “LICENSE MAY BE SUSPENDED OR REVOKED. In addition to any other remedy authorized by law, a tobacco retailer's license may be suspended or revoked pursuant to section 21.112 of the code as follows:
 - (1) Upon a finding by the Issuing Officer of a first violation of this chapter at a location, the license may be **suspended for 30 days.**”
 - (b): “The Issuing Officer may pursue any additional remedy for violation of this chapter including, but not limited to, administrative civil penalties pursuant to Title 1, Division 8, Chapter 2 of the code.”
 - (c): “Any violation of this chapter may also be deemed a public nuisance and may be enforced by any remedy available for abatement of public nuisances.”

What You Need to Do

Effective Date 1 through Date 2, you must (1) cease the sale and display of all tobacco products and (2) remove the County Tobacco Retail License that was previously prominently posted at the store location (County Code **Section 21.111(d)**).

As a reminder, tobacco products include the following:

- All **combustible tobacco products**, such as cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, loose-leaf tobacco, and shisha.
- All **oral tobacco products**, such as smokeless tobacco, pouches, orbs, dissolvable tobacco, and heat-not-burn items.
- All **electronic smoking devices**, even if they do not contain tobacco or nicotine. This includes cannabidiol (CBD) vapes, hemp vapes, and vapes marketed for health purposes.
- All **“e-liquids”** that contain tobacco, nicotine, or are flavored.
- All **tobacco paraphernalia**, including hookah pipes, cigarette papers, blunt wraps, and flavor enhancers. You may continue to sell matches, lighters, ashtrays, and pipe cleaners, as they are not regulated as tobacco products.

If you submit a timely request for an appeal hearing as described under Appeal Rights, you will be allowed to continue to sell tobacco products and display your Tobacco Retail License until the appeal process has come to an end.

Appeal Rights

Applicants whose license has been suspended have the following appeal rights:

- The right to a hearing before the Issuing Officer to contest the suspension, if within **21 calendar days** of the date of this notice the applicant mails or emails the attached Request for Appeal Hearing.
- At the hearing, the applicant may present evidence and be represented by legal counsel at their own expense.
- If the applicant fails to request a hearing within 21 calendar days of the date of this notice, the applicant waives all rights to contest the license suspension.
- If after the hearing before the Issuing Officer, the hearing officer does not overturn the license suspension, the applicant has the right to appeal the Issuing Officer's decision to the Appellate Hearing Board, but only if the applicant appears at and completes the hearing before the Issuing Officer.

Enforcement Follow Up

You will receive an unannounced visit from a code enforcement officer to verify that you have stopped the sale and display of all tobacco products and removed the County Tobacco Retail License as required by this notice. If you have not complied with this notice, you will then be subject to one or more of the following fines or penalties:

- **Administrative Civil Penalties:** If you continue to sell or display tobacco while your license is suspended, fines can be issued for up to **\$1,000 per day** per violation up to **\$50,000** for a single violation in any 12-month period (County Code **Section 18.203 CIVIL PENALTIES**).
- **Public Nuisance:** A public nuisance abatement court order can be issued directing law enforcement to **seize tobacco products** (County Code **Section 11.111 PUBLIC NUISANCE**).
- **Criminal Penalties:** It is a misdemeanor to violate the Tobacco Retailing provisions of the San Diego County Code of Regulatory Ordinances. (County Code **Section 11.116 VIOLATIONS – CRIMINAL PENALTIES**).
- **Future Denial of License Renewal:** The owner's application to **renew** their County tobacco retail license can be **denied** in the future (County Code **Section. 21.109 (a)(2) EXPIRATION AND RENEWAL**).

Date

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Additional Assistance

Please email the Tobacco Retail Licensing Program at phs-trlapplications.hhsa@sdcounty.ca.gov or leave a message at **833-THE-TRLP/833-843-8757**.

You may also visit the TRL program website at:

https://www.sandiegocounty.gov/content/sdc/hhsa/programs/phs/tobacco_control_resource_program/tobacco_sales_regulations.html.

Sincerely,

Wilma J. Wooten, M.D., M.P.H.

Public Health Officer

Public Health Services

Encl: Request for Appeal Hearing
Documentation of Illegal Sale

- *Photocopy of Underage Decoy Operation/ Compliance Check Findings Form*
- *Photocopy of Affidavit Certifying Illegal Sale of Tobacco Products*
- *Photocopy of Photograph of Physical Evidence*
- *Photocopy of Chain of Custody Evidence Check-In Form*