

ORDINANCE NO. 9489 (New Series)

AN ORDINANCE ADDING CHAPTER 8.6  
TO DIVISION 2 OF TITLE 3 OF THE COUNTY OF SAN DIEGO  
CODE OF REGULATORY ORDINANCES RELATING TO THE SALE  
OF TOBACCO PRODUCTS TO MINORS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Chapter 8.6 is hereby added to Division 2 of Title 3 of the County of San Diego Code of Regulatory Ordinances, to read as follows:

CHAPTER 8.6. PROHIBITION OF THE SALE  
OF TOBACCO PRODUCTS TO MINORS

**SEC. 32. 860. PURPOSE OF CHAPTER.**

The declared purpose of this chapter is to prevent the sale of Tobacco Products and accessories to protect the health and welfare of the public, and in particular that segment of the public constituting minors. The reasons in support of this declared purpose are as follows:

(a) Smoking is responsible for the premature deaths of Americans each year from lung cancer, heart disease, respiratory illnesses, and other diseases.

(b) Environmental tobacco smoke is reportedly responsible for the additional deaths of nonsmokers.

(c) The Environmental Protection Agency has classified environmental tobacco smoke a Group A carcinogen, a substance known to cause cancer in humans, the same classification as asbestos.

(d) The U.S. Surgeon General has declared that nicotine is as addictive as cocaine or heroin.

(e) It is estimated that 7.1% of children in California smoke, 19.2% of ninth-to-twelfth grade boys use smokeless tobacco, 73% of high school seniors who have tried smokeless tobacco did so by the ninth grade, and 57% of tenth graders and 38% of eighth graders perceive that it would be easy for them to obtain cigarettes from a retail source.

**SEC. 32.861. DEFINITIONS.**

(a) "Tobacco Products" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

(b) "Self-Service Display" means the open display of Tobacco Products in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer.

(c) “Valid Identification” means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator’s license or an identification card issued to a member of the Armed Forces, which contains the name, date of birth, description, and photograph of the individual.

**SEC. 32.862. SALE OF TOBACCO PRODUCTS BY SELF-SERVICE DISPLAY PROHIBITED.**

It is unlawful for any person to display Tobacco Products by means of a Self-Service Display or to engage in the sale of Tobacco Products by means of a Self-Service Display, except in enclosed areas where minors are not permitted unless accompanied by an adult.

**SEC. 32.863. DISTRIBUTION OF TOBACCO SAMPLES OR PROMOTIONAL ITEMS.**

It is unlawful for any person to distribute free Tobacco Products or promotional items, except in enclosed areas where minors are not permitted unless accompanied by an adult.

**SEC. 32.864. POSTING OF SIGNS REGARDING SALES TO MINORS.**

State law provides that every person who sells or deals in Tobacco Products shall post conspicuously in his or her place of business at each point of purchase a notice stating that the sale of Tobacco Products to persons under eighteen years of age is prohibited by law and subject to penalties. The notice must also state that Valid Identification is required to purchase Tobacco Products and the letters of the notice must be at least one-half inch in height. These requirements are set forth in California Business and Professions Code section 22952(b) and California Penal Code section 308(c). In accordance with state law, it is the intent of the County of San Diego to aggressively enforce these laws in the unincorporated areas of the County.

**SEC. 32.865. BANNING UNPACKAGED TOBACCO OR SMOKING PRODUCTS.**

State law provides that no person, business, tobacco retailer or other establishment shall sell cigarettes not in the original packaging provided by the manufacturer or importer and which conform to federal labeling requirements, including the federal warning label. This requirement is set forth in California Penal Code section 308.2. In accordance with state law, it is the intent of the County of San Diego to aggressively enforce this law in the unincorporated areas of the County.

**SEC. 32.866. SALE OF BIDIS.**

State law provides that no person shall sell, offer for sale or distribute bidis except at businesses that prohibit minors. This requirement is set forth in California Penal Code section 308.1. In accordance with state law, it is the intent of the County of San Diego to aggressively enforce this law in the unincorporated areas of the County.

**SEC. 32.867. MINIMUM PACKAGE SIZE FOR TOBACCO PRODUCTS.**

State law provides that no person shall sell or offer for sale cigarettes in packages of less than twenty cigarettes and that no person shall sell or offer for sale roll-your-own tobacco in a package containing less than 0.60 ounces of tobacco. These requirements are set forth in California Penal Code section 308.3. In accordance with state law, it is the intent of the County of San Diego to aggressively enforce this law in the unincorporated areas of the County.

**SEC. 32.868. VIOLATIONS AND PENALTIES.**

Any person who violates the provisions of this chapter, which makes it unlawful to display, sell or distribute Tobacco Products as indicated in Sections 32.862 and 32.863 is guilty of a misdemeanor, and upon a conviction thereof, shall be punished by a fine not to exceed \$500 or by imprisonment in the County jail for a period of not more than six months or both such fine and imprisonment. Each day or portion of a day that any person violates or continues to violate the provisions of this Chapter shall constitute a separate offense in accordance with Section 11.117 of this Code.

Section 2. Effective Date. This Ordinance shall take effect thirty days after its adoption. Within fifteen days after the date of adoption of this Ordinance, a summary shall be published once with the name of those members voting for and against the same in the newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 30th day of July, 2002.