

On The Alert!

Date: April 1, 2017
Attention: ASCIP Members
Affected Department: Risk Management/District Administration
Applicability: K-12 Districts, Charter Schools

Stop Tobacco Access to Kids Enforcement (STAKE) Act

Under existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, prohibited a person from selling or otherwise furnishing tobacco products to a person under 18 years of age. This law permitted enforcing agencies to assess various civil penalties for violations of the STAKE Act, made it a crime to furnish tobacco products to a person under 18 years of age, prohibited a person from selling or otherwise furnishing an electronic cigarette to a person under 18 years of age, and made it a violation punishable as an infraction.

Effective January 1, 2017, Senate Bill 5 redefined the term “smoking” for purposes of the STAKE Act. Now, the definition of “tobacco products” includes electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquids and makes furnishing the tobacco product to a minor a misdemeanor.

The new wording is as follows:

Business and Professions Code

22950.5. For purposes of this division, the following terms have the following meanings:

...

(c) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

What's Next

Districts should review their policies with respect to smoking (for example, **BP 3513.3 - Tobacco-Free Schools**), modify these as appropriate to comply with these changes in the STAKE Act, and have their Board members adopt, as necessary, modified board policies with respect to smoking to reflect these changes.

Please contact your ASCIP risk services consultant at (562) 404-8029 to discuss further.