

This event is a production of the LegiSchool Project: A civic education collaboration between California State University, Sacramento and the California State Legislature.

# California's Changing Tobacco Laws

## Curriculum Guide

Town Hall Meeting

December 9<sup>th</sup>, 2016



**THE LEGISCHOOL PROJECT**  
Real Issues, Real Debate, Real Curriculum

**Elisia Hoffman, Interim LegiSchool Director**

**Dr. Mimi Coughlin, Curriculum Guide Consultant**

*With contributions from Terra Thorne*

[http://www.csus.edu/calst/legischool\\_project/](http://www.csus.edu/calst/legischool_project/)

## California's Changing Tobacco Laws



In 2016, California implemented new tobacco laws that raise the smoking age from 18 to 21 and extend some existing regulations pertaining to include e-cigarettes. California follows Hawaii as just the second state in the country to raise the lawful age to purchase tobacco to 21.

This guide is not attempting to influence your decision on tobacco use. Rather, we will explore what the new laws entail, why the government is involved, arguments for and against the legislation; as well as other related issues.

Questions about tobacco regulations require careful consideration of beliefs about the role of government and research into the impact of tobacco and e-cigarettes on the health and welfare of Californians.

Our government continually faces the difficult task of balancing the rights and freedoms that individuals have to make their own choices, with the need to protect the broader community. When it comes to regulating tobacco, the government has acted to limit personal freedoms to protect the common good. The common good includes the rights of non-smokers to have smoke-free public spaces. Health costs associated with smoking are another public concern. New products, like e-cigarettes, pose another policy challenge. In the eyes of the law, should e-cigarettes be treated the same as other tobacco products? **In this guide, we want to ask you what you think!**

### The New Laws around Smoking

Two new tobacco bills were recently put into law:

- 1) [Senate Bill 5 \(by Senator Leno\)](#) which categorizes *e-cigarettes* as a tobacco product, and must be regulated similar to cigarettes and other tobacco products. Before this law was signed, minors were already restricted from purchasing e-cigarettes, but many of California's other tobacco laws did not apply, including smoke-free laws (smoking in public places, in places of employment, in cars where minors are present, and requiring licenses to sell the products). The new law basically extends these existing tobacco laws to e-cigarettes, meaning they will be much more heavily regulated by the government than they used to be. The new law does not, however, extend current cigarette taxes to e-cigarettes.
- 2) [Senate Bill 7 \(by Senator Hernandez\)](#), has raised the minimum smoking age from 18 to 21 in California. This new law applies to both traditional tobacco products as well as e-cigarettes.

**E-cigarettes**, short for electronic cigarettes, are handheld electronic devices containing a nicotine-based liquid that is vaporized and inhaled. The use of e-cigarettes is often called "vaping".

### CRITICAL THINKING

The new law raising the smoking age to 21 applies to everyone except active duty military personnel. 18 year olds with a valid military ID will still be able to purchase tobacco products and e-cigarettes. What reasons can you think of for having a set of tobacco and e-cigarette regulations for civilians that do not apply to active duty military personnel? Do you agree or disagree with this policy decision?

## Why does the Government Regulate Tobacco?

When the government makes laws, it must balance many issues. But for the purpose of this guide we will provide two considerations that policymakers must balance:

- the citizen's individual rights
- the rights of the general population

In the case of tobacco regulation, the government typically weighs the right of an individual person to make their own choice about using tobacco products with public health care costs related to tobacco use. The government plays a role in protecting non-smoking individuals from the negative impact of secondhand smoke, as well as protecting minors from taking part in smoking at an early age.

### *The Cost Associated with Smoking*

There are a couple major costs that people typically associate with smoking: the cost of medical care and the cost of **lost productivity**.

**Lost productivity** typically means work that is not done because of a worker's illness or death

According to the Centers for Disease Control (CDC) [fact sheet](#), smoking costs the US about \$170 billion in direct medical care for adults, and more than \$156 billion in lost productivity due to premature death and exposure to secondhand smoke. And some of these costs are paid by the general public. In California, taxpayers help to cover the health insurance expenses of people through Medi-Cal and CalPERS. In this way, everyone has a stake in individuals' smoking behaviors.

### *Protecting NonSmokers Rights*

Many of the costs of smoking are related to health consequences associated with direct tobacco use, including cancer, heart disease, stroke, lung diseases, diabetes and more.

However, **secondhand smoke** can also be dangerous. According to another [fact sheet](#) from the CDC, secondhand smoke can cause asthma attacks, respiratory infections, heart disease and even cancer. They estimate approximately 2.5 million nonsmokers have died since 1964 due to health problems associated with secondhand smoke.

**Secondhand smoke** occurs when a person is exposed to the smoke that is emitted from another person's burning tobacco products, like cigarettes, cigars or pipes. It also the smoke that is exhaled by the person smoking.

When governments decide to regulate tobacco, they often justify their interventions as a way to reduce costs to the general public, improve public health overall and prevent minors from becoming future smokers.

## CRITICAL THINKING

What do you think? Is it appropriate for government to use its power to regulate tobacco and e-cigarette use? Why or why not? And how far should the government restrict their constituents' freedoms? Should there be limits to the restrictions government can apply to the freedom of individuals? Or if it is for health of the general public, where do you draw the line at what is reasonable?

## A Critical Look at our New Laws

*Should it be the government's responsibility to prevent teens and young adults from smoking?*

The government sets minimum ages for many things (for example: when you can vote, drive, drink, marry and when you can join the military). However, with the new tobacco laws, California is only the second state in the country to set our smoking age at 21. Hawaii was the first. Four other states have a smoking age of 19: Alabama, Alaska, New Jersey and Utah. The rest of the states set the smoking age at 18, which is considered the legal age of adulthood in many circumstances.

*Arguments in favor of **raising** the smoking age to 21*

Proponents of the law in California note that most adults start smoking by a young age. According to the [California Department of Public Health](#), about 68% of current and former smokers began by the age of 18, and about 98% began by the age of 26. By raising the smoking age, the law is restricting access to products among young people, in the hopes of reducing the amount of people who start smoking. In addition, proponents want to adjust social norms around smoking by making it less desirable and less acceptable among young people. By decreasing the amount of people who smoke, you can reduce the economic costs and health consequences associated with smoking. An [Institute of Medicine Study](#) published last year found that raising the minimum legal age to 21 will have a much larger impact on preventing tobacco use among young people than raising the age to 19. They estimate a 3% reduction in smoking use if the legal age is raised to 19 and a 12% reduction if raised to 21.

### NEWSPAPER ARTICLE LITERACY

The [Washington Post](#) in their argument to raise the smoking age says, "it's tricky figuring out when to treat young people as adults...Society hasn't settled on a single answer, sending a contradictory and undoubtedly frustrating message to those on the cusp of adulthood." [LA Times](#) writer Mike Males argues raising the smoking age to 21 is a bad idea, "wisdom requires knowing when to leave young people alone, and smoking is another area where law makers should butt out." Read both articles and distinguish their arguments for and against the smoking age. Which article do you agree with more? And why?

*Arguments in favor of **maintaining** the smoking age to 18*

On the other hand, many argue that current tobacco laws have already been very effective in reducing the number of smokers we have in our country and in our state. According to the [CDC](#), smoking among high school students and adults has been on the decline for several decades, with just 15.7% of students and 17.8% of adults smoking nationwide.

The [California Department of Public Health](#) notes that California has the second lowest adult smoking rate in the country and the percent of high school students who smoke in our state is consistently lower than in the rest of the country.

Rates of smoking have declined over the last several years in our state, even without additional regulations and restrictions. And opponents of the law note that increasing the age may not actually deter any more young people from smoking. The Los Angeles Times recently cited [one study](#) that found that raising the smoking age in communities in Massachusetts had no effect on teen smoking, and in fact teen smoking increased in some instances. In addition, opponents worry about infringing upon the rights of young people whom we allow to go to war, to drive, to marry and to vote. They argue that this debate is not about whether smoking is good or bad. It is about protecting liberty and personal freedom.

What do you think? Should the government decide when you are “adult” enough to smoke? Do you think raising the smoking age to 21 helps prevent teen smoking?

## A Contemporary Example: E-Cigarettes

In addition to weighing the costs and benefits of regulating behavior, lawmakers must also consider the ever-changing landscape of what is available to consumers. As technology changes and new products are created, governments must consider how old laws might apply to new things, or if entirely new laws are needed. This is the case with electronic cigarettes. As you read through this brief introduction on e-cigarettes, we challenge you to critically think of ways government should confront changes in technology.

According to the [Consumer Advocates for Smoke Free Alternatives Association](#), electronic cigarettes, or “e-cigarettes” were first introduced to US consumers in 2006. This fairly new product, a handheld device containing liquid nicotine, has been increasing in popularity in recent years, particularly among youth.

And according to the [CDC](#), although cigarette smoking has declined among youth in this country, e-cigarettes use has increased, with about 16% of high school students now reporting use in the last 30 days.

The [California Department of Public Health](#) has seen similar trends in our state. Among adults, the highest use in California is in the 18-24 age group, with over 9% using e-cigarettes and just over 12% of youth report using e-cigarettes in the last 30 days.

Tobacco Use Among High School Students in 2015

Tobacco Product	Overall	Females	Males
Any tobacco product	25.3%	20.3%	30.0%
<b><u>Electronic cigarettes</u></b>	<b><u>16.0%</u></b>	<b><u>12.8%</u></b>	<b><u>19.0%</u></b>
Cigarettes	9.3%	7.7%	10.7%
Cigars	8.6%	5.6%	11.5%
Hookahs	7.2%	6.9%	7.4%

CDC (2016). Youth and Tobacco Use. Retrieved from [CDC](#)

Because they are a newer product, evidence about e-cigarettes safety and their health impacts is just emerging. And although [many experts](#) think they are less dangerous than traditional cigarettes, there is still a lot of debate about how safe or harmful these products are. One thing that makes them distinct from traditional tobacco products is that they do not contain tobacco. Rather, most e-cigarettes contain liquid nicotine, flavorings and other chemicals. Another distinction is that they do not actually burn—they vaporize—which likely reduces, though does not eliminate, the effects of secondhand smoking from this product.

## MEDIA LITERACY

In this [TED talk](#) a student about your age makes a strong argument for regulating e-cigarettes. Describe any recent depictions and images of vaping you have seen. What message is being sent out about e-cigarettes? And should e-cigarette advertising be restricted similarly to tobacco advertising?

See this [link](#) for a deeper dive into the height of tobacco advertising in 20<sup>th</sup> century America. In your own opinion, do you see any similarities between the Ted Talk, your own experiences and this article?

### *Reasons in favor of less regulation*

Many opponents to the new laws in California cite this distinction from traditional tobacco products, as a key reason that e-cigarettes should not be treated like regular cigarettes under our laws.

They say “vaping” is not the same as smoking and therefore e-cigarettes should have a different set of rules. The [New York Times](#) recently published an article arguing that quickly labeling e-cigarettes as a threat could hurt smokers who want to use an e-cigarette to help them quit smoking. And others fear that heavy regulation or taxation may shut down hundreds of small shops and create a black market, similarly to [New York](#). And given that evidence about the safety or dangers of this product is still emerging, many people believe that it is still too early to regulate e-cigarettes.

#### REFLECTIVE QUESTION

If you were a member of the state legislature, what would you do about e-cigarettes? Would you want to regulate the product as soon as possible? Or let California citizens make the decision for themselves?

### *Reasons in favor of regulation*

According to the [Board of Equalization](#), which handles tax and fee collection, Californians overall have decreased their tobacco use, but e-cigarettes may drastically change that. And those that favor e-cigarette regulation want e-cigarette companies to clearly define every chemical in the product. The [Department of Public Health](#) notes that research on secondhand exposure of e-cigs is limited. But it has been reported that vapor emitted by e-cigs can be detrimental to indoor air quality. And low exposure to the vapor can increase the risk of heart and lung disease. But much is still unknown.

Those in favor of regulation argue that if legislators hesitate to regulate e-cigarettes, young adults may be addicted to them. And the opposition feels that smokers who want to quit may not have the opportunity to, due to strict laws on e-cigarettes. The government must consider complex points of view when deciding how to meet the rise of technology, especially when little is known about them.

#### CLASSROOM ACTIVITY (based off of KQED’s The Lowdown)

Read this [article](#) from KQED’s The Lowdown, which provides in-depth information on Proposition 56, one of 17 measures on California’s November 2016 ballot. Under the new measure, which voters approved, California users will pay an additional \$2 tax, and this includes e-cigarettes. Based off of what you have learned about e-cigarettes, are you in favor of raising, lowering or maintaining tobacco taxes? Who would this affect the most? And what could be some potential unintended consequences?

### **Are there other options?**

[Pew Research Center](#) found that American attitudes about smoking have shifted in recent years. These days, fewer Americans consider cigarette smoking a major public health problem, and many consider cancer and obesity to be higher priorities. What factors could describe this shift in cultural attitudes towards tobacco?

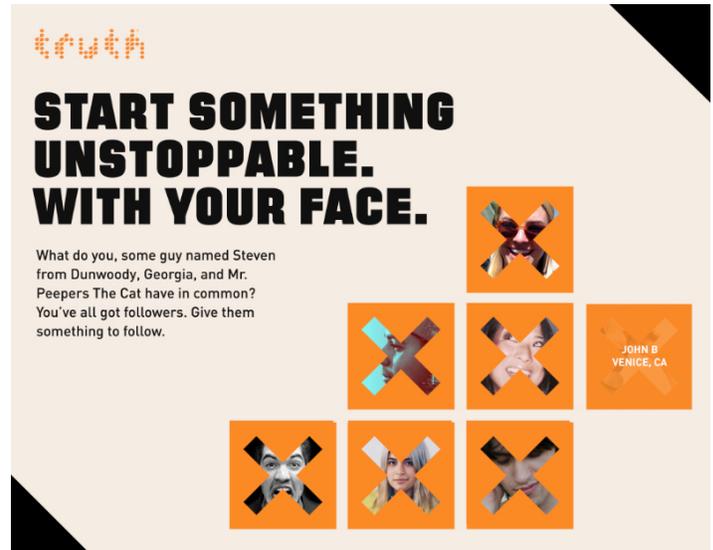
Government regulation could be one reason, or it could be that people are personally choosing not to smoke. As what was discussed in this guide, when government decides to regulate or impose minimum age restrictions on products, some argue that they are attempting to alter social norms and views towards those products. But are there factors outside of government, such as community involvement, that influence how youth interact with tobacco?

## Media Campaigns

Media campaigns can be extremely effective in shifting behavior on products or ideas. And campaigns, including the use of social media, could have a direct influence on how we view tobacco products.

Media campaigns can be similar to the way advertising works. Instead of marketing a product, an organization markets an idea to a targeted group in an attempt to change their behavior. And this guide has briefly touched on the history of cigarette advertising and how they can shift behavior. But how exactly do media campaigns shift behavior?

In 2014, the [New York Times](#) published an article on the [Truth Campaign](#), which receives funding from the [Master Settlement Agreement](#). The Truth Campaign claims to be neither for, nor against smoking, and it prioritizes educating youth on the tobacco industry (through the use of hashtags and photos on social media, commercials and their interactive website).



The Truth Campaign (2016). Retrieved from [website](#)

### MEDIA LITERACY

Check out The [Truth Campaign](#) (their commercials on [YouTube](#), [about](#) section etc). What strikes you the most? In your opinion, who are they marketing to? Provide specific examples. How do you feel about media campaigns? [NPR](#) also published an article questioning the success of using cat videos to decrease smoking. Has the Truth Campaign gone too far? Do you agree or disagree with this perspective?

It is important to critically analyze who is paying for organizations such as this one, as well as recognizing their marketing tactics. In addition to national media campaigns, community led efforts have the power to shape individual views on tobacco. Some examples are: connecting with political affiliation groups (Young Republicans/Democrats), creating or joining debate clubs in high schools or participating in community based anti-tobacco programs.

Whatever the solution is, voters can have multiple perspectives on the complicated issue of tobacco. Either they can urge their legislature to regulate it, or they can leave it up to an individual's personal choice. **So how do you think we should confront current and future tobacco legislation?**

Teachers, check out these extra resources to bring into your classroom!

### EXTRA RESOURCES

Looking for more reading and teaching resources? Try these out:  
 The Truth Initiative [research](#) on e-cig marketing to youth and its effects  
 KQED The Lowdown [Lesson Plan](#) on Prop 56 State by state laws and restriction [guide](#) on e-cigarettes  
 Campaign for Tobacco-Free Kids  
 Community Action [Guide](#)