



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.3.C.7	PAGE NUMBER 1 OF 6
		DISTRIBUTION:	Public
RELATED STANDARDS:		SUBJECT:	Tobacco Products and Electronic Cigarettes - Use and Possession
None		EFFECTIVE DATE:	July 01, 2022
DESCRIPTION: Rules and Discipline		SUPERSESION:	06/11/2021
REVIEW MONTH: June		 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that the unauthorized use of tobacco products and e-cigarettes is prohibited on all real property, or portions thereof, owned or leased by the State of South Dakota. Unauthorized possession of tobacco products and possession of electronic cigarettes by offenders on real property owned by the DOC or leased by the DOC where the DOC is the sole occupant, is prohibited.

II. PURPOSE

The purpose of this policy is to establish guidelines regarding tobacco, tobacco-related products, tobacco substitutes, vaping products, or electronic cigarettes (e-cigarettes) in DOC buildings, vehicles, on DOC property, or off-grounds work sites where DOC offender crews are working.

III. DEFINITIONS

Electronic Cigarette (e-cigarette):

Any device that turns vaping material into vapor. Vapor is produced from a material such as an e-liquid, concentrate, or dry herb. Electric devices typically consist of a mouthpiece, cartridges, atomizer, heating element and a unit containing a rechargeable battery and various electronic circuits which turn a substance (liquid or solid) into a gaseous form.

Tobacco Product:

The term "tobacco product" means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. Commonly, this includes but is not limited to, cigarettes, cigars, pipe tobacco, and smokeless tobacco (See SDCL § § 34-46-1 & 10-50B-4).

IV PROCEDURES

1. Tobacco and Electronic Cigarette Prohibition:

- A. Use of e-cigarettes and tobacco products is prohibited on all real property, or portions thereof, owned by Executive Branch of state government and under the direction and control of the governor, including all real property leased by the state where the state is the sole occupant. This includes all state vehicles, parking lots, and walkways leading to state buildings.

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- B. The DOC Secretary or his/her designee may grant certain exceptions for use of tobacco products for special circumstances, events, or ceremonies.
- C. Pursuant to DOC policy, the use or possession of unauthorized tobacco products and all electronic cigarettes by offenders is prohibited on all DOC property.

2. Offender Use or Possession:

- A. Offenders shall not use or possess tobacco products on DOC property except for tobacco products used for approved religious or cultural ceremonies or activities, or as otherwise approved by the Secretary of Corrections or designee.
 - 1. The restrictions of offender use or possession of tobacco products or electronic cigarettes apply to inmates with approved access to the community, such as while on job search, work release, community service, or furlough.
 - 2. Offenders housed in a contract facility or another jurisdiction's facility (not owned or leased by the DOC) are under the supervision of that facility are subject to the rules and policies of the supervising authority.
- B. Tobacco products and electronic cigarettes are considered contraband when possessed by any offender in DOC custody, except for those tobacco products used for approved religious/cultural ceremonies. Tobacco approved for use in religious/cultural activities found in possession of an offender that exceeds the amount allowed by policy, is considered contraband.
 - 1. Any inmate that violates provisions set forth by this policy is subject to disciplinary action.
- C. Juvenile offenders on aftercare will adhere to their aftercare contract. Additionally, state law prohibits the use or possession of tobacco products by youth under the age of twenty-one (21). Offenders that violate state law may be subject to court fines and/or other penalties or responses, in accordance with SDCL §§ 34-46-2 & 26-10-20.

3. Visitor and Staff Use or Possession:

- A. It is not a violation of DOC policy or the Executive Order for staff members or visitors to possess tobacco products or electronic cigarettes on DOC property, provided such items are properly secured; however, staff members and visitors are required to leave state property when using tobacco products.
 - 1. Violators may be directed by DOC staff to leave DOC property to use such products.
- B. Staff are not entitled to a break during the workday to use tobacco products or electronic cigarettes; however, supervisors are authorized to grant staff breaks, provided this does not interfere with the safety, security, or disciplined operation of the facility (See BHR Employee Handbook).
- C. Violations of this policy by staff may result in disciplinary action (See BHR Employee Handbook).

4. Native American Ceremonies - Pipe Mixture:

- A. Pipe mixture may only consist of red willow bark, other approved botanicals, and tobacco.
- B. The amount of pipe mixture distributed for Native American Church services and pipe ceremonies not part of a Pow Wow will be one (1) cup of pipe mixture, per ceremony. During pipe ceremonies that are part of a Pow Wow, two (2) cups of pipe mixture will be distributed. The pipe mixture shall not contain more than one percent (1%) tobacco (0.01 ounces of tobacco/0.06 teaspoon).

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- C. Inmate Native American groups are responsible requesting funds from an approved account or source and making arrangements with the Cultural Coordinator or designated staff to purchase the approved ingredients.
- D. Native American inmates may only access pipe mixture containing tobacco in the following ways:
 - 1. Flag or tie mixtures containing tobacco may be brought into the institution in a sealed, clear plastic bag, marked "Pipe Mixture" by pink-tag volunteers. The bag and contents are subject to search. The pipe mixture must be mixed in accordance with the provisions of this policy (containing only approved botanicals and not more than one percent tobacco); or
 - 2. Native American inmates may purchase Bugler brand tobacco with funds contained within an inmate group account from an approved vendor. The product must be shipped directly from a vendor to the institution or purchased locally by staff or other approved individual and brought to the facility. Designated DOC staff or volunteers will prepare the mixture. An approved volunteer or outside spiritual leader may make advance arrangements to observe staff mixing the pipe mixture. The mixture will be prepared during normal working hours during the regular workweek.
- E. The pipe mixture will be stored in a designated and secure location. If the mixture is not brought into the facility by a pink-tag volunteer, an approved fire keeper may pick up the mixture from authorized staff. If no approved fire keeper is in place at the time of the ceremony, or if an approved fire keeper will not be participating in the ceremony, a group pipe carrier may pick up the mixture.
- F. If pipe mixture containing tobacco is not available at the time of the ceremony, inmates will be allowed to smoke red willow bark or other approved botanicals during the ceremony. Uncut/not mixed tobacco may not be used.
 - 1. No pipe mixture containing tobacco may be stored inside the secure perimeter of a DOC institution. Any pipe mixture containing tobacco that is not used during the pipe ceremony must be returned to the designated and secure storage area outside the secure perimeter by the inmate who picked it up, a pink-tag volunteer or staff member.

5. Native American Ceremonies - Procedure for Distribution of Pipe Mixture:

- A. No inmate will be allowed to prepare his/her own mixture containing tobacco, or the mixture for another inmate.
- B. At no time will an inmate be allowed to leave the site of the ceremony with pipe mixture containing tobacco. Inmates are not allowed to leave the ceremony site with their pipe when the pipe contains unused pipe mixture containing tobacco. Inmates who remove pipe mixture or tobacco from the ceremony site without authorization are subject to disciplinary action.
- C. Due to ventilation concerns, cultural religious activities that involve burning, smudging, or smoking will only be permitted inside designated buildings or rooms, as approved by the Cultural Coordinator or designated staff.

6. Native American Ceremonies - Tobacco Ties and Tobacco Flags Mixture:

- A. Tobacco ties and flag mixtures may only consist of red willow bark, tobacco, and other approved botanicals.
- B. The amount of tie or flag mixture distributed for each tie or flag-making ceremony will be 2 cups. The mixture shall not contain more than one percent (1%) tobacco (0.01 ounces of tobacco/0.06 teaspoon). The botanicals and tobacco in the tie or flag mixture must be ground.
- C. Inmate Native American groups are responsible requesting funds from an approved account and making arrangements with the Cultural Coordinator or designated staff to purchase the botanicals and tobacco.

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- D. Native American inmates may only access tie or flag mixtures containing tobacco in the following ways:
1. Pipe mixtures containing tobacco may be brought into the institution in a sealed, clear plastic bag, marked "Flag or ties mixture" by pink-tag volunteers. The bag and contents are subject to search. The pipe mixture must be mixed in accordance with the provisions of this policy (containing only approved botanicals and not more than one percent tobacco); or
 2. Native American inmates may purchase Bugler brand tobacco with funds contained within the respective inmate group account from a vendor. The product must be shipped directly from a vendor to the institution or purchased locally by staff or other approved individual and brought to the facility. Designated DOC staff will prepare the pipe mixture. An approved volunteer or outside spiritual leader may make advance arrangements to observe staff mixing the mixture. The mixture will be prepared during normal working hours during the regular workweek.
- E. The mixture will be securely stored in an approved location. If the mixture is not brought into the facility by a pink-tag volunteer, an approved fire keeper may pick up the mixture from authorized staff. If no approved fire keeper is in place at the time of the ceremony or if an approved fire keeper will not be participating in the ceremony, a group pipe carrier may pick up the mixture.
1. No tie or flag mixture containing tobacco may be stored inside the secure perimeter of an institution. Any tie or flag mixture containing tobacco not used during the activity must be returned the designated storage area outside the secure perimeter by the inmate who picked it up, a pink-tag volunteer or staff member.
 2. Designated DOC staff will prepare tie or flag mixtures if no mixture is available prior to the ceremony. All pre-mixed mixtures brought into the institution must be mixed by a pre-approved individual.
- F. A day and time will be scheduled at each institution for inmates to make tobacco ties. The ties must be made during the designated time.
- G. Inmates are not allowed to make ties or flags in their cells or keep tie or flag mixture in their cells. Inmates may be permitted to have cloth for ties or flags in their cells so they can prepare the cloth for the ties or flags.

7. Native American Ceremonies - Procedure for Distribution of Tie/Flag Mixture:

- A. The Cultural Activities Coordinator or designed staff will arrange for and supervise the distribution of the tie or flag mixture.
1. At no time will any inmate be allowed to leave the site of the activity with the tie or flag mixture. Inmates are not allowed to leave the site of the activity with any ties or flags that contain the mixture. Inmates who remove tie or flag mixture from the site are subject to disciplinary action.
- B. At the conclusion of the ceremony at which the ties and flags are used, the ties or flags must be burned. The only place ties and flags are allowed to be burned is in the sweat lodge fire.

8. Violation of State law:

- A. Staff, visitors, or others who violate SDCL § 24-2-22 are subject to termination from employment, denied access to the facility, loss of visit privileges, and criminal prosecution:

"Any employee or other person who delivers or procures to be delivered, or possesses with the intention to deliver, to any inmate in the state penitentiary, or deposits or conceals in or around any facility or place used to house inmates, or in any mode of transport entering upon the grounds of any facility or place and its ancillary facilities used to house inmates, any article which is unlawful for an inmate to possess pursuant to state law or the rules of the Department of Corrections with the intent that any inmate obtain or receive such article, is guilty of a Class 6 felony."

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V. RESPONSIBILITY

The Division of Prison Operations is responsible for the annual review and revision as necessary of this policy.

VI. AUTHORITY

- A. SDCL §§ 10-50B-4, 24-2-22, 26-10-20, 34-46-1, 34-46-2

VII. HISTORY

June 2022
June 2021
July 2020
October 2019
June 2019
June 2018
June 2017
June 2016
October 2015
April 2014

ATTACHMENTS (Published in PolicyTech unless otherwise noted)

1. DOC Policy Implementation / Adjustments

DOC POLICY IMPLEMENTATION/ADJUSTMENTS

DESCRIPTION	TITLE	POLICY #	EFFECTIVE
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(FACILITY/WORK UNIT NAME)

WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN

NOT APPLICABLE

WITH THE FOLLOWING PROCEDURES TO ACCOMPLISH THE INTENT OF THE POLICY

(SIGNED) _____ (DATE) _____
Warden / Director