



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 100-18	PAGE NUMBER 1 OF 3
		DISTRIBUTION:	Public
		SUBJECT:	Tobacco Products and Electronic Cigarettes - Use and Possession
RELATED STANDARDS:	None	EFFECTIVE DATE:	August 15, 2024
		SUPERSESION:	02/15/2024
DESCRIPTION: General Administration	REVIEW MONTH: January	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that the unauthorized use of tobacco products and e-cigarettes are 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, smokeless tobacco, and vaping products.

## IV. PROCEDURES

### 1. Tobacco and Electronic Cigarette Prohibition:

- A. Use of e-cigarettes and tobacco products are prohibited on all real property, or portions thereof, owned by the 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.

SECTION	SUBJECT	DOC POLICY	Page 2 of 3
General Administration	Tobacco Products and Electronic Cigarettes - Use and Possession	100-18	Effective: 08/15/2024

- B. The DOC secretary of corrections (SOC) or his/her designee may grant certain exceptions for use of tobacco products for special circumstances, events, or ceremonies.

## 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 SOC or designee.
1. The restrictions of offender use or possession of tobacco products or electronic cigarettes extends to offenders on work release.
  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 and 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 offender that violates provisions set forth by this policy is subject to disciplinary action.
- C. Juveniles 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.

## 3. Visitor and Staff Use or Possession:

- A. It is not a violation of DOC policy or Executive Order for staff members or visitors to possess tobacco products or electronic cigarettes on DOC property, provided such items are properly secured outside of the facility in a personal automobile. However, staff members and visitors are required to leave state property when using/consuming any 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.
- C. Violations of this policy by staff may result in disciplinary action ([BHR Employee Handbook](#)).

## 4. Native American Ceremonial Herbal Mixture:

- A. Ceremonial mixture may only consist of red willow bark, other approved botanicals, and may include tobacco (not to exceed 1% tobacco).
- B. Native American offenders may only use ceremonial mixture containing tobacco obtained from the cultural activities coordinator (CAC). The CAC will be responsible for observing and overseeing the introduction and mixing processes for all ceremonial pipe, flag, and tie mixtures.
- C. The ceremonial mixture will be stored in a designated and secure location. An approved fire/pipe keeper may pick up the mixture from the CAC or authorized staff. If no approved fire/pipe keeper is in place at the time of the ceremony, or if an approved fire/pipe keeper will not be participating in the ceremony, a group pipe/fire carrier may pick up the mixture.

SECTION	SUBJECT	DOC POLICY	Page 3 of 3
General Administration	Tobacco Products and Electronic Cigarettes - Use and Possession	100-18	Effective: 08/15/2024

- D. No ceremonial mixture containing tobacco may be stored inside the secure perimeter of a DOC institution. Any ceremonial mixture containing tobacco that is not used during a ceremony must be returned to the designated and secure storage area outside the secure perimeter by the CAC or authorized staff.
- E. No offender will be allowed to prepare his/her own mixture containing tobacco, or any mixture for another offender.
- F. At no time will an offender be allowed to leave the site of a ceremony with ceremonial mixture containing tobacco. Offenders who remove tobacco or ceremonial mixture containing tobacco from the ceremony site without authorization are subject to disciplinary action.
- G. 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 CAC or designated staff.
- H. At the conclusion of a ceremony at which 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.

## V. RESPONSIBILITY

The director of Prisons is responsible for the annual review and revision as necessary of this policy.

## VI. AUTHORITY

- A. SDCL § [10-50B-4](#) **Cigarette defined.**
- B. SDCL § [24-2-22](#) **Possession of unauthorized articles with intent to deliver to inmate as felony.**
- C. SDCL § [34-46-1](#) **Definition of terms.**
- D. SDCL § [34-46-2](#) **Unlawful actions.**

## VII. HISTORY

August 2024  
January 2024  
June 2022  
June 2021  
July 2020  
October 2019  
June 2019  
June 2018  
June 2017  
June 2016  
October 2015  
April 2014

## ATTACHMENTS

1. DOC Policy Implementation / Adjustments