

# E-Cigarette and Tobacco Use By Minors

## Health and Safety Code Subchapter N

### (Sec. 161.251 - 161.257)

START: Your court has a case for a person under 18 who possessed, purchased, consumed, or accepted a cigarette, e-cigarette, or tobacco product; or presented fake proof of age in order to do so.

"Not Guilty" plea: Hold a hearing. "Guilty" or "Nolo" plea.

Did the prosecutor prove that the defendant committed the offense?

Yes → Acquit. No → Acquit.

Did the defendant possess the product in the presence of an adult parent, their guardian, their spouse, or their employer (if possession or receipt is required for performance of duties)?

Yes → Acquit. No → Were they participating in an inspection under Section 161.088?

Were they participating in an inspection under Section 161.088?

Yes → Acquit. No → Convict.

Execute sentence. + Must order DPS to to suspend or deny issuance of driver's license or permit for specific period of time, not to exceed 180 days from date of order.

Did defendant present evidence of satisfactory completion of awareness program or community service by the 90th day after the date of conviction?

Convict.

Once a defendant is convicted, you MUST:

- Determine a fine amount not to exceed \$250.
- Suspend execution of sentence (do NOT collect fine yet).
- Require defendant to attend an approved e-cigarette and tobacco awareness program.

-May require parent to attend program with defendant.  
-Program may be taught in a language other than English.

If access to a program not readily available, require defendant to perform 8-12 hours e-cigarette and tobacco related community service.

Has defendant been previously convicted of one of these offenses or had a charge previously dismissed under this chapter?

Discharge the defendant and dismiss the complaint or information.

Execute sentence. Court has discretion to reduce fine to not less than 1/2 the fine previously imposed.

### EXPUNCTIONS

An individual convicted of an offense under Section 161.252 may apply to the court to have a conviction expunged for a \$30 fee. (No age or time requirement.)

Does the court find that the individual satisfactorily completed the e-cigarette and tobacco awareness program or related community service ordered by the court?

Yes → Court MUST order conviction/complaint/verdict/setnence/other document relating to the offense expunged form record and conviction may not be shown or made known for any purpose. No → No expunction.

Court MUST order conviction/complaint/verdict/setnence/other document relating to the offense expunged form record and conviction may not be shown or made known for any purpose.