California Cigar Retailer: Your UTL Rights and Handling an Enforcement Visit

Current as of July 7, 2026. A plain-English guide for cigar retailers and lounges. Not legal advice: verify the cites, and confirm anything specific to your business with your own counsel. We support AB 3218 and the Unflavored Tobacco List (UTL); this helps a compliant shop know its rights and respond calmly.

1. Your rights, in short

- **Premium cigars are exempt and need no UTL listing.** A premium cigar (handmade, not mass-produced by machine, wrapper entirely whole tobacco leaf, no filter/tip/nontobacco mouthpiece, capped by hand, and a wholesale price of $12 or more, tax-inclusive) is exempt from the flavor ban and is excluded from the UTL entirely. *(HSC § 104559.5(a)(13), (e); § 104559.1(s)(3).)*
- **Whether a cigar is "premium" comes from your invoice, not the shelf.** An inspector usually can't tell by looking whether a cigar clears $12. That figure is the price you paid your distributor, tax included. If it's questioned, ask that it be checked against your purchase invoices, and offer to show them.
- **UTL registration is the manufacturer's job, not yours.** Retailers have no way to list a product, and a product missing from the UTL usually means its maker hasn't registered yet. *(HSC § 104559.1(b).)*
- **Know which appeal process applies to you.** The UTL citation-appeal in the regulations (11 CCR §§ 955-957) is for distributors, wholesalers, and delivery sellers, not retailers. A retailer contests a CDTFA penalty through CDTFA's process, and a local citation through that city or county's process.
- **DOJ's own posture is "education first"** for hand-rolled leaf cigars (see section 3).

2. If an inspector or code-enforcement officer shows up

1. **Stay calm and cooperative.** You support the law and want to comply. Tone matters.
2. **Get it in writing.** Ask exactly which products or SKUs are alleged to violate, and the legal basis. Write down the officer's name, badge, and agency. A blanket "stop selling anything not on the UTL" doesn't tell you what to actually pull.
3. **Don't pull compliant inventory on the spot, and don't agree to a blanket seizure.** Ask the officer to identify the legal authority for any seizure, and to give you a product-specific list and a receipt for anything taken. Seizure authority under BPC § 22974.2 runs to CDTFA and law enforcement, and many cities also enforce through their own local tobacco-licensing ordinances, so ask which applies.
4. **Offer your records.** Premium status is proven by invoices (see section 4), so offer to provide them rather than accepting a shelf-price judgment.
5. **Show the DOJ bulletin** (see section 3).
6. **Note any correction deadline (or that it's blank), preserve your appeal rights, and get help before responding.** Don't let a deadline lapse while you sort it out.

3. The DOJ bulletin and "education first": how to use it

- **What it says.** For products not on the initial UTL and not obviously flavored, including hand-rolled leaf cigars, DOJ intends to focus first on educating manufacturers rather than taking immediate enforcement action. *(DOJ Bulletin 2025-DLE-17, Nov. 10, 2025.)*
- **How to use it.** Keep a printed copy at the register. Hand it to the officer and point to the hand-rolled-leaf-cigar line. It shows good faith, and that a local stop-sale action may run ahead of the Attorney General's own stated posture.
- **It is guidance, not a safe harbor.** The bulletin says it "does not alter or amend applicable law," so use it to show good faith, not as a legal shield. Your strongest position is still the premium-cigar exemption.

4. Calculating your $12: it depends on how you buy

The premium threshold is a tax-inclusive wholesale price of $12 or more per cigar, meaning the retailer's purchase price including the California tobacco-products (OTP) excise tax. *(CDTFA Tax Guide; DOJ confirmed this reading in writing June 25, 2026.)* How you reach that number depends on your license and how you buy:

- **If you buy tax-paid** (most retail-only shops), your distributor already included the OTP tax in what you paid, so the $12 is simply your invoice price per cigar. Keep the invoice showing the tax itemized or the statement "all California taxes are included." *(BPC §§ 22978.4, 22974.3(b).)*
- **If you buy untaxed** (you hold a distributor's license and self-distribute), you owe the OTP tax when the product enters retail stock, so your $12 equals your wholesale cost plus the OTP tax you owe (rate 51.08% for July 1, 2026 through June 30, 2027; CDTFA L-1027). Do the math per SKU and keep the worksheet.
- **After July 1, 2026**, the OTP rate dropped from 54.27% to 51.08%, which lowers the tax-inclusive price, so a cigar that just cleared $12 can slip under it. The real test is always your tax-inclusive invoice price; as a rough screen, re-check any SKU whose pre-tax cost is around $7.78 to $7.94.

Proof to keep either way: CDTFA-licensed distributor purchase invoices for your inventory (sales between retailers are prohibited), retained 4 years, with 1 year kept on-site. *(BPC § 22974.)*

5. A distributor's license (DL) is treated differently

- **A DL lets you hold untaxed inventory.** California OTP excise tax is due only when the product becomes "retail stock," meaning it is stored where retail sales are made and is available or displayed for sale to consumers. *(CDTFA Tax Guide; R&TC § 30008.)*
- **Holding a DL is a filing obligation, not a way around the tax.** When untaxed product enters retail stock, the DL holder must report and pay the OTP tax on it.
- This is why your $12 math differs from a retail-only shop: you compute it as your wholesale cost plus the OTP tax you owe, rather than reading it off a tax-paid invoice. Confirm your specific setup with counsel or CDTFA.

Full citations and pull-quotes are in the companion Legal Basis and Authorities sheet. Verify at leginfo.legislature.ca.gov, cdtfa.ca.gov, oag.ca.gov/tobacco/flavorban, and utl.doj.ca.gov.