

**Article 8: Minors**

**§58.02 Letting Hotel Room, Etc., to Minor — Prohibited — Exceptions**

Any person or corporation owning, controlling or managing any hotel, motor court or trailer court in the City of San Diego, California, who rents or lets any room or rooms to, or allows any room or rooms to be occupied by any minor under the age of seventeen (17) years, unless said minor is accompanied by his or her parent, parents or legal guardian, shall immediately by telephone, and within twenty-four (24) hours by written report, thereafter notify the San Diego Police Department of said fact. *(Incorp. 1-22-1952 by O-5046, N.S., contained in O-2730 N.S. adopted 10-13-1943.)*

**§58.04 Minor Possessing Tobacco for Use — Prohibited**

That it shall be unlawful for any person under the age of eighteen (18) years to use, or to have in their possession for the purpose of using, any cigars or cigarettes made of tobacco, or to use tobacco in any form. *(Incorp. 1-22-1952 contained in O-764 O.S. adopted 6-19-1900 by O-5046 N.S.)*

**§58.05 Daytime Loitering of Juveniles In Any Public Place On School Days**

(a) Definitions. For purposes of Section 58.05:

“Adult” means any person twenty-one (21) years of age and older.

“Emergency” includes but is not limited to fire, natural disaster, automobile accident, or requirement for immediate medical care for another person.

“Establishment” means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

“Juvenile” means any person under eighteen (18) years of age.

“Parent” means a person who is the natural or adoptive parent of a person.

“Parent” includes a court-appointed guardian or other person eighteen (18) years of age or older authorized by the parent, by a court order, or by a court-appointed guardian to have the care and custody of the person. “Public place” means any place to which the public or a substantial group of the public

has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, office buildings, transport facilities, shopping centers, and malls.

(b) Offenses.

- (1) It is unlawful for any juvenile who is subject to compulsory education to loiter, idle, wander, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, or the premises of any establishment, vacant lots or any unsupervised place between the hours of 8:30 a.m. and 1:30 p.m. on any day when school is in session for that juvenile.
- (2) It is unlawful for any juvenile who is subject to a compulsory alternative education program to loiter, idle, wander, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, or the premises of any establishment, vacant lots or any unsupervised place between the hours of 8:30 a.m. and 1:30 p.m. on any day when that juvenile would otherwise be required to attend a regular compulsory education school.
- (3) It is unlawful for the parent of any juvenile to knowingly permit or by insufficient control allow the juvenile to be in violation of Section 58.05(b)(1) or (2).

(c) Defenses. It is a defense to prosecution under Section 58.05:

- (1) When the juvenile is accompanied by his or her parent or other adult having the care or custody of the juvenile;
- (2) When the juvenile is on an emergency errand directed by his or her parent;
- (3) When the juvenile is going to, or coming directly from, their place of school–approved employment;
- (4) When the juvenile is going to, or coming directly from, a medical appointment;
- (5) When the juvenile has permission to leave the school campus for lunch or a school–sponsored activity or has in his or her possession a valid, school–issued, off–campus permit;

- (6) When the juvenile is going to, or coming from, a compulsory alternative education program activity;
  - (7) When the juvenile is attending or, without any detour or stop, going to or returning from, an official school, religious, government-sponsored, or other recreational activity supervised by adults and sponsored by The City of San Diego or a civic organization.
- (d) Enforcement Procedure.
- (1) Upon any violation of Section 58.05(b)(1) or (b) (2), a peace officer may issue a citation to the juvenile and may transport the juvenile home or to the school from which the juvenile is absent. If cited, the juvenile and a parent shall appear in court as directed in the citation. The parent shall be advised of the fact that the juvenile was cited for a violation of San Diego Municipal Code section 58.05. The parents shall be warned of their responsibility and liability as the juvenile's parents.
  - (2) If a parent has been previously warned as set forth in San Diego Municipal Code section 58.05(d)(1), upon a parent's first violation of San Diego Municipal Code section 58.05(b)(3), a peace officer may issue a citation for an infraction to the parent to appear in court.
  - (3) When a parent has previously been issued a citation for an infraction as set forth in San Diego Municipal Code section 58.05(d)(3), upon any subsequent violation by a parent of Section 58.05(b)(3), a peace officer may issue a citation for a misdemeanor to the parent of the juvenile to appear in court.
- (e) Penalties.
- (1) Any person convicted of an infraction for violation of San Diego Municipal Code section 58.05(b)(1), (2), or (3) may be punished by a fine not exceeding two hundred fifty dollars (\$250.00) or by a requirement to perform city, county or school-approved projects or community service, or both. If required to perform a project, the total time for performance shall not exceed twenty (20) hours over a period not to exceed sixty (60) days, during times other than a juvenile's hours of school attendance or a juvenile or parent's hours of employment.

- (2) Any parent convicted of a misdemeanor violation of Section 58.05(b)(3) may be punished by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

*(“Daytime Loitering Of Juveniles In Any Public Place On School Days”  
retitled and amended 5-6-1996 by O-18296 N.S.)*

**§58.07 Distribution of Harmful Material to Minors**

- (a) Purpose and Intent. The citizens of this City have a legitimate and exigent interest in the prevention of the distribution of material deemed harmful to minors. While the laws of this State prevent the sale or distribution of obscene matter, no distinction is made in such laws as to matter which is deemed harmful to minors. Recognizing that the total suppression of material deemed harmful to minors would reduce the adult population of this City to reading, viewing and otherwise observing that which is fit only for children, the further purpose and intent hereof is to distinguish between adults and minors as to material deemed fit for them, and to prohibit the distribution to minors of material, which, while not proscribed for adult consumption under the law as interpreted by the courts, is nevertheless deemed harmful to children, thereby serving the spiritual, emotional, mental and physical welfare of our youth and of all the citizens of this City.
- (b) Definitions, As used in this Section:
  - (1) “Minor” means any natural person under the age of 18 years.
  - (2) “Matter” means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction or any other articles, equipment, machines or materials. “Matter” also includes live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.
  - (3) “Person” means any individual, partnership, firm, association, corporation or other legal entity.
  - (4) “Distribute” means to transfer possession of, whether with or without consideration.

- (5) “Exhibit” means to show.
- (6) “Knowingly” means being aware of the character of the matter.
- (7) “Harmful Matter” means matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is a matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.
  - (A) When it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the matter shall be judged with reference to its intended recipient group.
  - (B) In prosecutions under this chapter, where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, that evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter lacks significant literary, artistic, political, or scientific value for minors.
- (c) It is unlawful to display matter which is harmful to minors, as defined in this section and Chapter 7.6 of the California Penal Code, in a public place, other than a public place from which minors are excluded, without placement of devices known as blinder racks in front of the material, so that the lower two-thirds of the material is not exposed to view.  
*(Amended 3-20-1989 by O-17265 N.S.)*

**§58.07.1 Prohibition of Sale of Aerosol Paint to Minors**

It shall be unlawful:

- (a) For any person to sell, exchange, give or loan, any aerosol spray can containing any substance commonly known as paint, or containing any other opaque liquid capable of being propelled by the aerosol can, to any minor under the age of eighteen (18) years, unless that person provides for the supervision of the minor’s use of such aerosol spray can.

- (b) For any person under the age of eighteen (18) years to have in his or her possession any aerosol spray can containing any substance commonly known as paint or containing any other opaque liquid capable of being propelled by the aerosol can while upon public property or upon private property without the consent of the owner of such private property.

*(“Prohibition of Sale of Aerosol Paint to Minors” added 4-14-1980 by O-15237 N.S.)*