



To: Family and Human Services Committee, Contra Costa Board of Supervisors

From: Sefanit Mekuria, MD, MPH
Public Health Director, Contra Costa Health

Re: Annual Report on the Implementation of Tobacco Retail Licensing Ordinance 2019-34

Date: 09/08/2025

I. Summary

This report provides details of the tobacco enforcement of Ordinance 2019-34¹, specifically activities conducted since the last report made to this committee in June 2024. The report also includes updates on Federal, State, and local changes to commercial tobacco policies and technical assistance provided to Contra Costa County during the past year. The report also provides recommendations on how tobacco policies could be strengthened in unincorporated Contra Costa to address gaps and promote health and safety for all residents, especially the most vulnerable.

II. Background Tobacco Policy

In the past two decades there have been several key tobacco policy initiatives at the Federal, State, and local levels that have affected tobacco control in Contra Costa County. In 2009, the Family Smoking Prevention and Tobacco Control Act prohibited the sale of all flavored cigarettes except menthol. In 2017 and 2019, Contra Costa's Board of Supervisors strengthened protections for youth against tobacco influences in the retail environment by restricting the sale of all flavored tobacco products and vaping devices not approved by the US Food and Drug Administration (FDA). In 2022, California prohibited the sale of most flavored tobacco products (See Figure 1. California Flavored Tobacco Law).

¹ Tobacco Retailer License Ordinance Background: On September 12, 2019, the Board of Supervisors directed Public Health staff to prepare policy options that would address mounting concerns related to the rapid increase of use with electronic cigarettes by minors, as well as the co-occurring epidemic of serious lung disease that has been linked to the use of vaping devices. On November 18, 2019, Public Health staff provided the policy recommendations listed below:

1. Revise Division 445-6.006 (Secondhand Smoke and Tobacco Product Control) of the County Ordinance Code to prohibit the sale of any electronic smoking device or e-liquid that is required to obtain, but has not yet obtained, a premarket review order from the U.S. Food and Drug Administration pursuant to the federal Family Smoking Prevention and Tobacco Control Act.
2. Revise Section 445-6.006 of the County Ordinance Code to prohibit the sale of flavored tobacco products and menthol cigarettes expanding this prohibition to the entirety of the unincorporated county. Previously, the sale of these products was only prohibited within 1,000 feet of a public or private school, playground, park, or library.
3. Amend Section 413-4.608 (Commercial Cannabis Health Permits) of the County Ordinance Code to prohibit the sale or delivery of any e-liquid that contains tetrahydrocannabinol or any other cannabinoid, and to prohibit the sale or delivery of any electronic smoking device that can be used to deliver tetrahydrocannabinol or any other cannabinoid in aerosolized or vaporized form.

Figure 1: California Flavored Tobacco Law

California
LEGISLATIVE INFORMATION

- ✗ Flavored e-cigarettes (vapes), e-juice, pods, or cartridges
- ✗ Menthol cigarettes
- ✗ Flavored little cigars and cigarillos
- ✗ Flavored loose leaf roll-your-own tobacco
- ✗ Flavored smokeless tobacco products
- ✗ Flavored Tobacco Rolling Papers
- ✗ Tobacco product flavor enhancers

Exemptions

- ✓ Flavored premium cigars with a wholesale price of \$12 or more
- ✓ Flavored loose-leaf pipe tobacco
- ✓ Flavored shisha/hookah tobacco

****Flavored shisha/hookah tobacco may only be sold in licensed stores that only allow people 21 or older on the premises at any time.****

<https://www.cdph.ca.gov/Programs/CCDC/DCDC/CTCB/Pages/CAFlavorTobaccoLaw.aspx>

In 2022, the FDA began the rulemaking process to prohibit, on a national level, the sale and manufacture of menthol cigarettes and flavored cigars. However, after two years of inaction, litigation ensued, which underscores the FDA's prolonged regulatory delay and the critical need for local public health intervention. In April 2025, the FDA's Office on Smoking and Health and the CDC became severely understaffed, closing many tobacco programs, research (including the National Youth Tobacco Survey), and media communications (Tips from NonSmokers Campaign). It is anticipated that these federal changes will directly impact all communities. Furthermore, as of July 2025, the FDA issued authorization for 39 e-cigarette products, which are the only e-cigarette products that currently may be lawfully marketed and sold in the U.S. There is concern over the lack of transparency of the scientific evidence that demonstrates these authorized products benefit the greater community, indicating foreseeable legal challenges in the future. The authorization of these products does not mean they are safe, nor approved as cessation devices. Juul's history is inseparable from the youth e-cigarette epidemic that emerged in the late 2010s. The FDA ruling on previously unauthorized JUUL products prohibited the sale of flavored vaping e-liquids, including menthol, however, authorization was issued to allow the sale of menthol/mint flavored e-liquids. These JUUL

devices include various nicotine strengths and flavors, which have been documented as attractive to youth and used to target the African American community specifically. In response to California's flavored tobacco ban, which includes the ban on the sale of menthol cigarettes, there has been an increase in the development, marketing, and retail of newer non-menthol blend tobacco cigarettes. However, because of the products' labeling, packaging and promotional materials, Contra Costa County established a rebuttable presumption that a tobacco product is flavored where its manufacturer "has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor, including but not limited to, text, color, images, or all, on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor." With many more ambiguously labeled products claiming to be less risky because they are tobacco free, nicotine free or smokeless tobacco, growing in popularity, pose additional challenges.

To strengthen the enforcement of tobacco regulations and support local authorities in addressing the ever-changing retail landscape, the California Department of Justice (DOJ) plans to publish an Unflavored Tobacco List (UTL) by December 31, 2025. The UTL will, per the name, contain only tobacco products that lack "characterizing flavors." Any product that is not on the UTL will be deemed a prohibited flavored tobacco product for purposes of California's flavored tobacco product sales restrictions. For a product to be listed on the UTL, manufacturers and importers must certify to the Attorney General's office, under penalty of perjury, that their products are unflavored. Based on those certifications and other evidence—including the manufacturer's marketing of the products—the Attorney General will determine which products belong on the UTL. This list will help streamline enforcement at the state and local level across multiple departments.

AB 3218 and SB 1230, two laws that began implementation in 2025, additionally permit the Attorney General to prohibit unauthorized electronic cigarettes (only 39 e-cigarette products have authorization) from appearing on the list. The Attorney General will not permit products without FDA authorization to be included in the UTL. This means the thousands of unauthorized e-cigarettes being sold around the nation could be prohibited for sale and distribution in California, regardless of whether they are flavored². This provision would not be enforced until the list is published (See Figure 2. Flavored Tobacco Policy Timeline).

² In 2009, the Family Smoking Prevention and Tobacco Control Act was signed into law as a comprehensive federal initiative aimed at protecting public health by regulating the tobacco industry. Among other provisions, this law gave regulatory power over the content, marketing, and sale of tobacco products to the FDA. One aspect of this policy is that the FDA is required to provide authorization for tobacco products, especially electronic smoking devices, through a Premarket Tobacco Product Application process. All tobacco companies are required to submit an application in which the FDA will consider among other things:

- Risk and benefits to the population as a whole, including people who would use the proposed new tobacco product, as well as non-users
- Whether people who currently use any tobacco product would be more or less likely to stop using such products if the proposed new tobacco product were available
- Whether people who currently do not use any tobacco products would be more or less likely to begin using tobacco products if the new products were available
- The methods, facilities, and controls used to manufacture, process, and pack the new tobacco products

Figure 2: Flavored Tobacco Policy Timeline

Year	Level	Prohibited Tobacco Products
2009	Federal	Flavored cigarettes, except for menthol
2017	County	All flavored tobacco products, including menthol, within 1,000 ft of any school, playground, park, or library; small pack cigar sales (no packs less than 10, unless cigar is over \$5)
2019	County	All flavored tobacco, regardless of location; all e-cigs or e-liquids pending FDA approval
2020	Federal	Flavored cartridge-based e-cigarettes (menthol flavor exempt)
2021	Federal	FDA <i>proposes</i> to prohibit menthol cigarettes and flavored cigars
2022	State	Most flavored tobacco products (flavored hookah/shisha, pipe tobacco, and premium cigars are exempt).
2024	Federal	Flavored cigars and menthol cigarettes removed and dismissed from FDA priority
2025	State	Laws implemented to strengthen enforcement against prohibited flavored tobacco sales
2026	State	DOJ Unflavored Tobacco List (UTL) expected to be published

Key: Federal State County

2025 Emerging Youth Use Tobacco Trends

There are several tobacco products that have seen a rapid rise in sales in the past two years, and are becoming increasingly more common among youth, such as nicotine pouches and devices with a large digital screen (See Appendix A. Images of Popular Tobacco Products Among Youth). There are also new tobacco products entering the market, one that has an autofill technology that claims to “regulate juice flow” with a puff count estimated at ~40,000 puffs, and another that is an oral nicotine pouch with 9 mg and 15 mg of nicotine strengths (See Appendix B. Images of Emerging Tobacco Products). The total monthly national nicotine pouch sales increased by 207% between January 2023 and April 2025, with a few of these nicotine pouches being tobacco-flavored. In California, nicotine pouch sales are dominated by products marketed as “smooth” or “original.” A popular nicotine pouch among youth is Zyn. As of January 2025, Zyn Smooth and Zyn Chill have been determined to have a characterizing flavor by both the FDA and the California DOJ.

Nicotine pouches are gaining popularity among youth because they are easily hidden and do not produce smoke or aerosols. The 2024 California Youth Tobacco Survey reports that nicotine pouches are now the third most common tobacco product among youth who have ever tried tobacco (3.6%),

behind cigarettes (5.5%) and vapes (16%). They are the second most popular tobacco product among youth who report current tobacco use, or use within the past 30 days, with 1.4%, behind vapes at 5.0% (See Appendix D. Data Brief April 2025 Total Nicotine Pouch Dollar Sales, California)

III. Implementation of Ordinance 2019-34 Since June 2024 Report

The Tobacco Prevention Program (TPP) facilitates the implementation of the unincorporated County's tobacco retail license ordinance and collaborates with the Contra Costa Sheriff's Department for the enforcement of commercial tobacco sales. Additionally, TPP provides education to all Contra Costa jurisdictions and supports decision-makers in understanding the public health framework and best practices in tobacco control.

TPP receives funding from the California Department of Justice Tobacco Grant Program. Programmatic deliverables include conducting bimonthly training on tobacco control laws and facilitating monthly workshops with law enforcement agencies and city staff on the implementation and enforcement of tobacco control laws. This includes maintaining active licenses, education on characterizing flavors, and distinguishing what constitutes a flavored tobacco product. For example, there has been a rise in the availability of characterizing flavors in the retail market, some of which are challenging to identify as flavored tobacco. This has posed challenges to agencies enforcing flavored tobacco laws.

TPP partners with the Contra Costa County Business License Office, Tax Collector's Office, and the Department of Conservation and Development to issue tobacco retail licenses for unincorporated Contra Costa. Retailers in unincorporated Contra Costa are required to have a state and local license to operate their business in the area. TPP provides annual educational mailers regarding local and state law changes during the renewal period, in addition to conducting other retailer educational outreach (See Section V. Enforcement for more information).

IV. Enforcement of Ordinance 2019-34 since June 2024 Report

Research indicates that routine inspections and on-site retailer education help decrease health disparities in communities targeted by the tobacco industry, reduce crime rates, and reduce sales to youth.³ Since tobacco retail license enforcement has been implemented, the Sheriff's Department reported that there had been a significant decrease in crimes by conducting routine compliance inspections, as their presence in the retail environment deters criminal activity. To further increase voluntary compliance among tobacco retailers with tobacco laws and streamline enforcement efforts, the transfer of administration and compliance of the tobacco retail policy to Environmental Health will ensure effective implementation of the tobacco retail licensing ordinance for unincorporated areas. Environmental health has a history of successfully conducting inspections on other types of businesses.

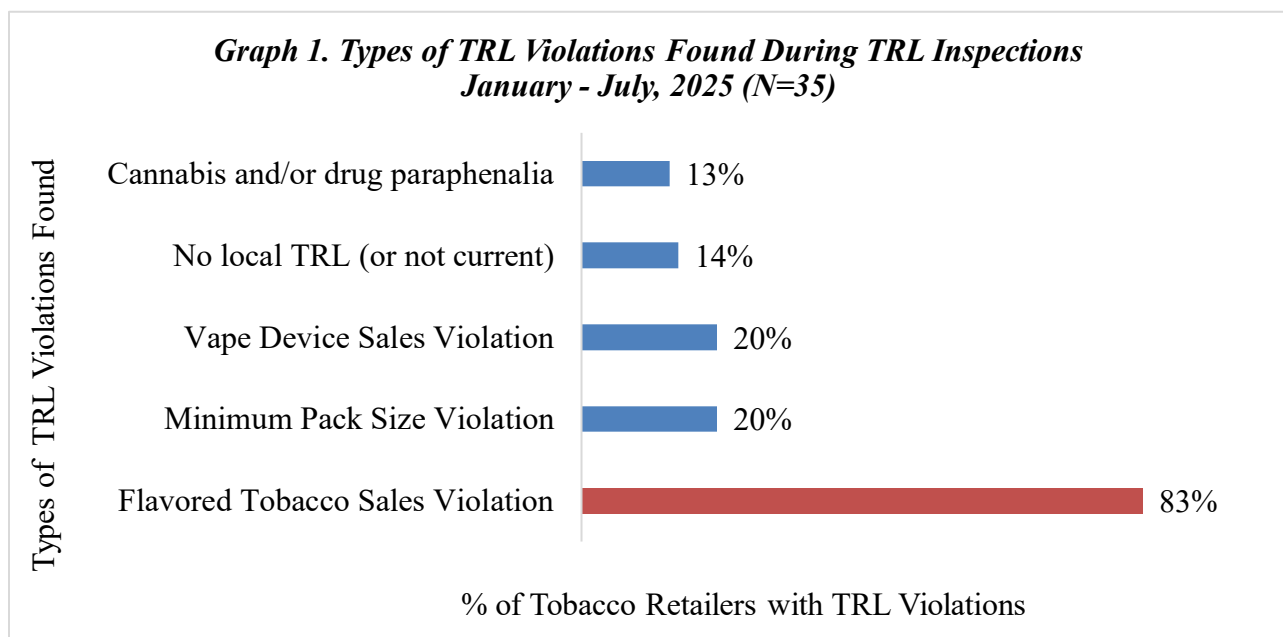
³ The Public Health Law Center is a nonprofit organization that offers comprehensive legal and policy support to public health professionals, policymakers, and advocates aiming to reduce tobacco use and its harmful effects. Their initiatives include drafting model policies, providing litigation support and offering guidance on regulatory measures to curb tobacco consumption. By promoting smoke-free environments and stricter tobacco regulations, the Public Health Law Center plays a crucial role in safeguarding public health and advancing tobacco-free communities.

Unincorporated Tobacco Retail Store Inspection Findings January – July 2025

The Contra Costa Sheriff's Department conducted tobacco retailer inspections at 35 stores from January to July 2025. The inspection checklist included questions about whether the retailer had a local Tobacco Retail License (TRL) or sold any of the following: “electronic smoking devices or e-liquids; flavored tobacco products; cigars or other tobacco products in packs of less than 10; cigars for less than \$5; Cannabis, or drug paraphernalia.”

Thirty of the 35 stores inspected from January to July 2025 were found in violation of current tobacco policies, which is a violation rate of 86%. Twenty-nine (or 83%) of retailers sold a flavored tobacco product; this was the most common violation among the retailers inspected. Unauthorized vape device sales and small pack size (packs of less than ten) were found in seven stores; five stores did not have a local tobacco retail license (or the license was not current), and three stores sold cigars for less than \$5 (minimum price violation). Graph 1 below illustrates the percentages of TRL violations observed during the inspections, by violation type.

In addition to tobacco policy violations, other county policy violations were also found. The inspection findings showed that two tobacco retailers sold cannabis products, and three sold drug paraphernalia (together, four retailers had cannabis and/or paraphernalia violations). Tobacco retailers must obtain a California Cigarette and Tobacco Products Retailer's License in addition to their local Tobacco Retailer's License. Cannabis can only be sold at a licensed cannabis retailer; cannabis retailers cannot sell alcohol or tobacco.⁴



Follow-up inspections were conducted at 16 of the 30 stores with violations, February to July 2025. The follow-up inspections found that violations were resolved at 13 of the 16 retailers

⁴ California Department of Tax and Fee Administration, "Permits and Licenses," accessed [6/10/2024], <https://www.cdtfa.ca.gov/services/permits-licenses.htm>.

(81%). At the remaining three stores, second warnings were issued, and retailers were advised that a citation would occur if the violation had not been corrected by the next inspection. See Table 2 below for more information on the TRL inspections and violations in the past 6 months.

Table 1. Number of TRL Inspections and Violations, January – July 2025

# Retailers Inspected	# Retailers with Violations	# Retailers Post-Violation Follow-up Inspections	# Retailers' Violation Resolved	# Retailers 2 nd Warning Issued
35 stores	30 stores	16 stores	13 stores	3 stores

In May 2025, the Business License Office mailed the annual business renewal reminder letters to 70 tobacco retailers in unincorporated Contra Costa. Upon reviewing the list of registered tobacco retailers provided by the California Department of Tax and Fee Administration, TPP found that nine additional retailers did not have a local tobacco retailer's license. These nine tobacco retailers have been advised to obtain their local tobacco retailer licenses.

In July 2025, one hearing was held to revoke nonconforming land use at a location for numerous violations by a significant tobacco retailer in the unincorporated County.

Transfer of the Tobacco Retail Licensing Program to Environmental Health

To further streamline and strengthen County enforcement efforts, the Public Health's TPP will transfer the administration of the licensing program and tobacco retailer enforcement to the Environmental Health Department. The TPP will focus primarily on education on the adoption and implementation of tobacco policies within the County. The EH Department has extensive experience conducting inspections of restaurants, mobile food units, among other facilities, and can enforce environmental health regulations associated with many other business activities.

Additionally, the EH Department plans to bolster retailer compliance through amendments made to the enforcement structure of retailer inspections, penalties, and fees. Per Proposition 26, no profit can be made from these fees. Within Contra Costa County, each jurisdiction assigns a fee for tobacco retailers; these fees range from \$29-\$1,602 annually, which were set prior to any local tobacco regulation that went into effect. In unincorporated Contra Costa, the annual fee of \$287 was set 25 years ago, before the 2017 and 2019 ordinances were implemented.

The fee for a license can reimburse the total cost of administration and enforcement of Ordinance 2019-34, including but not limited to issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators. This fee would ensure that the full cost of TRL administration and enforcement is always covered. With the transfer of the administration and enforcement of the retailing program to EH, a higher yet reasonable fee would be sufficient to ensure a reliable and sustainable funding source that is not dependent on the Department of Justice's tobacco enforcement limited and competitive grant funding. Contra Costa County's TRL fees are outdated and do not cover the growing inspection and enforcement costs. TPP and EH will present to the Board of Supervisors an updated tobacco retail license fee and compliance program proposal at a future date.

V. Technical Assistance to Contra Costa Cities

TPP continues to offer technical assistance at the request of local jurisdictions. Over the past year, TPP staff have worked primarily with the City of Brentwood and the City of Pittsburg as they adopt tobacco control policies.

Brentwood is working towards adopting and implementing a comprehensive TRL, which includes stopping the sale of all vape products and setting a minimum price and pack size for tobacco products. TPP has also supported city staff through the development of three (3) maps showing the proximity of tobacco retailers and youth-oriented establishments. Along with concerned Brentwood residents, TPP staff have met with elected officials to speak to the best practices associated with a comprehensive TRL. As a result, on May 13, 2025, Brentwood held the first reading of their TRL ordinance, in which the council directed staff to return for another first reading with changes such as decreasing the buffer zones and removing buffer zones between tobacco retailers. Brentwood TA is anticipated over the next reporting cycle. In Pittsburg, TPP staff have supported the Policy Consultant hired to assist the city with the development of its Healthy Communities Ordinance. This policy was adopted on June 2, 2025, and will become effective on January 1, 2026, when all tobacco retailers will be required to receive a TRL.

VI. Best Practice Supports Enhancing Youth Protections in Retail Environment

The Centers for Disease Control and Prevention (CDC) 2024 Surgeon General's report on Smoking and Tobacco Use found that significant disparities due to tobacco still persist. This report reviews the latest scientific evidence on commercial tobacco-related health disparities in the United States. It documents that there has been significant progress in reducing commercial tobacco use in the United States overall. Still, tobacco use and exposure to secondhand smoke (SHS) have not decreased at the same rate across all population groups.

Disparities persist. Smoking is the leading preventable cause of disease, disability, and death in the U.S.—including cancer, heart disease, and chronic obstructive pulmonary disease (COPD)—among all racial and ethnic groups. A recent study found that nicotine-based e-cigarettes are likely to be carcinogenic to humans who use them and are likely to cause lung cancer and oral cancer (Stewart B. (2025) E-cigarettes and Cancer: A Qualitative Risk Assessment. Clinical Oncology Society of Australia; Sydney). Furthermore, another study found that the rapidly evolving market pose significant implications for public health. With drastic cuts to the FDA Center for Tobacco Products, the closing of the CDC Office on Smoking and Health will potentially lead to an increase in tobacco caused disease and cause health care costs to rise exponentially. Researchers conducted an analysis of the California Tobacco Control Program from 1989 to 2019, 30 years after Prop 99 created the program. California's adult smoking prevalence fell from 21.8% to 10% in 2019. Those who didn't quit smoking completely still cut back by an average of 119 packs per year in response to the program. A total of 15.7 billion fewer packs of cigarettes were smoked in California than would be expected, and the Tobacco Industry lost \$51.4 billion in sales due to the State Tobacco Control Program (Lightwood, J., Anderson, S., Glantz, S., 2023).

Through tobacco control frameworks that prioritize protecting youth and communities of color who are among the most vulnerable groups to tobacco-related health disparities, the TPP continues to work towards a Contra Costa County free of the negative health impacts of commercial tobacco use in the County. Following CDC and California Tobacco Prevention Program guidelines, TPP provides evidence-based education on policies to make tobacco products less appealing, affordable, and available. TPP continues to work towards collaboration opportunities with other departments, like Behavioral Health, to increase access to treatments and resources to help people quit tobacco use.

Studies continue to show that nicotine exposure significantly harms neurodevelopment potentially leading to cognitive deficits and mental health issues like depression, anxiety, substance use disorders, and elevated suicide risk. Additionally, nicotine impacts sleep, leading to irregular emotion regulation, impulse control, and increased dependence (Ji, et al, 2025).

The recommendations below include amendments to the TRL ordinance based on best practices and strategies that have proven to be effective in reducing the negative health impact and influence of tobacco on youth and those seeking to quit tobacco use. These policies have been adopted in other cities in Contra Costa County, the Greater Bay Area, and throughout California, and have been deemed the gold standard by the California Tobacco Prevention Program. The recommendations below strengthen current policies, address gaps, and promote health and safety for all residents.

a. Align the County with the State’s Definition of Characterizing Flavor and Nicotine

To streamline enforcement and make it easier to enforce tobacco laws, it’s essential for local and state definitions to be aligned. The current ordinance defines "characterizing flavor" as a distinguishable taste or aroma imparted by a tobacco product or any byproduct produced by the tobacco product that is perceivable by an ordinary consumer by either the sense of taste or smell, other than the taste or aroma of tobacco. A "characterizing flavor" includes, but is not limited to, a taste or aroma relating to a fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice.

- *Updates the definition of “characterizing flavor” to include sensation products:* provisions updating the definition of “characterizing flavor” in Health and Safety Code Section 104559.5 to include products that produce a “cooling sensation,” which should explicitly capture the new “non-menthol” sensation products marketed by the industry.
- *Add the definition of “nicotine”:* Both laws define “nicotine” under state law to include synthetically derived nicotine and nicotine analogs, which should encompass products like Metatine in Spree Bar e-cigarettes

b. Prohibit Coupon Redemption and Discounts

The current TRL ordinance prohibits the distribution of coupons from retailers to customers. However, it permits redemption of coupons distributed by tobacco companies and permits retailers

to offer product discounts.

Research consistently shows that youth and young adults are particularly price sensitive, and the tobacco industry exploits this by using discounts to make products more affordable, appealing, and accessible. This makes it more likely for youth experimentation to progress to regular use and addiction into adulthood.

Amending the prohibition to cover both the distribution and retail redemption of coupons, as well as multi-pack promotions like “buy one, get one” offers and all forms of price discounts, is a proven strategy for reducing youth access and addressing tobacco-related health disparities. Research indicates that youth are highly price sensitive; for example, a 10% increase in price is associated with a 14% decline in adolescent smoking prevalence.

According to national survey data, a significant portion of youth tobacco users report using coupons or other price discounts to obtain products, underscoring how such promotions can drive experimentation and progression to regular use. Youth are price sensitive, and even small increases in price can meaningfully reduce initiation rates. Tobacco companies themselves have consistently viewed young people as essential for long-term industry sustainability. In tobacco industry documents, company insiders acknowledged the critical importance of youth as future market drivers. One memo openly stated: “They represent tomorrow’s cigarette business. As this 14–24 age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years.”

Data also shows that adults exposed to e-cigarette coupon marketing are 1.5 times more likely to start using e-cigarettes, more likely to relapse if they are former users, and less likely to quit if they are current users.

Additionally, coupon recipients⁵ relapse at roughly twice the rate of those who do not receive them. Furthermore, preventing coupon redemption supports cessation among adults who smoke, as these discounts have been shown to undermine quit attempts. By eliminating these promotions, such policies not only decrease the likelihood of youth initiation but also remove a key marketing tactic that targets price-sensitive populations, including youth, low-income communities, and communities of color. The current policy could be enhanced with evidence-based recommendations to increase effectiveness in reducing youth access to tobacco.⁶

c. Include Anti-PUP (Purchase, Use, and Possession) Clause

Historically, many retail licensing and other “youth access” laws have included penalties for underage people who purchase, use, or possess (or attempt to purchase, use, or possess) tobacco

⁵ A “coupon recipient” refers to anyone who receives a coupon for tobacco products, whether it is distributed directly by a tobacco company (through mail, email, online sign-ups, or packaging inserts) or issued by a retailer at the point of sale. Both sources are included in research examining the impact of coupon use.

⁶ The Public Health Law Center is a nonprofit organization that offers comprehensive legal and policy support to public health professionals, policymakers, and advocates aiming to reduce tobacco use and its harmful effects. Their initiatives include drafting model policies, providing litigation support and offering guidance on regulatory measures to curb tobacco consumption. By promoting smoke-free environments and stricter tobacco regulations, the Public Health Law Center plays a crucial role in safeguarding public health and advancing tobacco-free communities.

products. There is no evidence demonstrating that these laws are effective in reducing youth initiation, use of, or addiction to tobacco products (Wakefield, Giovino, Teen Penalties for Tobacco Possession, Use, and Purchase: Evidence and Issue 12 Tobacco Control, 2003).

Laws that penalize purchase, use, and possession, commonly referred to as “PUP laws,” seek to punish youth for buying, using, or having tobacco products if they are under 21 years old. These laws impose penalties on underage individuals. While the goal of this law is to help curb youth use of tobacco products, research and data indicate that PUP laws are often ineffective at reducing youth tobacco use and can cause more harm by criminalizing youth.⁷ Therefore, including a clause that specifically ensures youth are not criminalized is an important preventative step.

While the County ordinance does not currently have PUP clauses, TPP recommends including this language to ensure that PUP laws maintain the responsibility on retailers for selling to youth under 21 as a preventative measure to not penalize youth tobacco users. For example, the City of Lafayette states in their retail licensing ordinance, *“The city council does not intend and nothing in this chapter shall be interpreted to penalize the purchase, use, possession, or attempted purchase, use, or possession of tobacco products or tobacco paraphernalia by persons under 21 years of age; provided, however, that persons under 21 years of age remain subject to generally applicable laws regulating such conduct without respect to the person's age.”*⁸ Similar language could be included in the County’s ordinance.

d. Increase Minimum Pack Size and add Minimum Floor Pack Price

While the 2009 Family Smoking Prevention and Tobacco Control Act requires cigarettes to come in packs of at least 20, there are no regulations on pack sizes for cigars and cigarillos. This allows companies to sell the products at very low prices, making them extremely appealing to price-sensitive shoppers, like youth.⁹

Currently, the County ordinance has a minimum pack size of 10, and TPP recommends that the minimum pack size for little cigars/cigarillos be increased to 20. Additionally, evidence from cigarette regulations suggests that larger pack sizes can reduce consumption. Smokers may smoke less frequently if the cost per purchase is higher and if they need to commit to buying a larger quantity at once. It can also help discourage initiation - new smokers, particularly youth, are less likely to start smoking if the financial commitment is higher. A larger pack size may deter initiation of smoking among non-smokers.

Setting a minimum price for tobacco products, including little cigars and cigarillos, is an evidence-based strategy to reduce youth access and initiation. Price-sensitive populations, particularly youth, are more likely to be deterred from purchasing tobacco products when low-cost options are eliminated.

⁷ PUP in Smoke: Why Youth Tobacco Possession and Use Penalties Are Ineffective and Inequitable. Change Lab Solutions. (n.d.). https://www.changelabsolutions.org/sites/default/files/2019-05/PUPinSmoke_FINAL_2019-04-17.pdf

⁸ Municipal code | city of lafayette, CA. (n.d.). <https://www.lovelafayette.org/city-hall/municipal-code>

⁹ Mays, D., Johnson, A. C., Jeong, M., Ganz, O., Audrain-McGovern, J., Strasser, A. A., & Delnevo, C. D. (2024). Tobacco minimum packaging policy to reduce cigarillo use among young people: Results of an experimental study. *Tobacco Control*, 33(2), 164–170. <https://doi.org/10.1136/tc-2022-057304>

Currently, 20 municipalities in California, including Alameda County, Los Angeles County, Richmond, and San Pablo, require a minimum pack size of 20 for little cigars and cigarillos, with seven jurisdictions also implementing a minimum price.

The City of Oakland's policy, which established a minimum price floor of \$8 per pack for cigarettes and cigars, demonstrated measurable public health benefits. Within the first 17 months of implementation, the city reported a 15% decrease in overall cigarette sales and a 25% reduction in the sale of lower-priced cigarettes. These results suggest that minimum price laws can effectively reduce tobacco consumption and limit access to cheaper products that appeal to youth.

A minimum price requirement for the sale of all tobacco products works to further strengthen existing tobacco control measures and support reductions in youth access and initiation. This approach is consistent with best practices and aligns with public health objectives to reduce tobacco use and its associated harms.

The progress that has been made in Contra Costa County in reducing the death, disease, and addiction caused by tobacco use has had a rippling effect throughout the State and across the nation. Unfortunately, with the federal programs closure, there is deep concern that more youth will start using tobacco products, fewer people will quit, and more people will become ill and die from tobacco-caused disease. Tobacco use has been described as a pediatric disease because almost all tobacco use begins during the teen years. Through evidence-based policy updates to ordinance 2019-34, streamlining enforcement efforts, the Community Health and Safety Branch, can address the harms caused by tobacco and protect children's health.

VII. Recommendations

1. Direct staff to return to the full Board of Supervisors to present a revised Tobacco Retail License ordinance code, including any necessary updates to align with statutory updates and bolster the licensing, application, and enforcement sections.
2. Direct staff to review the current Tobacco Retail License and inspection fee and return to the full Board of Supervisors with proposed fee increases to recover the reasonable regulatory costs of the administration, implementation, investigation, and enforcement of this program.
3. Accept the report and direct staff to annually inform the FHS Committee and Board of Supervisors about changes in tobacco policies and regulations, and emerging trends in tobacco sales and youth use.
4. TPP requests that the Tobacco Retail License ordinance be updated with evidence-based best practice recommendations that include the definition of characterizing flavor to include sensation products and the definition of nicotine.
5. TPP requests that the Tobacco Retail License ordinance be updated with evidence-based best practice recommendations that include increasing the minimum pack size requirements from 10 to 20 little cigars/cigarillos and setting a minimum floor price per pack to deter youth purchase of tobacco products.

6. TPP requests that the Tobacco Retail License ordinance be updated with evidence-based best practice recommendations that include prohibiting the use of discounts or coupon redemptions to deter youth purchase of tobacco products.
7. TPP requests that the Tobacco Retail License ordinance be updated with evidence-based best practice recommendations that include an anti purchase, use, and possession (PUP) clause to prevent criminalization of youth purchase, use, and possession of tobacco products.

Citations:

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Appendix A

Popular Tobacco Products Among Youth



Oral nicotine pouches – Nicotine pouches contain a powder made of nicotine, flavorings, and other ingredients that dissolve in the mouth and the nicotine is absorbed through the gums.



Vaping devices with digital screens – Built-in screen to monitor real-time battery life and puff count, as well as customize settings for added personalization

Appendix B

Emerging Tobacco Products



Updated vape technology with an estimated 40,000 puffs

Comparison of EBCREATE BC Pro 40K (left) and BC5000 (right) in the Blue Razz Ice Flavor (not to scale)



Updated vape technology with video game capability and a digital screen



Non-nicotine, non-tobacco oral nicotine products

Appendix C

California's Flavored Tobacco Enforcement Laws

AB-3218 Unflavored Tobacco List.

An act to amend Sections 22980 and 22990 of, and to add Sections 22974.2 and 22978.3 to, the Business and Professions Code, to amend Section 104559.5 of, and to add Article 4.5 (commencing with Section 104559.1) to Chapter 1 of Part 3 of Division 103 of, the Health and Safety Code, and to amend Section 30101.7 of the Revenue and Taxation Code, relating to tobacco, and making an appropriation therefor.

SB-1230 Strengthen Tobacco Oversight Programs (STOP) and Seize Illegal Tobacco Products Act.

An act to amend Section 22958 of, and to add Section 22974.1 to, the Business and Professions Code, to amend Section 104559.5 of the Health and Safety Code, and to amend Section 30449 of the Revenue and Taxation Code, relating to tobacco sales.

Together, these two laws strengthen and close loopholes within the State Flavored Tobacco Law.

1. Expands and clarifies restrictions on delivery sales. The changes in the law explicitly prohibit delivery sellers in California—including anyone who sells products through the internet or via remote delivery—from selling tobacco products that are not on the UTL. Just as importantly, it requires all delivery sellers to be licensed under state law and to abide by any state or local tobacco control laws as if the delivery sales occurred entirely within that jurisdiction. Thus, any provisions in a local tobacco retail licensing ordinance will automatically apply with equal force to online and delivery sales.
2. Penalizes manufacturers, distributors, wholesalers, and delivery sellers who violate the UTL provisions. If a manufacturer or importer “had no reasonable basis” to certify that their products lacked a characterizing flavor, the Attorney General can seek penalties up to \$50,000. And distributors, wholesalers, and delivery sellers are liable for fines ranging from \$2,000 (for a first violation) to \$10,000 (for the fifth violation within a five-year period) for each prohibited tobacco product they sell in violation of the UTL law.
3. Increases the penalties for selling tobacco products to people under 21 years of age. Currently, penalties under the STAKE Act range from \$400 (for a first violation) up to \$6,000 (for a fifth violation in a five-year period). Those penalties will increase to \$1,000 (for a first violation) up to \$20,000 (for a fifth violation in a five-year period).
4. Repeals the state provision permitting the sale of tobacco products to military personnel who are at least 18 years of age. Current state law prohibits the sale of tobacco to anyone who is under 21 years of age unless the person is in the military. Importantly, despite this exemption in state law, the federal law has set an across-the-board minimum legal sales age of 21 since 2019, so the state-level exemption was no longer valid. This law brings state law into conformity with federal law by repealing that provision, eliminating confusion, and making it clear that retailers cannot sell to anyone who is under 21.
5. Authorizes the seizure of prohibited flavored products. The California Department of Tax and Fee Administration or any other enforcing agency, including local law enforcement, will be authorized to seize prohibited flavor products from retailers and wholesalers and to impose a

penalty of \$50 per individual package of flavored tobacco products or tobacco product flavor enhancers.

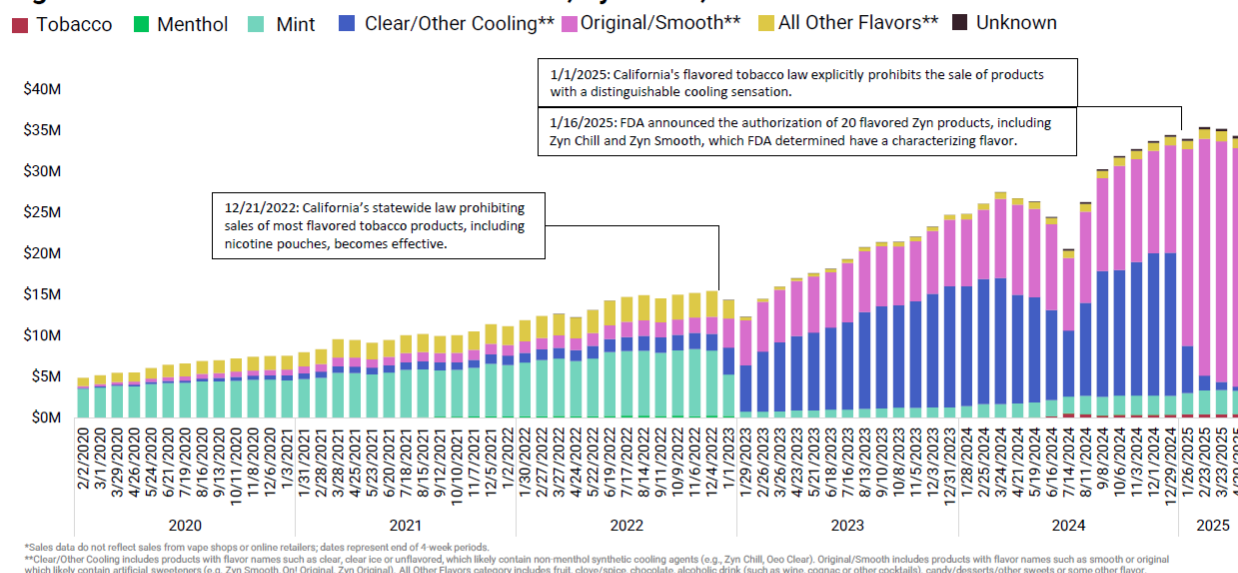
6. Updates the definition of “characterizing flavor” to include sensation products. Both laws contain provisions updating the definition of “characterizing flavor” in Health and Safety Code Section 104559.5 to include products that produce a “cooling sensation,” which should explicitly capture the new “non-menthol” sensation products marketed by the industry.
7. Expands the definition of “nicotine”: Both laws define “nicotine” under state law to include synthetically derived nicotine and nicotine analogs, which should encompass products like Metatine in Spree Bar e-cigarettes.
8. Preserves local authority. The laws are not preemptive, and local jurisdictions can enact their own flavor policies provided they are as restrictive or more restrictive than state law.

Appendix D

Data Brief April 2025 Total Nicotine Pouch Dollar Sales, California

Data Brief | April 2025 (Updated July 2025)

Figure 2. Total Nicotine Pouch Dollar Sales, by Flavor, California



Trends of Nicotine Pouch Dollar Sales by Flavor from 12/4/2022 to 4/20/2025, Following California's Flavored Tobacco Restriction

Total nicotine pouch dollar sales increased from \$15.5 million to \$34.4 million (+122.0%).

In November 2024, California's Department of Justice began notifying certain manufacturers that their products with distinguishable cooling sensations would be explicitly prohibited by changes to California's flavored tobacco law, beginning January 1, 2025. Clear/other cooling flavored nicotine pouch sales decreased 97.1% from December 2024 to April 2025, while smooth/original flavor increased 121.6%.

Tobacco-flavored nicotine pouch dollar sales increased from \$0 to \$492.2 thousand; dollar share increased from 0.0% to 1.4%.

Menthol-flavored nicotine pouch dollar sales decreased from \$278.7 thousand to \$11.1 thousand (-96.0%); dollar share decreased from 1.8% to 0.03%.

Mint-flavored nicotine pouch dollar sales decreased from \$7.9 million to \$2.8 million (-64.5%); dollar share decreased from 51.3% to 8.2%.

Clear/other cooling-flavored nicotine pouch dollar sales decreased from \$2.1 million to \$508.5 thousand (-75.2%); dollar share decreased from 13.3% to 1.5%.

Original/Smooth nicotine pouch dollar sales increased from \$2.1 million to \$29.1 million (+1,311.0%); dollar share increased from 13.3% to 84.5%.

All other-flavored nicotine pouch dollar sales decreased from \$3.2 million to \$1.2 million (-62.2%); dollar share decreased from 20.3% to 3.5%.

Retail sales data are based on custom research by the CDC Foundation using Circana retail POS (Multi-Outlet + Convenience). According to Circana, new product coding is managed to consistently meet or exceed releasing products that cover a minimum of 95.5% of total dollar sales at any given time. Coding and releasing of new products are prioritized based on significance of dollar sales to continually comply with capturing at least 95.5% of total dollar sales in each period. Financial support was provided by Bloomberg Philanthropies through a grant to the CDC Foundation.

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Together our impact is greater