

Educational Presentation About a Tobacco Retail License Policy

Summary

This presentation is being provided to discuss developing a consistent regulatory framework throughout Humboldt County to enforce state and local tobacco sales laws. We request direction from the City Council for staff to work with our projects to draft a Tobacco Retail License policy for formal consideration.

Background

The use of commercial tobacco products remains the leading cause of preventable death in the United States. Adult smoking rates have declined; however, the use of electronic smoking devices (vaping) has increased among youth nationally, in Humboldt County and Eureka. Most electronic smoking products contain high amounts of addictive and dangerous nicotine, among many other chemicals.

The primary reason youth start to smoke electronic cigarettes is the attractiveness of their many flavors. To address the youth vaping epidemic, the California Legislature adopted, and Governor Newsom signed into law SB-793 in 2020, which eliminated the sale of flavored tobacco. Major tobacco companies filed a referendum that blocked implementation of the law, pending a vote on Proposition-31 this past November 2022. If the proposition failed, the sale of flavored tobacco would continue. Most California voters supported Proposition-31, and SB-793 now ends the sale of most flavored tobacco, except for a few flavored tobacco products that are sold in adult-only environments.

SB-793 does not establish mechanisms to enforce state tobacco laws or provide resources to local governments to do so. State and local tobacco purchase surveys have shown high rates of illegal tobacco sales to young adults under 21 and increased availability of flavored and non-flavored tobacco products in Humboldt County. There is currently no local regulatory oversight of tobacco sales in Humboldt County.

Tobacco Retail Licensing (TRL) is a revenue-neutral way that local jurisdictions establish a structure to enforce federal, state, and local tobacco laws. A TRL policy is considered a public health best practice. It is recommended by the Centers for Disease Control and Prevention and the California Department of Public Health to decrease youth access to tobacco, reduce youth initiation to tobacco, and prevent addiction to nicotine.

In August 2022, the Humboldt County Department of Public Health presented an outline of a Tobacco Retail License policy to the Humboldt County Board of Supervisors for an initial discussion. The Board unanimously approved moving forward and requested that

other jurisdictions in Humboldt County be included in the discussion to create a consistent regulatory framework throughout the county.

Model Tobacco Retail License Policy

The Public Health Law Center created a model policy, which has served as a foundation for many of the 133 local tobacco retail policies adopted in California as of July 2022. The main elements of a model TRL policy are: 1) All existing tobacco product retailers must obtain a nontransferable license, 2) Violation of federal, state, or local tobacco laws is a violation of the local TRL, and 3) Pay an annual licensing fee that fully covers all program costs, including administration and enforcement. Many options are available in the model policy, which provides more comprehensive youth protections for communities to consider.

Local tobacco-control leaders have reviewed the model policy in detail and selected several components considered most practical for local jurisdictions at this time. The selection of policy options is based on the current state of local regulations, local capacity to implement and enforce new policies, policy implementation technical assistance available, and the potential for improving the community's health.

A tobacco retail license policy could establish the following policy provisions (see attached Tobacco Retail License Policy Options for more detail):

- Prohibit the sale of all flavored tobacco products (closes the statewide flavored product ban loopholes for ease of enforcement).
- Prohibit the issuance of a new license to stores near schools and youth centers.
- Prohibit the issuance of a license to stores that contain a pharmacy.
- Prohibit a new license to stores close to other tobacco retailers.
- Cap the total number of allowable tobacco retailers.
- Prohibit tobacco advertising and product placement in kid-friendly locations.

Fees and Enforcement

Local Tobacco Retail License fees are just high enough to support and sustain local administration and enforcement. The average TRL fee in California was \$344 per year, ranging from \$10 to \$1,500, with \$475 being the most common fee. The Public Health Law Center has a TRL fee calculator to assist communities in selecting a reasonable fee for the number of retailers in their jurisdiction. Currently, the City of Eureka has more than 30 tobacco retailers.

The model TRL policy provides options for each community to determine the best enforcement procedure. Typically, local law or code enforcement monitor a local TRL. At this time, local grant-funded projects (Tobacco-Free North Coast, NorCal for Health, and Communities Addressing Nicotine) are available to provide merchant education and technical assistance to implement TRL, conduct merchant and community policy

education, and perform TRL compliance audits. These TA providers can also collaborate with local law enforcement to conduct young adult tobacco purchase surveys as needed to evaluate the TRL policy's objective of reducing illegal tobacco sales.

Attachments:

- How Tobacco Retail License Reduce Youth Tobacco & Nicotine Use
- Tobacco Retail License Policy Options
- Product Placement & Ads Increase Youth Nicotine Use
- Tobacco Retail License Enforcement & Statewide Enforcement

Model Policy with Annotations can be found here:

<https://www.publichealthlawcenter.org/sites/default/files/resources/Comp-Tobacco-Retailer-License.pdf>

Visit the page below to watch “North Coast Youth Perspective on Vaping”

<https://norcal4health.org/local-voices-video-series>

Your Presenters:

Jay McCubbrey

Tobacco-Free North Coast

707-951-6715

jay.tfnc@gmail.com

Amber Weir

NorCal 4 Health

707-951-7317

awier@healthcollaborative.org

Jay Macedo

Communities Addressing Nicotine

916-267-7071

jaymacedoconsulting@gmail.com