

Policy Options for Addressing Youth Tobacco Influences in the Retail Environment

**Contra Costa Health Services, Public Health Division
For Presentation to Contra Costa Board of Supervisors, May 24, 2016**

Most Impactful Policies for Addressing Youth Tobacco Influences in the Retail Environment		
Provision	Description	CA Jurisdictions with Similar Protection
a. Require a Tobacco Retailer License for all retailers selling traditional and/or emerging tobacco products.	Revises definition of “Tobacco Product” to include all “emerging products” including all electronic smoking devices (whether or not they contain nicotine). Current definition fails to capture a number of vaping products that have emerged since the County tobacco retail ordinance was adopted. If adopted, the new definition would cover all electronic devices which mimic smoking or can be used to deliver a dose of nicotine or other substances, and all components, parts or accessory of a “tobacco product”.	El Cerrito, Richmond, Albany, Oakland, San Jose and Santa Clara County for a total of close to 100 jurisdictions in CA. <i>Family and Human Services Committee directed staff to develop updated definition for current ordinance at 4/13/15 Committee Meeting.</i>
b. Prohibit the sale of flavored (non-cigarette) tobacco products	Prohibits the sale of flavored (non-cigarette) tobacco products within the entire unincorporated County. The Food and Drug Administration has banned candy, fruit and spice as characterizing flavors for cigarettes only. Other tobacco products (smokeless, little cigars, hookah tobacco, and dissolvable tobacco products) with these flavors are exempt from the federal ban. If adopted, the ban on flavored product would extend to these other non-cigarette tobacco products.	El Cerrito, Berkeley, Santa Clara County, Hayward, Manhattan Beach and Sonoma (Also New York City; Providence Rhode Island, and Chicago.) Under consideration in Yolo County.
c. Prohibit the sale of menthol flavored cigarettes near schools <i>(added to “most effective” list since the 7/21/15 report based on recent court decision)</i>	Would prohibit the sale of menthol flavored cigarettes within a certain distance of a school. The Food and Drug Administration has exempted “menthol” flavor from its ban on “characterizing flavors” in cigarettes. Staff recommends a distance no less than 500 feet. If adopted, this provision would affect 19 tobacco retailers across the unincorporated county.	Berkeley (within 600 feet of schools) Also Chicago (within 500 feet of schools)
d. Require minimum pack size for cigars	Although federal and state law ban the sale of individual cigarettes, neither restrict the sale of individual cigars, including cigarillos and little cigars. Options include requiring minimum pack size (current regulation for cigarettes is 20) for all cigars. Staff recommend a package size of 10. Could exempt premium cigars that cost \$5 or more.	El Cerrito, Hayward, Sonoma, Huntington Park, Gardena, Union City.
e. Restrict location of new tobacco retailers near schools and other “youth-sensitive” areas such as parks, playgrounds and libraries.	Prohibits a license to new tobacco retailers if located within a certain distance (e.g., 500-1500 feet) of a school or other area frequented by youth (e.g., playground, church, recreation center, park, etc.). Staff recommend a distance of 1000 feet, which is consistent with multiple jurisdictions.	Near Schools and other Youth Sensitive Areas: El Cerrito, Antioch, Berkeley, Dublin, Union City, Vallejo, Albany, Oakland, Marin County, and San Rafael (plus 14 other jurisdictions). Near schools only: San Francisco, Santa Barbara County, Sacramento, Santa Clara County, Manhattan Beach, plus 5 other jurisdictions.

f. Prohibit new tobacco retailers from locating within certain proximity of other retailers	This density measure would restrict new tobacco retailers from locating within a certain distance (e.g., 500-1500 feet) of another new or existing tobacco retailer. Staff recommends 500 feet, which is consistent with multiple jurisdictions.	El Cerrito, San Francisco, Santa Cruz, Hayward, Dublin, Santa Clara County, Union City, Vallejo, Fairfield, Saratoga, Rohnert Park, Temple City, Westminster, Selma, El Cerrito
g. Prohibit sale of tobacco products in pharmacies	Prohibiting the sale of tobacco products in pharmacies is consistent with the public’s perception of pharmacies as a place to go for health-related service and advice. Of the 9 pharmacies in the unincorporated county, three have already made corporate decisions to not sell tobacco products (2 CVS stores and Park Rexall).	Richmond, San Francisco, Santa Clara County, Berkeley, Healdsburg, Daly City, Hollister, Marin County
Conditions of License Suspension if violation of law occurs:		
h. Remove tobacco advertising during license suspension	Requires retailers to remove or cover all tobacco-related advertising, in addition to tobacco products, during the period that their tobacco retailer license is suspended. Would also apply to Electronic Smoking Devices and paraphernalia if definition of “tobacco products” is revised.	Richmond, Concord, Albany, Oakland, Pacifica, Santa Clara plus 56 other jurisdictions
i. Expand time period reviewed for prior violations of license	Would expand time period reviewed for prior violations of license from 24 months (2 years) to 60 months (5 years) when considering length of license suspension.	El Cerrito, Richmond, Albany, Oakland plus 64 other jurisdictions
Other Policy Considerations:		
j. Prohibit new “Significant Tobacco Retailers”	Prohibits a new “Significant Tobacco Retailer”—a business that primarily sells tobacco products—from obtaining a tobacco retailer license. Definition of “Significant Tobacco Retailer” is based on either amount of floor space or percentage of sales devoted to tobacco products. Would also apply to retailers selling Electronic Smoking Devices and paraphernalia if definition of “tobacco products” is revised, as recommended above. This provision would effectively prohibit any new ‘vape’ shops, hookah bars, or tobacco shops.	El Cerrito; Huntington Park; Richmond; Carpinteria; Concord (no new hookah shops); Dublin (no vapor lounges or hookah bars); Hayward (no vapor lounges); Union City (no vapor lounges or hookah bars); and Pittsburg (moratorium on any new “smoke shops”)
k. Require tobacco retailers to comply with storefront signage laws	Allows for suspension of retailer’s license if a retailer violates the state law or local law setting a maximum percentage of window space that can be covered by signs at retail locations. These laws exist for safety purposes, as they provide for more visibility into stores for law enforcement. This would provide a means to bring retailers into compliance with health and safety laws.	Santa Clara County
l. Require tobacco retailers to comply with drug paraphernalia sales laws	Makes violations of state laws regarding drug paraphernalia or controlled substances a violation of a tobacco retailer license. Definition of what constitutes drug paraphernalia would be as defined in state law.	Oakland, Richmond, Union City plus 8 other cities and counties (Firebaugh, Grass Valley, Huntington Park, Montebello, Parlier, Riverbank, Santa Cruz County, and Watsonville) (as of June, 2012)

<p>m. Require tobacco retailers to check ID of customers who appear younger than 27</p>	<p>Requires retailers to check the age of purchasers who appear to be under the age of 27. This measure helps insure that tobacco is not sold to youth and will become even more relevant should the State advance the legal age to purchase tobacco from 18 to 21 years of age.</p>	<p>Concord, Richmond, Albany, Oakland, Santa Clara (age 30) plus 35 other jurisdictions</p>
<p>n. Limit or “cap” the number of retailers that can sell tobacco products.</p>	<p>This density measure, limits the total number of tobacco retailer licenses that are issued. At present time there are 92 tobacco retailers in the Unincorporated area of the county. The Cap recommended by staff is 92.</p>	<p>Sonoma, Orville, Lynwood, Huntington Park, San Francisco</p>
<p>o. Increase the Tobacco Retailer License Fee to fully cover the cost of education, enforcement and monitoring of any new provisions adopted by the County.</p>	<p>The current Tobacco Retailer License was set at \$287 in 2010. It reflected the cost at that time related to the administration of the license and some site compliance checks. Staff recommend that a separate board order be presented at a later date adjust the license fee to better capture and recover updated and real cost. Fees may be charged to recover reasonable regulatory and administrative costs for issuing licenses and performing inspections. Fees may not be charged for general governmental services, including law enforcement services.</p>	<p>98 of 110 jurisdictions in CA have Tobacco Retailer Licensing enforcement programs, including youth decoy operations, that are fully funded through tobacco retailer licensing fees (as of September, 2013).</p>