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To: Family and Human Services Committee, Contra Costa Board of Supervisors
From: Daniel Peddycord, RN, MPA/HA, Director, Public Health
Re: Annual Report on Implementation of Tobacco Retail Licensing Ordinance 2019-34
Date: 10/26/20

I. Summary

In November 2019, the Board of Supervisors adopted Ordinance 2019-34 (Sale of Electronic Smoking Devices and E-Liquids Prohibited) which increased the protections for youth from tobacco influences in the retail environment. Ordinance 2019-34 was a necessary response to an epidemic rise in youth vaping where young people were vulnerable to tobacco addiction as well as concerns related to E-cigarette/Vaping Associated Lung Injury (EVALI). The ordinance also expanded the restrictions on the sale of flavored tobacco in all areas of the unincorporated areas of the County, rather than just within 1,000 feet of youth-sensitive areas. A brief report specific to the implementation of the newly adopted Ordinance 2019-34 is presented, including information on the necessary strategies to continue activities despite the challenges presented by the COVID-19 pandemic.

II. 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 following three policy recommendations to the Board of Supervisors in response to the rise of youth vaping epidemic and preventing youth in Contra Costa County from E-cigarette/Vaping Use Associated Lung Injury (EVALI), subsequently adopted by the Board.

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.



Public Health's Tobacco Prevention Program (TPP) Staff partnered with Contra Costa County's Department of Conservation and Development, Alcohol and Other Drugs Services (AODS), the Contra Costa County Office of Education Tobacco Use Prevention Education Program (TUPE) and community partners to inform community members about the upcoming policy. The Tobacco Prevention Coalition (TPC) and community partners worked to educate vulnerable populations, especially the youth, on the positive impact of the proposed policy recommendations. More than 25 community members provided public testimony or wrote letters of support for the expansion of restrictions of the tobacco retailer license ordinance, most of which were youth who experienced the negative health effects of vaping amongst their friends and schoolmates. Ordinance 2019-34 was adopted by the Board of Supervisors unanimously on December 18, 2019.

III. Implementation efforts from October 2019 report to the Board of Supervisors

Implementation of Ordinance 2019-34

After the adoption of Ordinance 2019-34, the Tobacco Prevention Program (TPP) staff created a comprehensive plan to inform the retailers and the general members of the community of the upcoming changes on the sale of flavored tobacco and vaping devices in the unincorporated areas of the County. The community engagement plan included community presentations (i.e., retailer forums), social media posts on the TPC's Facebook and Instagram, and informational mailers that were sent to all retailers in the unincorporated County.

January through February 2020, TPP Staff facilitated 2 retailers informational forums in Bay Point and El Sobrante. Both forums were advertised by a staff developed flyer which was sent to all 84 retailers in the County. A total of 10 retailers participated in the forums which provided details on the new ordinance, information regarding products that were now prohibited to sell, and a timeline of activities that needed to be completed in order to be compliant with the ordinance. The Sheriff's Department also participated in the forum and they presented detailed information on procedures of a compliance inspection. Lastly, TPP Staff provided resources on healthy retail as an option for retailers interested in increasing the sales of healthier food options as an alternative to tobacco products.

TPP Staff held virtual retailer educational workshops in March and July 2020 to further inform retailers about the about the new tobacco control policy regarding the sale of flavored tobacco and vaping devices. Despite the lack of participation and attendance from retailers in these virtual workshops, the sessions were recorded and have been viewed over 10 times since they were recorded. Although more and more community members are utilizing online platforms (i.e. Zoom), TPP Staff recognizes that retailers may be unfamiliar with or are unable to use these new technologies during the COVID-19 pandemic.

Annually, the Contra Costa County Business License Office sends a mailing to remind all tobacco retailers to renew their business license. TPP Staff coordinated with the Business License Office to include an informational letter and flyer about the new ordinance as well as resources for retailers. In May 2020, the Business License Office mailed the annual business renewal reminder letters to all 84 unincorporated tobacco retailers.

In order to inform the community at large about Ordinance 2019-34, TPP Staff presented at the Tobacco Prevention Coalition (TPC) meetings in January and March 2020. Members of the TPC discussed the new ordinance and agreed to disseminate the information to their network of several



communities within Contra Costa County (community-based organizations, youth, parents, educators, etc). TPP Staff also launched a series of social media posts on the TPC's Facebook and Instagram as another outreach effort to inform members of the community about the new tobacco control policy.

Enforcement of Ordinance 2019-34

With the COVID-19 pandemic, TPP Staff have delayed in-person activities, such as youth decoy and shoulder tap operations. Moreover, several of the TPP Staff have been deployed as Disaster Service Workers. These TPP Staff are now performing other duties in addition to their normal functions to support the County's response to COVID-19 as described in the Government Code Section 3100, et seq.

TPP Staff continues implementation and enforcement activities within the constrained parameters of the COVID-19 pandemic through its partnership with the Sheriff's Department. TPP Staff have assisted the Sheriff's Department in completing 86 compliance checks from October 2019 to June 2020 while adhering to the Contra Costa Health Officer's COVID-19 guidelines. These compliance checks were completed through a grant provided by California Department of Justice. The Sheriff's Department reported a 100% compliance rate, which revealed that all 86 retailers were compliant with the new requirements of Ordinance 2019-34. Future compliance checks have been postponed until early 2021 as the Sheriff's Department seeks additional funding to participate in these activities.

Next Steps for Increased Compliance

The Tobacco Prevention Program received funding from the California Department of Justice to perform local tobacco control policy enforcement activities complementary to those enforcement activities under the purview of the Sheriff's Department. As a designated enforcement agency for tobacco retailer licensing laws, TPP Staff will continue to provide retailer education sessions which provides compliance information regarding Ordinance 2019-34. Funding for the project began in November 2018 and it will continue through June 2021.

Other activities funded under this grant include conducting outreach to youth and young adults to combat their use of tobacco and tobacco products including electronic cigarettes and vaping devices. A Youth Taskforce will be formed where youth will be trained to educate their peers about the negative health effects of the use of tobacco and tobacco products. Recruitment for the taskforce began Summer of 2020 and 2 presentations educating youth about the dangers of vaping at Diablo Valley College are scheduled for October 2020.

Grant applications from both the Public Health Department and the Sheriff's Department were completed and submitted to the California Department of Justice in August 2020. If funded the projects will run fiscal years 2021-2024 and support the continuation of enforcement activities. TPP Staff anticipates announcements of grantees no later than December 2020.

If TPP receives this funding, project deliverables will not only include enforcement activities in the unincorporated County but will also allow partnerships with at least 5 other cities to conduct the following:

1. Provide technical assistance to create model enforcement activities with licensed tobacco retailers which include updating protocols for conducting compliance inspections with local retailers within their city jurisdiction;



2. Conduct at least 100 tobacco retail compliance checks across 5 cities per year, assessing the sale of tobacco products in each city (e.g., flavored products, minimum pack size, samples, self-service displays, original packaging, etc.);
3. Conduct at least 20 trainings per year to train enforcement staff (city staff and/or police officers) model enforcement procedures and culture competency (specifically in implicit bias, equity, diversity and inclusion).
4. Conduct 4 tobacco retailer education classes on an annual basis with emphasis on tobacco laws meant to reduce youth tobacco influence.

IV. Technical Assistance to Contra Costa Cities

Staff continues to offer technical assistance to Contra Costa cities that are interested in considering policies that prohibit the sale of e-cigarettes and vaping devices in order to protect youth from EVALI or E-cigarette/Vaping Use Associated Lung Injury. Within the past year, the following cities have adopted or they are in the process of expanding their tobacco retail control policies utilizing the Contra Costa County ordinance as a model:

City	Policy Description	Date adopted/ Date effective
Antioch	Adopt comprehensive tobacco retailer license with a flavors restriction and a minimum pack size requirement	Staff and community partners plan to meet with Antioch staff to discuss policy options in January 2021.
Pittsburg	Adopt a comprehensive tobacco retailer license ordinance inclusive of flavored tobacco restrictions and a minimum pack size requirement	Staff and community partners plan to meet with Pittsburg staff to discuss policy options in January 2021.
Danville	Prohibits the sale of vaping devices and electronic smoking devices	February 18, 2020/ March 18, 2020
Concord	Adopt comprehensive tobacco retailer restrictions that are inclusive of flavored tobacco restrictions and a minimum pack size requirement	In Progress
San Ramon	Community partners in San Ramon and Public Health staff met with San Ramon city Attorney to discuss policy options and share information on best practices in March 2019.	In Progress

V. Technical Assistance to Statewide Tobacco Control

On a celebratory note, Public Health staff were invited by the California State Senate- Health Committee to present at their February 10, 2020 committee meeting in Sacramento, CA. Public Health presented to the Senate Health Committee, Chaired by Senator Pan on the “Rise of Youth Vaping Epidemic.” Public Health staff were invited to share details of Contra Costa County’s successful adoption and implementation of tobacco retailer licensing laws, ban on the sale of flavored tobacco products as well as Contra Costa’s



local ordinance related to the ban on selling vaping products. Presenters included Contra Costa County Health Officer - Dr. Chris Farnitano, Public Health Director - Dan Peddycord, and Tobacco Prevention Project Manager - Rynn Schumacher. Contra Costa County was among a short-list of counties invited by the California Senate to present on how local jurisdictions could effectively respond in protecting youth and young adults from the vaping epidemic and EVALI.

Subsequently, in August 2020, California became the second state to ban the sale of flavored tobacco and electronic cigarettes through SB793. The Contra Costa County Board of Supervisors, Tobacco Prevention Coalition, as well as several organizational partners and community members from the Tobacco Prevention Coalition, submitted a letter supporting SB 793, which is expected to be effective in January 2021.

With the support of the Board of Supervisors, TPP continues to advance tobacco control policies and responds to various requests to provide technical assistance to other local jurisdictions throughout California including Sonoma and San Diego Counties. Technical assistance includes sharing best practices on the adoption, implementation, and enforcement of local tobacco control policies and ordinances.

VI. Recommendations

Direct staff to track efforts by the Tobacco Industry to reverse the protections provided in SB 793, and to keep the Committee informed.

Staff recommends that the Family and Human Services Committee accept the report and direct staff to continue to provide updates on implementation of the ordinance as part of staff's annual report on the County's Tobacco Retail Licensing Ordinance.

