



**Contra  
Costa  
County**

To: Board of Supervisors  
From: William Walker, M.D., Health Services Director  
Date: May 24, 2016

Subject: Accept Staff Report on Policy Options for Protecting Youth from Tobacco Influences in the Retail Environment

**RECOMMENDATION(S):**

ACCEPT the Health Services Department, Public Health Division, staff report on policy options to protect youth from tobacco influences in the retail environment. DETERMINE which policy options, as recommended in Attachment II, to include in an ordinance regulating tobacco retailers. DIRECT Public Health staff to work with the County Counsel's Office to draft the ordinance and present it to the Board of Supervisors for the Board's consideration and present to the Planning Commission, if applicable.

**FISCAL IMPACT:**

Should the Board direct the development of a revised ordinance, minimal fiscal impacts associated with staff time costs, including County Counsel and other departments to develop the ordinance itself are expected. A portion of the Prop 99 funding Contra Costa Health Services receives for its Tobacco Prevention Program could be allocated to coordinating and implementing directions provided by the Board of Supervisors. Tobacco Retailer licensing fees, currently \$287 per retailer, can also be used to conduct outreach, education and compliance inspections to tobacco retailers on the ordinance amendments and new requirements. These activities can be conducted with current funded staff.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

Action of Board On: **05/24/2016** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 24, 2016

Contact: Dan  
Peddycord, 313-6712

David Twa, County Administrator and Clerk of the Board of  
Supervisors

By: , Deputy

cc: T Scott, M Wilhelm, Tracey Rattray

## BACKGROUND:

On July 21, 2015, the Board of Supervisors accepted a Health Services Report on Policy Options to Protect Youth from Tobacco Influences in the Retail Environment, which was forwarded from the Family and Human Services Committee for discussion. The report highlighted how the tobacco retail environment influences youth smoking behavior and described a range of fifteen optional policy provisions that would serve to strengthen the County's ordinance to protect youth from tobacco influences and to help prevent youth from initiating tobacco use. Recommendations were made for which policy options were among the most impactful in reducing youth tobacco influences in the retail environment. The report also referenced the results from the 2013 Healthy Stores for a Healthy Community Store Survey, which was accepted by the Board at the May 5, 2015 Board of Supervisors meeting.

Based on the recommendations from the Family and Human Services Committee and the subsequent acceptance of the recommendation by the Board of Supervisors on July 21, 2015, the Board directed staff to work with the affected County Departments to evaluate these options as modifications to the County's existing ordinances, and to address fiscal and implementation considerations. Public Health staff met with staff from County Counsel and the Department of Conservation and Development to review all of the options discussed with the Board at the July 21, 2015 meeting. This report provides the requested information as well as policy options deemed to be the most effective to protect youth from tobacco influences in the retail environment, including strengthening the County's Tobacco Retailer Licensing Ordinance.

Since 90% of smokers begin smoking by the age of 18, tobacco use has been determined to be "fundamentally a pediatric disease" by the United States Food and Drug Administration (FDA). In order to protect health and public safety, Health Services has presented the following policy options for consideration as modifications to existing county code to address youth tobacco influences in the retail environment:

Most Impactful Provisions to Reduce Youth Tobacco Influences in the Community

a) Revise the definition of "tobacco products" in the Tobacco Retailer License Ordinance to be inclusive of newer electronic smoking devices and "liquids" that currently fall outside of the definition.

b) Prohibit the sale of flavored (non-cigarette) tobacco products

c) Prohibit the sale of menthol flavored cigarettes at least within 500 feet of schools

d) Require a minimum pack size of ten (10) for little cigars and cigarillos.

e) Prohibit new tobacco retailers from operating within 1000 feet of schools, parks, playgrounds and libraries

f) Prohibit new tobacco retailers from operating within 500 feet of new or existing tobacco retailers.

g) Prohibit the sale of tobacco products in pharmacies

Condition of License Suspension if a Violation of the Law Occurs

h) Require tobacco retailers who have their license suspended to remove tobacco

advertising during license suspension periods

i) Expand the time period reviewed for prior violations of the license (the “look-back” period) from 24 months (2 years) to 60 months (5 years) when considering the length of a license suspension for retailers found to be in violation of the law.

Other Policy Considerations:

j) Prohibit new “Significant Tobacco Retailers”, including “vape” shops, hookah bars or smoke shops

k) Require tobacco retailers to comply with state and local storefront signage laws

l) Require tobacco retailers to comply with drug paraphernalia sales laws

m) Require tobacco retailers to check ID of customers who appear younger than 27

n) Limit or “cap” the number of retailers that can sell tobacco products at current number of licenses issued by the County

o) Prepare a board order at a later date to adjust Tobacco Retailer Licensing fees to better capture and recover updated and real costs associated with education, enforcement and monitoring of implementing the ordinance.

The summary table on Policy Options for Addressing Youth Tobacco Influences in the Retail Environment (Attachment II) has been updated to reflect CA jurisdictions that have adopted similar provisions in the interim period since our last report. Those provisions that were recommended by the department as the most impactful are in shaded boxes.

Regulation of menthol cigarettes has been included since the last report among those that are most impactful, since being upheld in the courts. The option to raise Tobacco Retailer Licensing Fees to fully cover law enforcement costs through licensing fees has been modified as County Counsel reports that it was not allowable as proposed. Each provision found in Attachment II, as well as fiscal and implementation issues, are discussed in more detail in Attachment I, Health Services Report on Policy Options and Recommendation for Addressing Youth Tobacco Influences in the Retail Environment.

#### CONSEQUENCE OF NEGATIVE ACTION:

If this Action is not approved, the public's health may not be protected to the extent possible.

#### CHILDREN'S IMPACT STATEMENT:

Tobacco products are still being promoted to children through availability of youth-friendly flavored tobacco products and inexpensive small packs of these products; exposure to tobacco marketing in the retail environment; and the sale and marketing of tobacco products near schools and other youth sensitive areas. Policy options exist to amend County Code to address these issues and will discourage youth from tobacco use and promote healthier communities.

#### CLERK'S ADDENDUM

***Nati Flores, Monument Impact Concord; Bob Gordon, Contra Costa County Tobacco-Prevention Coalition; Stephanie Ugalde, Courage; Karina Guadalupe, Bay Area Community Resources; Margo Connolly, American Cancer Society, Cancer Action Network; Mary Jaccodine, Tobacco Prevention Coalition. ACCEPTED the Health Services Department, Public Health Division, staff report on policy options to protect***

*youth from tobacco influences in the retail environment. APPROVED options A-O as recommended in Attachment II, to include in an ordinance regulating tobacco retailers, with an amendment to option C to prohibit the sale of menthol cigarettes within 1000 feet of a school; DIRECTED Public Health staff to work with the County Counsel's Office to draft the ordinance and present it to the Board of Supervisors for the Board's consideration and present to the Planning Commission, if applicable*

#### ATTACHMENTS

Attachment I

Attachment II

Attachment III

Attachment IV

Attachment V

powerpoint