



## Policy Provisions for a Tobacco Retailer License

Your community has a range of policy choices to consider when designing a local tobacco retailer licensing ordinance. ChangeLab Solutions' *Comprehensive Tobacco Retailer Licensing Ordinance* (TRL model ordinance) contains the basic elements for an effective licensing ordinance that can be used to enforce federal, state, and local tobacco control laws. Communities can supplement the TRL model ordinance with additional policy options (also called *plug-ins*) to ensure compliance with local business standards, reduce youth access to tobacco products, limit the negative impact of tobacco use on public health, and advance health equity.

This fact sheet describes several additional policy options. The TRL model ordinance and plug-ins are available at [www.changelabsolutions.org/publications/model-TRL-Ordinance](http://www.changelabsolutions.org/publications/model-TRL-Ordinance). If you would like help in adapting any of these models for your community, please contact us at [www.changelabsolutions.org/tobaccoquestions](http://www.changelabsolutions.org/tobaccoquestions).

### Restrictions on Eligibility for a License

*A local tobacco retailer licensing ordinance allows a community to exercise better control over where tobacco products are sold. Tobacco retailer density tends to be higher in communities that experience structural inequities. Limiting where tobacco is sold can reduce youth consumption and help to combat tobacco-related health disparities.*

#### Tobacco-free pharmacies

This policy option prohibits businesses that contain pharmacies from obtaining a tobacco retailer license. The sale of tobacco products at stores containing pharmacies may convey a mixed message to consumers, who often rely on these businesses for health-related services. Because stores containing pharmacies frequently provide health-related information to the public, communities may be concerned that the sale of tobacco at these stores conveys a tacit approval of these products to the public. Further, stores containing pharmacies often stock tobacco products near cessation aids, compromising the efforts of smokers who are trying to quit.

#### No licenses near schools

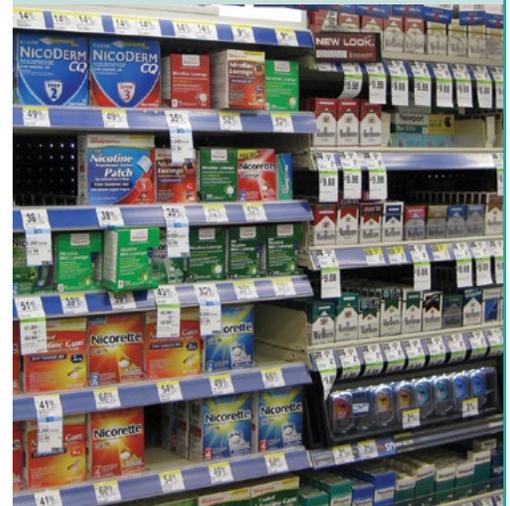
This policy option prohibits a license for a business operating too close to a school. Children are more likely to experiment with tobacco products when tobacco retailers are located near schools. In addition, tobacco manufacturers aggressively target advertisements for menthol cigarettes near California high schools with higher proportions of Black students. Communities can use this eligibility restriction in combination with a restriction on licenses near other youth-populated areas to establish tobacco-free zones surrounding schools and other areas frequented by youth and young adults.

#### No licenses near other youth-populated areas

This policy option prohibits tobacco retailer licensing for businesses located close to areas frequented by youth such as playgrounds, libraries, child care centers, and parks that are open to the public. Restricting tobacco sales within a certain distance from areas where youth often gather may help reduce both youth and adult smoking rates.

Nearly 200 California cities and counties have adopted TRL ordinances. More than 100 of these ordinances meet criteria established by the American Lung Association in California's Center for Tobacco Policy and Organizing and include effective provisions related to eligibility, fees, and enforcement.

For more information on strong tobacco retailer licensing laws and the communities that have adopted them, see [center4tobaccopolicy.org/tobacco-policy/tobacco-retail-environment](http://center4tobaccopolicy.org/tobacco-policy/tobacco-retail-environment).



*Several communities have prohibited businesses that contain pharmacies from obtaining tobacco retailer licenses because these businesses provide health-related services to the public. For more information on prohibiting tobacco product sales in pharmacies, see [www.changelabsolutions.org/infographic/tobacco-free-pharmacies](http://www.changelabsolutions.org/infographic/tobacco-free-pharmacies).*

### ***New tobacco retailers must be a specified distance from current retailers***

To prevent the concentration of tobacco retailers within particular neighborhoods, this policy option restricts how close tobacco retailers may be to one another. The number of tobacco retailers in a neighborhood affects youth smoking behaviors and youth access to tobacco products. Additionally, tobacco retailer density is greater in communities with low incomes and high proportions of residents who identify as African American or Hispanic, which perpetuates disparities in tobacco use and associated negative health effects.

### ***No licenses near cannabis retailers***

This policy option prohibits tobacco retailer licensing for businesses located near cannabis retailers. Research has found that cannabis dispensaries are disproportionately concentrated in communities of color and areas with large numbers of young adults. Regulating the proximity of tobacco retailers to cannabis retailers is one way to combat the overconcentration of these businesses in underserved communities.

### ***Number of available licenses is limited based on population***

This policy option caps the total number of tobacco retailer licenses that can be issued in a city or county based on population. While state law limits the number of alcohol licenses that can be issued in a particular area, there is no similar cap on tobacco retailer licenses. Communities can also apply this approach at a more granular level by setting license caps for each administrative subdivision (eg, San Francisco's caps on licenses within each supervisor district). Communities may be concerned about the number of tobacco retailers in their city or county because greater tobacco retailer density may lead to higher smoking rates. This policy option provides one tool that a community can use to restrict the total number of tobacco retailer licenses that may be issued.

### ***No license for restaurants or bars***

This policy option prohibits restaurants, bars, and other businesses that offer food or alcohol for on-site consumption from obtaining a tobacco retailer license. Communities may want to place restrictions on restaurants because non-traditional retailers such as restaurants illegally sell tobacco products to minors at higher rates than other retailers. Communities may want to prohibit tobacco sales at bars because young adult bar patrons already have particularly high smoking rates.

### ***No license for businesses that allow smoking***

This policy option prohibits a business from obtaining a tobacco retailer license if the business allows smoking anywhere on the premises. Although state law prohibits smoking in most businesses, smoking is still permitted in tobacco shops, private smokers lounges, and unenclosed outdoor areas, such as bar patios. One purpose of this policy option is to separate places where smoking is permitted from places where tobacco is sold to minimize impulsive tobacco use, such as social smoking at bars.

## **Additional Requirements for Retailers**

*A local tobacco retailer licensing ordinance provides an effective tool to enforce a wide range of laws related to the sale and use of tobacco products. The following policy options allow communities to address public health concerns related to tobacco sales and use in communities most often targeted by the tobacco industry.*

### ***Minimum pack size for little cigars and cigars***

This policy option limits the sale of cigars sold individually and in small packages. These products are particularly appealing to youth due to their low prices, with some cigars selling for less than 70 cents apiece. Though little cigars and cigarillos are often similar to cigarettes, they are not covered by the federal and state laws that prohibit retailers from selling cigarettes individually or in small quantities. In 2014, nearly two-thirds of US middle school and high school cigar smokers reported using flavored cigars. One option



*Communities can use tobacco retailer licensing to prohibit the redemption of coupons and discounts that make tobacco products more affordable for youth.*



*A variety of cigars, little cigars, and cigarillos are packaged for single sale and sold for less than a dollar each. As part of tobacco retailer licensing, communities can prohibit the sale of cigars sold individually or in small packages.*

for reducing youth access to inexpensive cigars is to prohibit the sale of individual cigars and to establish a minimum pack size for these products. For more information on this policy option, see our fact sheet, available at [www.changelabsolutions.org/publications/limiting-teen-friendly-cigars](http://www.changelabsolutions.org/publications/limiting-teen-friendly-cigars).

### **Minimum price for tobacco products**

This policy option allows communities to establish minimum prices for tobacco products, such as a pack of cigarettes or little cigars. A price floor raises the cost barrier for tobacco sales and can be especially effective in deterring youth tobacco use. Like excise taxes, minimum pricing presents additional equity concerns because it's a regressive measure. However, preliminary evidence suggests that establishing a minimum price for tobacco products is a promising strategy to reduce tobacco use and tobacco-related health disparities. Setting a minimum price for some products, such as electronic smoking devices, requires more careful deliberation due to the way these products are packaged and sold. Communities interested in setting minimum prices for products other than cigarettes and cigars should contact ChangeLab Solutions for assistance.

### **No redemption of discounts, coupons, and promotions**

This policy option prohibits retailers from honoring discounts, coupons, and promotions for tobacco products. Tobacco companies target youth and underserved communities with price discounts and coupons, so this policy option can be an effective way to combat health equity issues associated with tobacco use.

### **No sales of flavored tobacco products, including menthol cigarettes**

This policy option prohibits licensed retailers from selling all flavored tobacco products, including menthols and flavored alternative tobacco products such as electronic smoking devices. Flavored tobacco products are considered starter products that help establish long-term tobacco use. Additionally, marketing for these products targets youth, communities of color, and LGBTQ communities.

### **No drug paraphernalia sales**

This policy option gives communities an additional tool to combat sales of drug paraphernalia. Under this provision, if a retailer is found to have violated state laws regarding drug paraphernalia or controlled substances, that retailer will also be in violation of the tobacco retailer license, and the penalties of the licensing ordinance will apply. For more information on this policy option, see our fact sheet, available at [www.changelabsolutions.org/publications/drug-paraphernalia](http://www.changelabsolutions.org/publications/drug-paraphernalia).

### **Signage requirements**

ChangeLab Solutions' *Model California Ordinance for Reducing Storefront Window Signage* prohibits tobacco retailers from covering more than 15% of their windows with signs. The percentage can be adjusted to fit the needs of the community. This strategy is similar to California's Lee Law, which is intended to promote public safety in liquor stores by restricting the amount of advertising that retailers can display on their windows.

## **Enforcement Options**

*The TRL model ordinance contains mandatory penalties for violating the licensing provisions. This policy option provides additional enforcement options.*

### **Alternatives to license suspension**

The TRL model ordinance mandates suspension of a license if a retailer violates the ordinance. However, in some circumstances, a local jurisdiction may want discretion to impose a different penalty if warranted. This policy option allows local government staff to impose a fine on a retailer instead of suspending the retailer's license for the time specified in the ordinance. If your community wants to provide this discretion, mandatory minimum alternative penalties should still be specified in your ordinance. For example, this policy option provides that a fine would be available only for a first or second violation and only if the retailer admits that a violation occurred.



*Limiting signage can promote public safety by ensuring that enforcement officials have a clear view into stores.*

*ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.*

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