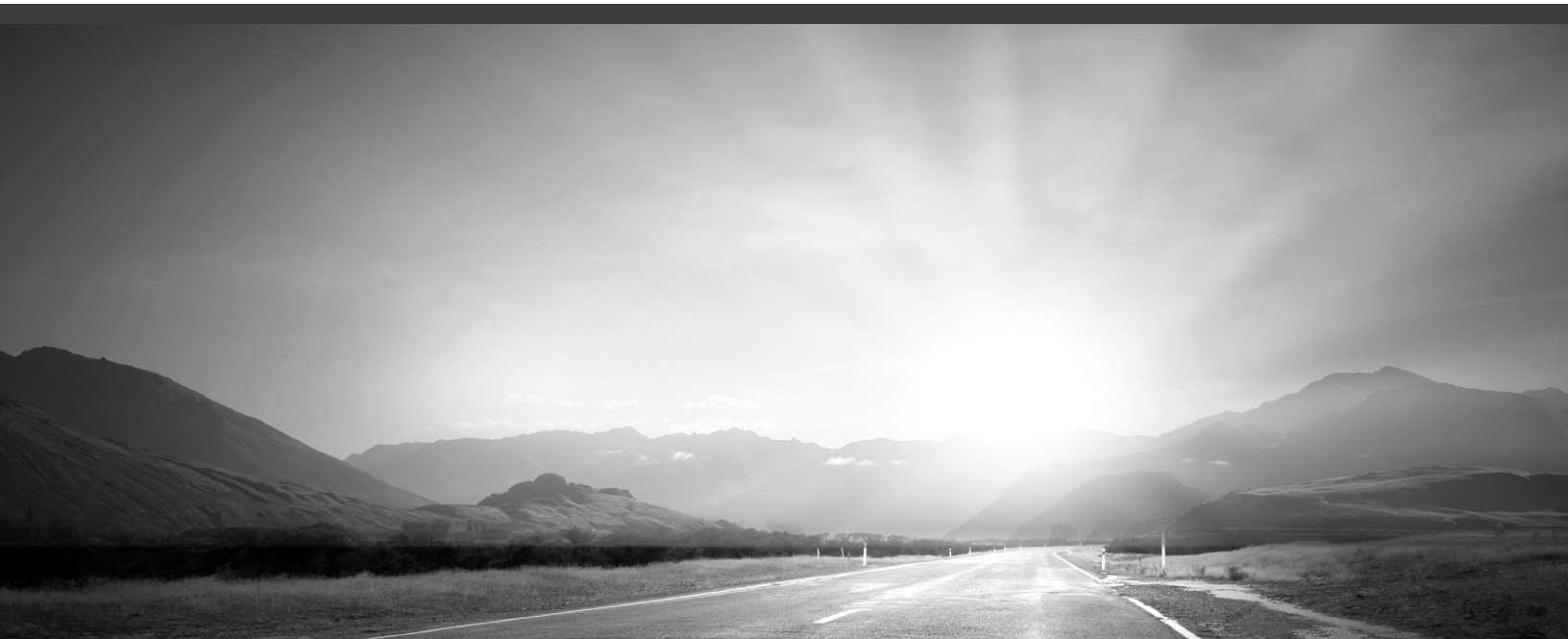




# **THE EVIDENCE FOR THE ENDGAME:**

## A WHITE PAPER



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## Executive Summary

Despite dramatic reductions in tobacco use in California since 1988,<sup>1</sup> tobacco use continues to be the leading cause of preventable death in California (40,000 people annually),<sup>2</sup> with many more disabled by tobacco-caused diseases.<sup>3</sup> Moreover, disparities in tobacco use persist according to age, gender, race, sexual orientation, socio-economic status, access to health insurance, and geography.<sup>4</sup> Although there are variations by the type of tobacco product used, in general, young adults, men, American Indian and Alaska Natives (Tribal Communities), the lesbian, gay, bisexual, transgender, and questioning (LGBTQ) population, and those with mental illnesses have the highest tobacco use rates.<sup>4,5</sup> In addition, those with lower levels of education and income use tobacco at higher rates than those with more formal education and higher incomes, as do people lacking health insurance or who live in rural parts of the state.<sup>4</sup> As a result, tobacco-related health burdens are disproportionately borne by people of color, poor people, LGBTQ people, and other disadvantaged populations.<sup>6-9</sup>

The progress California has made is largely due to a strong state-funded program that has buoyed local communities to support aggressive policy change at the local and state levels over the last 30 years. Recently, the California Tobacco Control Program (CTCP) embraced a paradigm shift from tobacco “control” to tobacco “endgame” strategies with the goal of ending the tobacco epidemic by 2035.<sup>10</sup> A tobacco endgame strategy means moving beyond a focus on tobacco control (and its assumptions that tobacco is here to stay and that regulating the

time, place and manner of its use is the objective) toward a focus on a *future free of commercial tobacco*.<sup>11</sup> We define the tobacco endgame as: *Initiatives designed to change/eliminate permanently the structural, political and social dynamics that sustain the commercial tobacco epidemic, in order to end it within a specific time*.<sup>12</sup>

### California's goal is to eliminate the commercial tobacco epidemic for all population groups by 2035.

The communities most harmed by tobacco-related disparities must be the ones at the forefront of planning and implementation of endgame efforts. Achieving this goal will require attention to which products are used by different populations; ensuring the equitable distribution of benefits; inclusive community-led actions (particularly among members of populations most impacted by tobacco use and exposure); expansion of culturally competent and accessible cessation services; and a focus on not criminalizing tobacco use and people who use tobacco. This goal does not include limiting traditional tobacco use such as tobacco plants grown or harvested and used by American Indians and Alaska Natives for ceremonial or medicinal purposes.

Many California communities in the vanguard of endgame-oriented policies are focusing on **smokefree places and retailer-based interventions**.

Californians are by now accustomed to smokefree workplaces, including restaurants, bars, and other public indoor venues. Recent policy efforts have focused on **multi-unit housing**, designed to protect residents of adjoining units from secondhand smoke, and outdoor areas such as parks, playgrounds, and beaches. Such smokefree policies, by setting



public expectations about the normalcy of smokefree public places may serve as a springboard for public acceptance of stronger tobacco retail policies. Retailer-based interventions reduce the availability or affordability of tobacco products by raising prices, limiting the type or number of legal sellers, or restricting the types of products that may be sold.

A first step for communities should be establishing a local **tobacco retail licensing** (TRL) system with a fee large enough to fund local administration and enforcement activities.<sup>13</sup> As of June 30, 2020, 241 California localities have adopted TRLs.<sup>14</sup> Evidence from California shows that they are associated with reductions in illegal sales to minors, lower smoking prevalence among youth, and a reduction in the number of tobacco retailers.

Raising tobacco prices by establishing a **minimum floor price** (MFP) below which tobacco products cannot be sold, coupled with minimum pack size requirements and prohibiting the use of coupons or other discounts, is another retailer-based intervention adopted by several California jurisdictions. Research on their effectiveness is currently limited to predictive models that suggest that MFP laws will reduce tobacco use, particularly among low-income populations.

Research on tobacco taxes, which shows that tobacco tax increases are an effective means of reducing tobacco use prevalence on a population level by preventing tobacco initiation, promoting cessation, and reducing tobacco consumption,<sup>15</sup> also suggests that MFP laws will reduce tobacco use. Minimum floor price policies should be paired with free cessation resources to reduce the economic burdens on low-income people, giving them tools to quit using tobacco products.



Some California cities and counties have restricted the number or types of retailers permitted to sell tobacco products in order to reduce youth access to tobacco products, exposure to tobacco advertising, tobacco retailer density, and tobacco use disparities; to increase tobacco search and purchase costs; and to denormalize the tobacco industry. Approaches include **eliminating tobacco sales in pharmacies**, establishing **retailer-free buffer zones around schools or other youth-oriented places**, only allowing **tobacco sales in adults-only (or tobacco-only) stores**, requiring a **minimum distance between retailers**, and **limiting the number of licenses issued** (based on geographic area or population). An approach that has not yet

been tried in California is **eliminating tobacco sales in other specific types of retail outlets** (e.g., grocery and/or convenience stores). Research examining the potential or actual impact of such policies has largely focused on their impact on retailer density, with studies consistently predicting or determining that these policies reduce the number of tobacco retailers.

An emerging endgame-oriented approach among California localities is to **prohibit the sale of some or all tobacco products** in order to reduce tobacco use initiation, increase quit attempts, and reduce tobacco use disparities. Evidence of the effectiveness of these emerging policies is limited but promising. For example, one year after the Canadian province of Ontario implemented a menthol cigarette ban in 2017, daily and occasional menthol smokers aged 16 and over had higher rates of self-reported quitting than non-menthol smokers.<sup>16</sup>

Although Californians have not been asked to give their opinion on all the endgame-oriented policies discussed here, there are high levels of public support for several of them, including what might be considered the boldest action, eliminating the sale of some or all tobacco products.

**In 2019, 52.8% of California adults (aged 18-64) agreed or strongly agreed that the sale of cigarettes should be gradually banned, while 37.3% agreed or strongly agreed that their sale should be immediately banned.**<sup>17</sup>

California's endgame efforts also include a commitment to evaluation and data collection to track disparities and unintended consequences, and to ensure that the state is meeting its disparities reduction goals.

## Statement of the Issue to be Resolved

Despite dramatic reductions in tobacco use in California since 1988,<sup>1</sup> tobacco use continues to be the leading cause of preventable death in California (40,000 people annually),<sup>2</sup> with many more disabled by tobacco-caused diseases.<sup>3</sup> In addition to primary tobacco use, secondhand smoke causes disease and death in non-users.<sup>18</sup> Non-cigarette forms of tobacco products, while less deadly, also negatively impact health.<sup>19-21</sup>

Moreover, in California, disparities in tobacco use persist according to age, gender, race, sexual orientation, socio-economic status, access to health insurance, and geography.<sup>4</sup> Although there are variations according to the type of tobacco product used, in general, young adults, men, American Indian and Alaska Natives (Tribal Communities), the lesbian, gay, bisexual, transgender, and questioning (LGBTQ) population, and those with mental illnesses have the highest tobacco use rates.<sup>4,5</sup> In addition, those with lower levels of formal education and income use tobacco at higher rates than those with more education and higher incomes, as do those lacking health insurance or living in rural parts of the state.<sup>4</sup> As a result, **tobacco-related health burdens are disproportionately borne by people of color, poor people, LGBTQ people, and other disadvantaged populations.**<sup>6-8</sup>

Tobacco use has major negative impacts on family life and work productivity and negative economic effects on society as a whole through health care costs, environmental clean-up, absenteeism, and

other factors.<sup>22</sup> In 2009, the healthcare costs of smoking in California were estimated to be \$9.8 billion, with an additional \$1.4 billion in lost productivity from illness, and \$6.8 billion in lost productivity from premature mortality.<sup>2</sup> Tobacco products are both widely available and heavily promoted across the state, contributing to the disconnect often noted by members of the public between the public health emphasis on the products' deadliness and their widespread availability.<sup>23</sup>

The progress California has made is largely due to a strong state-funded program that has buoyed local communities to support aggressive policy change at the local and state levels over the last 30 years. Clean indoor air laws covering workplaces, restaurants, bars, parks, playgrounds, beaches, and most recently, multi-unit housing, have denormalized smoking by restricting where it can take place and normalized clean air. Tobacco taxes, including funds dedicated to tobacco control, have increased the price of tobacco use and strengthened tobacco control efforts. Some local restrictions on the types or locations of stores that can obtain licenses to sell tobacco have reduced the number and density of retailers, and restrictions on sales of flavored tobacco in numerous localities have reduced availability of the products most tobacco users start with and many find harder to quit. The state and localities also support tobacco cessation (e.g., through the statewide helpline, Kick It California) and prevention activities.

## Background

Given California's successes in achieving the second-lowest smoking prevalence among U.S. states, the California Tobacco Control Program (CTCP) has now embraced a paradigm shift from tobacco "control" to tobacco "endgame" strategies with the goal of ending the commercial tobacco epidemic by 2035.<sup>10</sup> A tobacco endgame strategy means moving beyond a focus on tobacco control (and its assumptions that tobacco is here to stay and that regulating the time, place and manner of its use is the objective) toward a focus on a *future free of commercial tobacco*.<sup>11</sup> No single definition of an endgame has yet emerged, but most literature suggests these assumptions: it will involve changing the status quo; it will require addressing the addictive nature of tobacco use; and it must explicitly address the most deadly combustible forms of tobacco products through additional measures, which may include phasing out tobacco sales.<sup>23-26</sup> We define the tobacco endgame as follows: **Initiatives designed to change/eliminate permanently the structural, political and social dynamics that sustain the commercial tobacco epidemic, in order to end it within a specific time.**<sup>12</sup>

California is uniquely positioned to achieve a tobacco endgame, due to the effectiveness of its state tobacco control program in changing public views of tobacco and of the tobacco industry,<sup>27</sup> public support for stronger policy measures,<sup>28</sup> and dedicated resources. The state's system of encouraging coalition and policy development at the local level means that multiple new policies are being tried, and further innovation

is likely. Different localities may develop varying policy approaches, and their experimentation is part of an important policy development practice.



California's goal is to eliminate the commercial tobacco epidemic for all population groups by 2035. Since some communities of color and LGBTQ communities still have higher than average rates of tobacco product use, these communities must be involved in leading the planning and implementation of endgame efforts. Achieving this goal will require attention to which products are used by different populations, including smokeless and other alternative tobacco and nicotine products; strategies that address the social determinants of health that undergird tobacco use and resulting health disparities; ensuring the equitable distribution of benefits; community buy-in; expansion of culturally competent cessation services; and a focus on not criminalizing tobacco use and users. The endgame goal does not include limiting traditional tobacco use such as tobacco plants grown or harvested and used by some American Indians and Alaska Natives for ceremonial or medicinal purposes.<sup>29</sup>

## TOBACCO SALES AND SOVEREIGN TRIBES

Tribal Communities are both part of the state (geographically) and sovereign (i.e., largely not subject to state laws) and many of them are engaged in tobacco sales.



Tribal Communities thus have potential to be a unique and important factor in the success or failure of the state's tobacco endgame. Tobacco use and sales by Tribal Communities present two kinds of issues for endgame policymaking. First, from an equity standpoint, these populations have very high tobacco use prevalence rates. This prevalence stems from a history of genocidal practices against Tribal Communities, and from tobacco industry exploitation of Tribal Communities' resulting vulnerability.<sup>30</sup> The tobacco industry has also exploited Native American culture and imagery to market its products.<sup>31</sup>

Many Tribal Communities have traditions that call for the ceremonial or ritual use of tobacco; however, these practices were historically suppressed, resulting in the use of commercial tobacco instead. Suggestions for addressing this issue include developing programs and

relationships that respect traditional tobacco use and empower the return to those practices, clarifying the differences between commercial cigarettes and traditional tobacco plants. It will also be important to support smokefree and other tobacco control policy development on Tribal lands, guided by Tribal health leaders.<sup>32</sup>

The second, related problem is tax-free sales on lands, to both Tribal and non-tribal people. Because Tribal lands are sovereign, any laws or ordinances passed by localities or the state that limit or end tobacco sales would not apply to stores on Tribal lands. Similarly, Native American tobacco sellers currently are not subject to measures that raise taxes or establish minimum prices. Technically, Tribal tobacco sellers are supposed to collect applicable taxes for sales to non-tribal customers; however, there is no means to enforce this. They are not obligated to collect taxes on sales to Tribal customers.<sup>33</sup>

This situation means that even if the state as a whole were to prohibit sales of particular tobacco products, those products could remain for sale from stores on Tribal lands. One solution to this problem would be to reach cooperative agreements or compacts with the various tribes regarding sales to non-tribal customers and other issues of importance to the tribes. Some appeal might also be made to tribal governments regarding their ability to positively affect the health of their own people as well as other communities, particularly other communities that have suffered inordinately from tobacco industry predation.

## Endgame-oriented Policies

Many California communities in the vanguard of endgame-oriented policies are focusing on smokefree places and retailer-based interventions. Comprehensive smokefree policies, by further setting public expectations

about the scope of smokefree places and denormalizing smoking, may serve as a springboard for public acceptance of stronger tobacco retail policies.

### SMOKEFREE PLACES

**Purpose:** To denormalize smoking, reduce tobacco use, and reduce/minimize exposure to secondhand tobacco smoke.<sup>34-40</sup> Because this policy may disproportionately impact low-income people, including people of color and LGBTQ people, it should be paired with cessation services. Communities considering this policy should also contemplate potential unintended consequences, such as risk of housing insecurity and homelessness.

**Proposed policy: Establish smokefree outdoor places (e.g., beaches and parks).**

**Adoption in California:**

Examples include Alpine and Santa Cruz Counties, Mammoth Lakes (Mono County), Fortuna (Humboldt County), Clear Lake (Lake County), Mt. Shasta (Siskiyou County), Turlock, and Santa Monica<sup>41,42</sup>

**Evidence of potential or actual impact:**

- New York City: After New York City's parks and beaches became smokefree

in 2011, residents were significantly less likely to notice people smoking in local parks and beaches, compared to residents of the state as a whole.<sup>43</sup>

- Vancouver, Canada: Twelve months after the introduction of smokefree parks and beaches in 2010, observed smoking at these venues declined, with a significantly greater reduction at parks compared to beaches.<sup>44</sup>

**Proposed policy: Establish smokefree multi-unit housing.**

**Adoption in California:**

Examples include Belmont, Cotati, Crescent City (Del Norte County), Firebaugh (Fresno County), Pasadena, and Richmond<sup>45</sup>

**Evidence of potential or actual impact:**

- Self-reports of smoking behavior and secondhand smoke exposure: Several studies show that residents living in affordable multi-unit housing report

smoking less and quitting smoking at higher rates after their buildings went smokefree.<sup>40,46,47</sup> Nonsmokers also report a significant reduction in indoor exposure to secondhand smoke, and no change in exposure to outdoor secondhand smoke.<sup>47</sup>

- Environmental monitoring of secondhand smoke exposure: Three studies show declines in secondhand smoke levels in

common areas of newly smokefree public housing one month,<sup>48</sup> one year,<sup>49</sup> and two to three years after implementation.<sup>50</sup> Another study showed a modest reduction in secondhand smoke levels in hallways, but no change in secondhand smoke levels in stairwells and inside

nonsmoking apartments one year after a federal ban on smoking in public housing went into effect.<sup>51</sup> Smokefree multi-unit housing policies are dependent on engagement from property managers and tenants for enforcement, which can be a weakness.

## RETAILER-BASED INTERVENTIONS



Retailer-based interventions focus on altering the affordability or availability of tobacco products at the point of sale by raising prices, limiting the number or type of legal sellers, or restricting the types of products that may be sold. A first step for communities is establishing a local

tobacco retail licensing (TRL) system with a fee large enough to fund administration and enforcement activities.<sup>13</sup> The state of California requires tobacco retailers to obtain a license and pay an annual fee, and licensed retailers are subject to state and federal laws concerning tobacco sales; however, these laws are difficult to enforce at the local level.<sup>13</sup> **A local licensing system enables jurisdictions to identify and collect data on retailers and enforce existing local policies; it also enables future retailer-based enforcement.** TRLs also form the basis for future, stronger policies, such as prohibiting sales of flavored products or requiring pharmacies to be tobacco-free.

## TOBACCO RETAIL LICENSING (TRL)

**Purpose:** To help enforce existing retailer laws and reduce retailer density and youth smoking prevalence.<sup>13,52</sup>

**Proposed policy: Require tobacco retailers to pay an annual fee to obtain and maintain a local license to sell tobacco products and to face penalties, including the loss of the license, for failure to comply with local, state, and national tobacco laws.**

### **Adoption in California:**

241 local jurisdictions (as of June 30, 2020) including Firebaugh, Fremont, Calexico, Oroville (Butte County), Sebastopol, and Los Angeles and Mendocino Counties.<sup>14</sup>

### **Evidence of potential or actual impact:**

- California: After 26 communities introduced strong TRL systems, retail sales to minors declined in all but one community; in 11 communities, there was a more than 30% drop in illegal sales to minors.<sup>52</sup>
- Kern County: In 2006, Kern County adopted a TRL ordinance for unincorporated areas of the county; over a period of 10 years, 8 cities within the county also adopted it. One novel component was requiring retailers with a history of failing compliance checks to pay a higher permit fee. Between 2016 and 2018, the proportion of county tobacco retailers who violated the TRL fell from 12 to 4 percent.<sup>53</sup>
- Santa Clara County: After the introduction of a TRL system with a \$425 annual fee, 31% of retailers who formerly sold tobacco chose to discontinue sales rather than pay the fee.<sup>54</sup>

- Southern California: High school students living in jurisdictions with strong TRL systems, including an adequate fee to cover compliance checks, were less likely than those living in jurisdictions with no TRL system or with an underfunded system to have ever smoked or to have smoked in the past 30 days. One and a half years later, when students were legally able to purchase tobacco, those living in jurisdictions with stronger TRL systems were less likely to report cigarette or e-cigarette initiation.<sup>55</sup>
- Australia: Raising the yearly fee for a tobacco license from \$A12.90 to \$A200 resulted in a 24% decline in licensees.<sup>56</sup>

**Pros and cons:** Educating retailers about licensing requirements can serve to facilitate communication about helping them prepare for continued declines in tobacco use, perhaps reducing opposition. It may seem counterintuitive to push for a TRL if the intention is to eventually end sales. In addition to creating a path to remove products currently for sale, however, licensure also enables control over sales of future newly marketed tobacco and nicotine products, mitigating the problems that stem from static laws attempting to regulate a moving product target. TRLs can also be difficult to enforce, requiring funding and buy-in from the relevant agency, often the local police department.

## RAISING TOBACCO PRODUCT PRICES

**Purpose:** To reduce tobacco use.<sup>15</sup>

**Proposed policy: Establish a minimum floor price below which tobacco products cannot be sold.**

### **Adoption in California:**

Examples include Sonoma County and the cities of Fremont, Berkeley, and Oakland.<sup>57-60</sup>

### **Evidence of potential or actual impact:**

- California: Models predicting the short-term effects in California of six different minimum floor price options show that, for all options, smoking prevalence and cigarette consumption decrease, particularly among smokers living in low-income households. The highest modeled floor price (\$9.50 per pack) reduced smoking prevalence by 4.6% among smokers in low-income households, versus 4.0% among smokers in higher-income households.<sup>61</sup>
- Oakland, California: A simulation of a minimum floor price law ranging from \$8.00 to \$13.00 per pack of cigarettes projected that smoking prevalence would decline by 0.3% to 0.8% (868 to 2,716 fewer people who smoke), with the greatest reductions among those aged 12-24, of non-Hispanic Black or other race/ethnicity, and living below the federal poverty level.<sup>62</sup>
- US: Models suggest minimum floor price is more effective than traditional tax policies in reducing income-based smoking disparities, producing larger reductions in consumption among low income people who smoke.<sup>63</sup>

- US: a large body of work shows that tobacco tax increases are an effective means of reducing the prevalence of tobacco use on a population level by preventing smoking initiation, promoting cessation, and reducing tobacco consumption.<sup>15</sup>

**Pros and cons:** Minimum floor price laws are most effective when they complement (rather than replace) high tobacco taxes.<sup>64</sup> To help keep tobacco prices high, they must be combined with minimum pack size requirements for tobacco products (e.g., cigars and little cigars) and a ban on manufacturer coupons or other trade discounts. Because minimum floor prices on cigarettes generate revenue for retailers and manufacturers, not governments, they may face less industry opposition.<sup>62</sup> At the same time, however, they may require additional funding for comprehensive cessation services to meet the increased demand for tools to quit using tobacco. These services should be free to reduce the economic burdens on low-income people. If vaping products are included, jurisdictions must establish a “pack equivalent” standard for such products, as no shared standard has been adopted. Minimum prices on vaping products, which are taxed on an ad valorem basis (a percentage of the price), would create increased tax revenues. In jurisdictions with high poverty rates, minimum floor price laws may be a difficult ask for elected officials, requiring creativity in message development.

## LIMITING THE NUMBER OR TYPES OF RETAILERS PERMITTED TO SELL TOBACCO

**Purpose:** To reduce youth access to tobacco products,<sup>65-68</sup> exposure to tobacco advertising (associated with youth smoking prevalence),<sup>69-71</sup> and tobacco retailer density (associated with smoking prevalence);<sup>72-77</sup> to increase tobacco search and purchase costs;<sup>78</sup> and to denormalize the tobacco industry.<sup>26</sup> Retailer limitations can apply to some products (e.g., flavored tobacco products, combustibles) or to all tobacco products. Many California communities are still highly segregated, so policymakers should consider how retailer density policies will specifically impact communities of color; however, because there is frequently higher density of tobacco outlets in low-income communities of color, these policies may reduce tobacco use disparities.<sup>79-88</sup>

**Proposed policy: Ban tobacco sales in pharmacies.**

### **Adoption in California:**

Examples include Clovis, Cloverdale, Hermosa Beach, and San Francisco<sup>89</sup>

### **Evidence of potential or actual impact:**

- California: Cities with a pharmacy sales ban experienced a nearly 1.5 times greater decrease in tobacco retailer density than cities without a ban.<sup>90</sup>
- US: Discontinuance of tobacco sales at the drugstore chain CVS was associated with a decline in cigarette pack purchases,<sup>91</sup> and with increases in quit attempts in counties with high CVS density.<sup>92</sup>

**Proposed policy: Ban tobacco sales in other specific types of retail outlets (e.g., grocery and/or convenience stores).**

### **Adoption in California:**

No California localities have adopted this policy.

### **Evidence of potential or actual impact:**

Modeling suggests that eliminating tobacco sales in convenience stores would reduce

- New York City: Following the implementation of New York City’s 2017 tobacco-free pharmacy law, tobacco retailer density declined by an average of 6.8% throughout the city. However, density reduction was less pronounced (or entirely absent) in neighborhoods with more marginalized populations, including neighborhoods with higher proportions of racial and ethnic minorities, low income residents, and uninsured residents.<sup>93</sup>

tobacco retailer density in urban and suburban areas to a greater degree than eliminating tobacco sales in pharmacies; however, the greatest impact would be on wealthier suburban neighborhoods.<sup>78</sup>

**Proposed policy: Create retailer-free buffer zones around schools or other youth-oriented places.**

**Adoption in California:**

Examples include Benicia, Mendota, Riverbank (Stanislaus County), and Cupertino<sup>94-97</sup>

**Evidence of potential or actual impact:**

- Philadelphia: School buffer zones (500 feet) (with existing retailers grandfathered in) reduced the average number of retailers near schools by 22% after three years.<sup>98</sup>
- North Carolina: School buffer zones (1000 feet) would reduce tobacco retailer density by 18% statewide.<sup>99</sup>

- Missouri and New York: School buffer zones (1000 feet) would reduce tobacco retailer density and enhance equity, by reducing or eliminating income- and race-based disparities in density.<sup>100</sup>
- Texas (4 largest metropolitan areas): School buffer zones (1000 ft) would reduce the number of tobacco retailers near schools by 16.2%, and the number of tobacco ads youth were exposed to near schools by 19.4%, with an even greater reduction in e-cigarette advertising (27.7% near middle schools).<sup>101</sup>

**Proposed policy: Restrict some or all tobacco sales to adults-only (or tobacco-only) stores.**

**Adoption in California:**

South San Francisco (flavored tobacco products only)<sup>94,102</sup>

**Evidence of potential or actual impact:**

- Modeling studies show that substantial tobacco outlet reduction dramatically reduces tobacco availability and smoking cues<sup>103</sup> as well as smoking prevalence,<sup>104</sup> however, it may not eliminate health disparities due to higher tobacco retailer density in disadvantaged neighborhoods.<sup>103</sup>

- Evidence from several East Coast cities that have restricted the sale of flavored tobacco products (excluding menthol) to adult- or tobacco-only establishments suggests that such restrictions reduce the likelihood of teens trying a flavored tobacco product or ever using any tobacco product,<sup>105</sup> and reduce current use of any tobacco product (including e-cigarettes)<sup>106-108</sup>

**Proposed policy: Require minimum distance between tobacco retailers.**

**Adoption in California:**

Examples include Auburn, Hermosa Beach, Los Gatos, Sacramento, and Santa Maria<sup>94,109-113</sup>

**Evidence of potential or actual impact:**

- North Carolina: Minimum retailer distance policy (500 feet) reduces tobacco retailer density by 22% statewide.<sup>99</sup>

- Texas (4 largest metropolitan areas): Minimum retailer distance policy (500 feet) for tobacco retailers located near schools would result in a 21.5% reduction in the number of retailers, and a 17.9% reduction in total tobacco advertising near schools, with an even greater reduction in e-cigarette advertising (33.3% near middle schools).<sup>101</sup>

**Proposed policy: Limit the number of licenses issued (based on geographic area or population).**

**Adoption in California:**

Examples include Huntington Park, San Francisco, Oroville (Butte County), and Yolo County<sup>114-117</sup>

**Evidence of potential or actual impact:**

- San Francisco: Ten months after the city's cap of 45 licenses per supervisorial district was implemented, the number of tobacco licenses fell by 8%, with greater declines in the districts that initially had more retailers.<sup>115</sup>
- Philadelphia: Three years after implementing multiple retailer license restrictions, including a cap of 1 retailer per 1000 daytime residents and a 500 foot buffer zone around schools, the number of tobacco retailers declined by 20%, with low-income neighborhoods benefiting slightly more.<sup>98</sup>
- Ohio: Simulation models comparing various licensing strategies showed that a cap of 0.7 tobacco retailers per 1000 residents had the largest single impact on density, reducing by 29.6% the number of retailers selling tobacco, and reducing income- and geography-based disparities in retailer density (urban vs. suburban and urban vs. rural).<sup>118</sup>

**Pros and cons:** Retailers may object to many of these proposals; however, it is worth noting that support for tobacco control policies tends to increase over time, not only among the general public,<sup>119-121</sup> but also among affected businesses. For example, when California first passed its 1998 smokefree bar law, only 17.3% of bar owners or staff working in stand-alone bars said they preferred to work in a smokefree environment; four years later, that figure rose to 50.9%.<sup>122</sup>



The successful adoption of these policies in many California localities suggests that they are politically feasible. A ban on sales of tobacco in pharmacies is particularly popular with the public;<sup>123</sup> however, lower-income neighborhoods, and neighborhoods with high concentrations of African American and Hispanic residents are likely to benefit least from this policy, since pharmacies typically make up a smaller proportion of tobacco retailers in these neighborhoods.<sup>93,124</sup> Without additional enforcement measures, restricting sales of some or all tobacco products to tobacco-only stores may not achieve significant reductions in youth smoking as in California tobacco-only and vape shops have been found to have the worst records of illegal sales to minors.<sup>125</sup> In addition, compared to rural areas, urban areas are likely to see a smaller reduction in the number of tobacco retailers.<sup>126</sup>

A set of retailer reduction policies may be required to have the greatest impact on tobacco use disparities.<sup>118,127</sup> Modeling suggests, for example, that a 1500-foot buffer zone around schools and retailers, combined with a ban on tobacco sales in convenience stores and a 50% cap on retailers will achieve the greatest reductions in retailer density and largest increases in costs to obtain and purchase tobacco.<sup>78</sup>



Capping the number of licenses and restricting their transfer may create a “sinking lid” as existing retailers retire or otherwise leave the business, though this would be a slow process. Policies that establish restrictions on retailers based on location (e.g., buffer zones, minimum distances between retailers) may require jurisdictions to invest in Geographic Information Systems software and training for enforcement. Restrictions based on location also run the risk of appearing selective or unfair, since two retailers in

close proximity may be treated differently. Any policy with exemptions or exceptions should be written carefully, to prevent retailers from attempting to use these as loopholes (e.g., curtaining off a section of a convenience store to be “adults only”). “Adults only” policies may also incentivize retailers to exclusively sell tobacco products, entrenching their opposition to further endgame policies, such as ending sales. In general, policies without exemptions are easier to understand, justify, enforce, and defend legally.

## BANNING THE SALE OF PARTICULAR TYPES OF TOBACCO PRODUCTS

**Purpose:** To reduce tobacco initiation, increase successful quit attempts, and reduce tobacco use disparities.<sup>128-131</sup>

**Proposed policy:** Prohibit the retail sale of flavored tobacco products.



### Adoption in California:

Examples include Carpinteria, Delano, Imperial Beach, Paradise (Butte County), Watsonville, and Mendocino and Mono Counties<sup>97,132,133</sup>

### Evidence of potential or actual impact:

- One year after the Canadian province of Ontario implemented a menthol cigarette ban in 2017, daily and occasional menthol smokers aged 16 and over had higher rates of self-reported quitting than non-menthol smokers.<sup>16</sup>
- In the US, between 35% and 66% of current menthol smokers have stated that they would quit if faced with a menthol ban.<sup>134-136</sup>
- Two studies modeling the potential impact of a menthol cigarette ban in the US predicted an approximately 5% reduction in smoking prevalence overall in 40 years’ time;<sup>137,138</sup> a model focused on African Americans predicted a decline in smoking prevalence of 25% in 40 years’ time.<sup>138</sup>

## Proposed policy: Prohibit the retail sale of tobacco products.

### Adoption in California:

Beverly Hills (tobacco products and electronic smoking devices, with exemptions for cigar lounges and hotel concierge sales to guests)<sup>139</sup> and Manhattan Beach (all tobacco products and electronic smoking devices),<sup>140</sup> both effective January 2021.

### Evidence of potential or actual impact:

- These policies were implemented in Beverly Hills and Manhattan Beach on January 1, 2021. No evaluation or results have yet been reported.

**Pros and cons:** Flavor bans currently have political momentum in California, with 88 municipalities restricting the sale of flavored tobacco products and 54 banning the sale of all flavored tobacco products, including menthol flavored products.<sup>132</sup> They may be more politically feasible in some jurisdictions than other endgame-oriented policies, given that flavored products are widely regarded as targeted to children. Including menthol in a flavor ban promotes health equity, prioritizing the health of African Americans who have been disproportionately harmed by menthol cigarettes. In implementing flavor bans, local governments will need legal definitions of flavored products (including both obvious (e.g., “mint”) and implied or concept (e.g., “arctic”) descriptors.<sup>141</sup> A more comprehensive flavor ban (e.g., one that encompasses all combustible tobacco products and e-cigarettes) will also reduce the likelihood of product substitution.<sup>142</sup> Localities may wish to consider increasing availability of cessation programs and tools as an accompaniment to flavor or total sales bans.



Flavor bans may set the stage for phasing out all tobacco sales, by normalizing the idea of ending sales of whole classes of tobacco products, and by foregrounding the inconsistency of removing from sale only a portion of these products while leaving the most deadly on the market. Ending sales represents the most direct and concrete way to end the perception that cigarettes are an ordinary consumer product, and that the tobacco industry is a normal industry.<sup>26</sup> Although a ban on the sale of combustible tobacco products is likely to face industry opposition, it is currently unclear what form this opposition will take. Legal challenges are always possible, but the 2009 Family Tobacco Control and Prevention Act specifically permits states and localities to adopt sales restrictions, and analysis of applicable laws suggests that local ordinances are likely to be upheld. The history of tobacco control suggests that each locality taking this step may enable others to do likewise.<sup>143</sup>

## Public opinion

Although Californians have not been asked to give their opinion on all the endgame-oriented policies discussed here, there are high levels of public support among youth and adults for several of them, including what might be considered the boldest: ending the sale of some or all tobacco products.

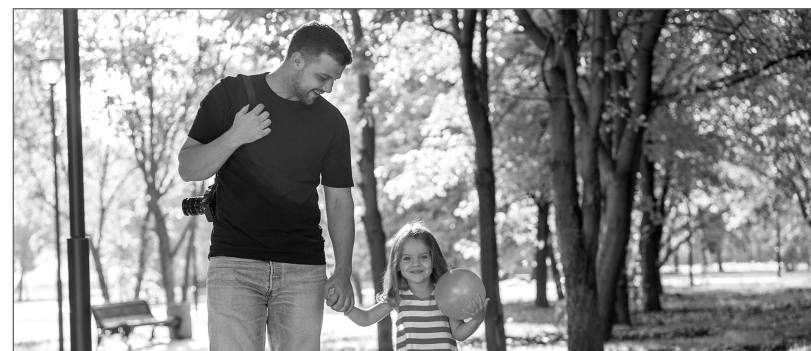
The California Adult Tobacco Survey shows strong support for smokefree environments. In 2019, 71.7% of adults (aged 18-64) agreed that public beaches should be smokefree, 71.4% agreed that public parks should be smokefree, and 59.2% agreed or strongly agreed that all rental units should be smokefree, vape-free, and marijuana smokefree.<sup>17</sup>

Support is also high for prohibiting tobacco sales in pharmacies. In 2019, 63.4% of California adults agreed that pharmacies should not sell tobacco products.<sup>17</sup> Among high school students, support for a pharmacy sales ban for particular tobacco products (e.g., cigarettes, little cigars, hookah, and e-cigarettes) ranged from 58.6% (e-cigarettes, not including JUUL) to 68.4% (cigarettes).<sup>144</sup>

Among adults, there is majority support for a ban on the use of tobacco product coupons or discounts: 57.5% of California adults agreed that tobacco products should not be sold at a deep discount and 55.2% agreed or strongly agreed that coupons, rebates, buy 1 get 1 free, 2 for 1, or any other special promotions for tobacco purchases should be banned.<sup>17</sup>

A majority of Californians support ending the sale of flavored tobacco products. A 2015 survey of 1,002 registered California voters found that 57% supported a state law that would prohibit tobacco manufacturers from “adding flavors to e-cigarettes and other vaping products to reduce their appeal to young people,”

with support higher among nonsmokers.<sup>145</sup> The 2019 Adult Tobacco Survey found that 59.7% agreed that “the sale of flavored tobacco products like candy-flavored little cigars should not be allowed,” while a somewhat smaller percentage (45.9%) agreed or strongly agreed that “the sale of menthol cigarettes should not be allowed.”<sup>17</sup>



**Californians express surprisingly high levels of support for gradual and, in some cases, immediate bans on the sale of tobacco products, given that there has never been a campaign to advocate for this step.**

In 2018, 73.4% of California high school students agreed or strongly agreed that the sale of cigarettes should be gradually banned, and 57.0% agreed or strongly agreed that their sale should be immediately banned. There was also majority support for gradual and immediate sales bans on other tobacco products, including cigars, cigarillos, and little cigars; however, the majority of students rejected an immediate ban on the sale of e-cigarettes, preferring a gradual ban instead.<sup>144</sup> Among adults aged 18-64, in 2019, 52.8% agreed or strongly agreed that the sale of cigarettes should be gradually banned, while 37.3% agreed or strongly agreed that their sale should be immediately banned.<sup>17</sup>

## Cautions, Limitations, Gaps, and Conclusion

As is often the case with new policy approaches, the evidence base to support endgame-oriented policies is not comprehensive, and, until such policies are implemented and assessed, questions will remain about some aspects of their impact and effectiveness. One area where more research is needed concerns planning for the economic transitions involved in achieving an endgame, including the impact on small retailers, state tax revenue, and state healthcare expenditures.

There are additional policy approaches to the tobacco endgame not discussed here because they are not legally available to either the state or to localities. These include requiring cigarettes to have lower (non-addictive) levels of nicotine (a power reserved to the federal government), and the tobacco-free generation approach of annually raising the legal age of purchase (precluded for localities by California’s Tobacco 21 law). Should these policies be adopted by the federal or state government, they would significantly change the policy landscape for localities as well.

No policy is perfect or perfectly implemented, so those planning endgame measures must recognize and accept that some level of tobacco product sales and use will persist through individual and illicit market activities, even after the endgame goal is achieved. However, in the context of declining rates of tobacco use and a gradually shrinking promotional space for tobacco products, it is highly unlikely that future levels of tobacco use will be comparable to current levels, meaning that the market for illicit products will also

shrink. As endgame measures roll out, continuous monitoring of communities will help identify unforeseen consequences that require attention. These efforts should include an intentional focus on assessing policy impacts on communities where little data currently exists, including transgender Californians, rural jurisdictions, and disaggregated Latinx and API communities. They should also include tracking data on categories such as flavored tobacco use and density/type of tobacco retailers in communities with larger percentages of people of color and LGBTQ communities.



The retailer-focused endgame-oriented policies outlined here do not encompass or encourage laws criminalizing youth purchase, use, and possession (PUP). In 2016, the state shifted its focus away from criminalizing youth behavior; however, not all localities have followed suit. PUP laws are unlikely to prevent or reduce youth smoking, and shift attention from retailers’ and the tobacco industry’s role in supporting and promoting youth smoking.<sup>146,147</sup> Moreover, such laws have a disproportionate impact on vulnerable youth.



**Youth from low-income communities are more likely to live in neighborhoods with a higher density of tobacco retailers<sup>148,149</sup> and to live in households with people who smoke,<sup>150</sup>** putting them at higher risk of smoking; thus, they are more likely to be negatively impacted by PUP laws. They are also more likely to struggle with any economic penalties incurred by violations of the law.<sup>151</sup> African American and Hispanic youth are also at greater risk than their white peers who smoke of being cited for violating PUP laws,<sup>152</sup> thereby increasing their

risk of dangerous encounters with law enforcement. To avoid further punishing youth who are addicted to deadly products, PUP laws should not be pursued, and those in place should be repealed or altered to focus on retailer enforcement.

Even after the endgame is achieved, there will still be some Californians who use tobacco. Ensuring that the endgame does not recreate the same disparities that we see today requires deploying endgame strategies in community-specific ways, to change cultural norms appropriately, provide community-relevant education, address social determinants of health, and make available culturally-tailored cessation services.

The emerging vision of the tobacco endgame in California is focused on continuing to shrink the social spaces in which tobacco is consumed, marketed and sold through a range of policies. Communities engaged in endgame planning have opportunities to build on the successes of the past to shape a tobacco-free future.

**As it has been for more than thirty years, California intends to be a global leader in ending the tobacco epidemic.**

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