



Policy Brief: California Policies Regulating Tobacco Retail Sales

December 2023

Introduction

California jurisdictions lead the way in adopting tobacco retail sales policies in the U.S., and jurisdictions continue to consider and adopt innovative policy options with the goal of reducing access to and the availability of tobacco products in the community.

This policy brief looks at trends in the 206 California jurisdictions that have adopted local policies that include at least one of the 13 tobacco retail sales policy provisions addressed in the [Matrix of Policies Regulating Tobacco Retail Sales](#) and the [Matrix of Policies Regulating the Density and/or Proximity of Tobacco Retail Sales Venues](#).

The Law and Policy Partnership to End the Commercial Tobacco Epidemic released the [Comprehensive Tobacco Retailer Licensing Ordinance](#) in December 2020 to provide model policy language to California jurisdictions that want to regulate the tobacco retail environment. This model ordinance includes most of the 13 retail sales, density, and proximity provisions addressed by this policy brief, as well as numerous additional important provisions that are prioritized in California and tracked by PETS but are not covered by this brief.

The sales restrictions addressed in these two matrices and this policy brief, as well as in the [Comprehensive Tobacco Retailer Licensing Ordinance](#), are key components of a continuum of policy options that California jurisdictions are focusing on to reduce the availability and accessibility of tobacco products, as part of an overall strategy to improve health and [undo the tobacco industry's damage](#) to our California communities.

This continuum of tobacco retail sales policy options is part of the California Tobacco Prevention Program's (CTPP) Endgame strategy that includes the goal of ensuring that all California communities are free from the sale of tobacco products. PETS is tracking key components of the Endgame strategy, including policies that end the sale of tobacco leaf products and policies that end the sale of electronic smoking devices (ESDs). Currently there is not one best practice; rather, jurisdictions are trying various policy strategies to create healthier communities by regulating the tobacco retail environment, and that will look different in different communities.

A tobacco retail sales provision that is not covered by this policy brief is regulating the sale of flavored tobacco products, because it is treated as a separate policy topic by CTPP and PETS. Local flavored tobacco policies were the topic of a February 2023 policy brief, [Regulating the Sale of Flavored Tobacco Products in California](#), and the latest details about these policies are available in the [Matrix of Policies Regulating the Sale of Flavored Tobacco Products in California](#).

Need for Tobacco Retail Sales Laws

Policies regulating tobacco retail sales are part of a strategy to help create a healthier retail environment by reducing the impact of the tobacco industry's predatory marketing of its products and limiting the negative public

health consequences of tobacco use. Tobacco retail sales restrictions are an important part of reducing the availability and accessibility of tobacco products.

Despite decades of progress, tobacco use is still a leading cause of preventable death and disease, and California is the largest cigarette market in the U.S. In 2022, 19.1% of California adults used some type of tobacco product, with vaping products (11.8%) and cigarettes (6.6%) being the most commonly used products.ⁱ In 2022, 6.6% of California high schoolers used some type of tobacco product, with vaping products (5.6%) being the vast majority of use.ⁱⁱ

The tobacco industry has a long and documented history of targeting communities in order to addict people to nicotine and maximize industry profits. The tobacco epidemic is sustained by the tobacco industry's deceptive strategies, including targeted marketing and deliberately misleading the public about nicotine addiction and the health risks of tobacco use.ⁱⁱⁱ

In particular, the industry intentionally targets its products to youth and young adults, African Americans, low-income communities, and the LGBTQ community. These communities often have higher rates of tobacco use and tobacco-related health disparities.^{iv} There is also a greater density of tobacco retailers in low-income neighborhoods and Black neighborhoods,^v and low-income neighborhoods have more tobacco marketing.^{vi}

At the state level, California has [enacted multiple laws](#) that regulate the tobacco retail sales environment. Key statewide laws include the “Stop Tobacco Access to Kids Enforcement” (STAKE) Act that included requirements regulating the age of sale, signage, and self-service displays (1994); prohibiting the sale of cigarettes and other tobacco products to people under age 21 (2016); and ending the sale of most flavored tobacco products (2020). These statewide laws typically established retail sales regulations that are outside the scope of the two sales matrices covered by this policy brief.

Notably, the STAKE Act sets a floor of minimum protections and explicitly grants local authority for jurisdictions to enact local policies that are stronger than state law. California jurisdictions have taken good advantage of this local control by adopting hundreds of local policies that expand tobacco retail sales protections, and they continue to lead the way in innovation both in California and throughout the U.S.

Current Status of Local Laws

As of October 2023, 206 California jurisdictions in 31 counties, representing 34 Local Lead Agencies, have adopted local laws that include at least 1 of the 13 tobacco retail sales provisions addressed in the two PETS sales matrices. These jurisdictions cover 22,810,376 Californians, or 57.8% of the state population.

These 206 jurisdictions have enacted policies that regulate the tobacco retail sales environment in the following ways:

Sales Restrictions:

- **83** municipalities fully prohibit or partially regulate the distribution of **free samples** of tobacco leaf products; **26** of these fully prohibit the distribution of **free samples** of tobacco leaf products.
- **42** municipalities fully or partially require **full price** (no coupons/discounts) for tobacco leaf products.
- **55** municipalities regulate the **pack size**/volume of one or more types of regulated products other than cigarettes.

- **36** municipalities require a **minimum price** for one or more types of regulated products.
- **54** municipalities prohibit the sale of **tobacco leaf** products in **pharmacies** and retailers that contain a pharmacy counter, including **44** municipalities whose policies also prohibit the sale of **ESDs** in pharmacies.
- **20** municipalities **fully** prohibit the **sale of all ESDs**, and **25** municipalities **partially** prohibit the sale of ESDs with limited exemptions.
- **1** municipality fully prohibits the **sale of all tobacco leaf products**, excluding ESDs, and **2** municipalities **partially** prohibit the sale of tobacco leaf products with limited exemptions.

Density:

- **14** jurisdictions limit the number of tobacco retail sales venues (stores and/or lounges) **based on population**.
- **11** jurisdictions limit the number of tobacco retail sales venues (stores and/or lounges) by **setting a cap** on the total number of licenses that can be issued.

Proximity:

- **20** jurisdictions restrict the proximity of tobacco retail sales venues' locations to **residential areas**.
- **65** jurisdictions restrict the proximity of tobacco retail sales venues' locations to **other tobacco retailers**.
- **107** jurisdictions restrict the proximity of tobacco retail sales venues' locations to **youth-populated areas**, which may include schools, parks, and/or childcare.
- **7** jurisdictions restrict the proximity of tobacco retail sales venues' locations to **marijuana retailers**.

Of the 13 tobacco retail sales policy provisions, the three most commonly adopted provisions are:

- Restricting the proximity of tobacco retailers to **youth-populated areas**, adopted by 107 jurisdictions or **51.9%** of the total jurisdictions with any tobacco retail sales policies.
- Regulating the distribution of **free samples** of tobacco leaf products, adopted by 83 jurisdictions or **40.3%** of the total jurisdictions with any tobacco retail sales policies.
- Restricting the proximity of tobacco retailers to **other tobacco retailers**, adopted by 65 jurisdictions or **31.6%** of the total jurisdictions with any tobacco retail sales policies.

An emerging tobacco retail sales restriction that is a notable component of the Endgame strategy is ending the sale of tobacco products. The PETS policy rubrics and database look at ending the sale of tobacco in two parts: policies that end the sale of tobacco leaf products (cigarettes, cigars, cigarillos, pipe tobacco, chew, snuff, and other products made of tobacco leaf) and policies that end the sale of ESDs.

There are 3 jurisdictions with policies that fully or partially end the sale of tobacco leaf products, and there are 45 jurisdictions with policies that fully or partially end the sale of ESDs, of which 20 jurisdictions fully prohibit their sale. For the 25 jurisdictions with a "partial" status, their policies end the sale of ESDs except for limited exemptions, and the vast majority of these exemptions either allow the sale of ESDs that do not contain nicotine or allow the sale of ESDs authorized for sale under the FDA's premarket review process. These limited exemptions mean that the policies are prohibiting the majority of ESD products from being sold in these jurisdictions.

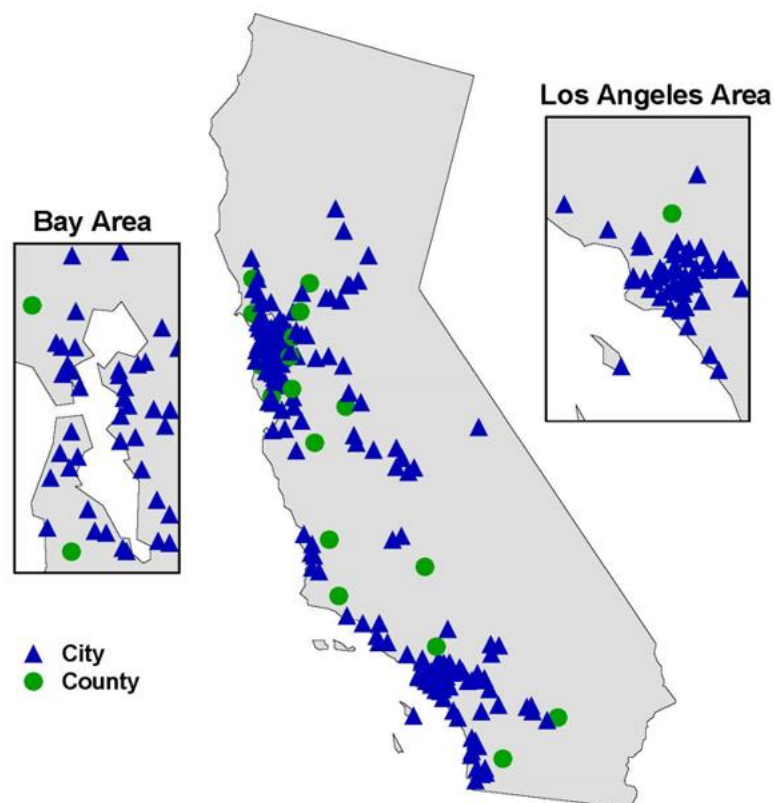
Two jurisdictions stand out as having enacted the broadest and strongest policies to end the sale of tobacco products. Manhattan Beach fully prohibits the sale of all tobacco leaf products and most ESD products, and Beverly Hills prohibits the sale of all tobacco leaf products except at cigar lounges and at hotels, where they are for sale only to hotel guests.

Geographic Characteristics of Local Laws

The 206 jurisdictions with retail sales policies are located in 31 counties and represent 34 Local Lead Agencies (LLAs), with the number of jurisdictions per LLA in parentheses: Alameda (13), Butte (2), Contra Costa (19), Fresno (7), Inyo (1), Kern (4), Los Angeles (35), Marin (9), Merced (3), Monterey (3), Nevada (1), Orange (10), Placer (3), Riverside (10), Sacramento (2), San Benito (2), San Bernardino (7), San Diego (11), San Francisco (1), San Joaquin (2), San Luis Obispo (5), San Mateo (12), Santa Barbara (5), Santa Clara (10), Santa Cruz (5), Solano (4), Sonoma (8), Stanislaus (1), Tulare (1), Ventura (4), Yolo (3). The three jurisdictions that have their own LLAs also adopted retail sales laws: Berkeley, Long Beach, and Pasadena.

Santa Cruz County achieved the notable distinction of having all 5 of its jurisdictions adopt retail sales policies. Two counties have adopted retail sales policies in 90% - 99% of their jurisdictions: Contra Costa (95%) and Alameda (93%). Two counties have adopted retail sales policies in 70% - 89% of their jurisdictions: Sonoma (80%) and Marin (75%). Seven counties have adopted retail sales policies in 55% - 69% of their jurisdictions: San Benito (67%), San Luis Obispo (63%), Yolo (60%), Santa Clara (59%), San Diego (58%), San Mateo (57%), and Santa Barbara (56%). Additionally, San Francisco adopted a law as a combined city and county jurisdiction.

California Jurisdictions with Policies Regulating Tobacco Retail Sales



These 206 jurisdictions can also be looked at across 11 CTPP Geographic Regions:

Bay Area (69): Alameda, Contra Costa, Marin, San Mateo, Santa Clara, Solano, San Francisco

Central Coast (10): Monterey, San Benito, Santa Cruz

Central Valley (15): Fresno, Kern, Merced, Tulare

Gold Country (13): Inyo, Nevada, Placer, Sacramento, San Joaquin, Stanislaus, Yolo

High Country (0)

Los Angeles (37): Los Angeles

North Coast (8): Sonoma

North Valley (2): Butte

South Coast (21): Orange, San Diego

Tri-County (14): San Luis Obispo, Santa Barbara, Ventura

Tri-County South (17): Riverside, San Bernardino

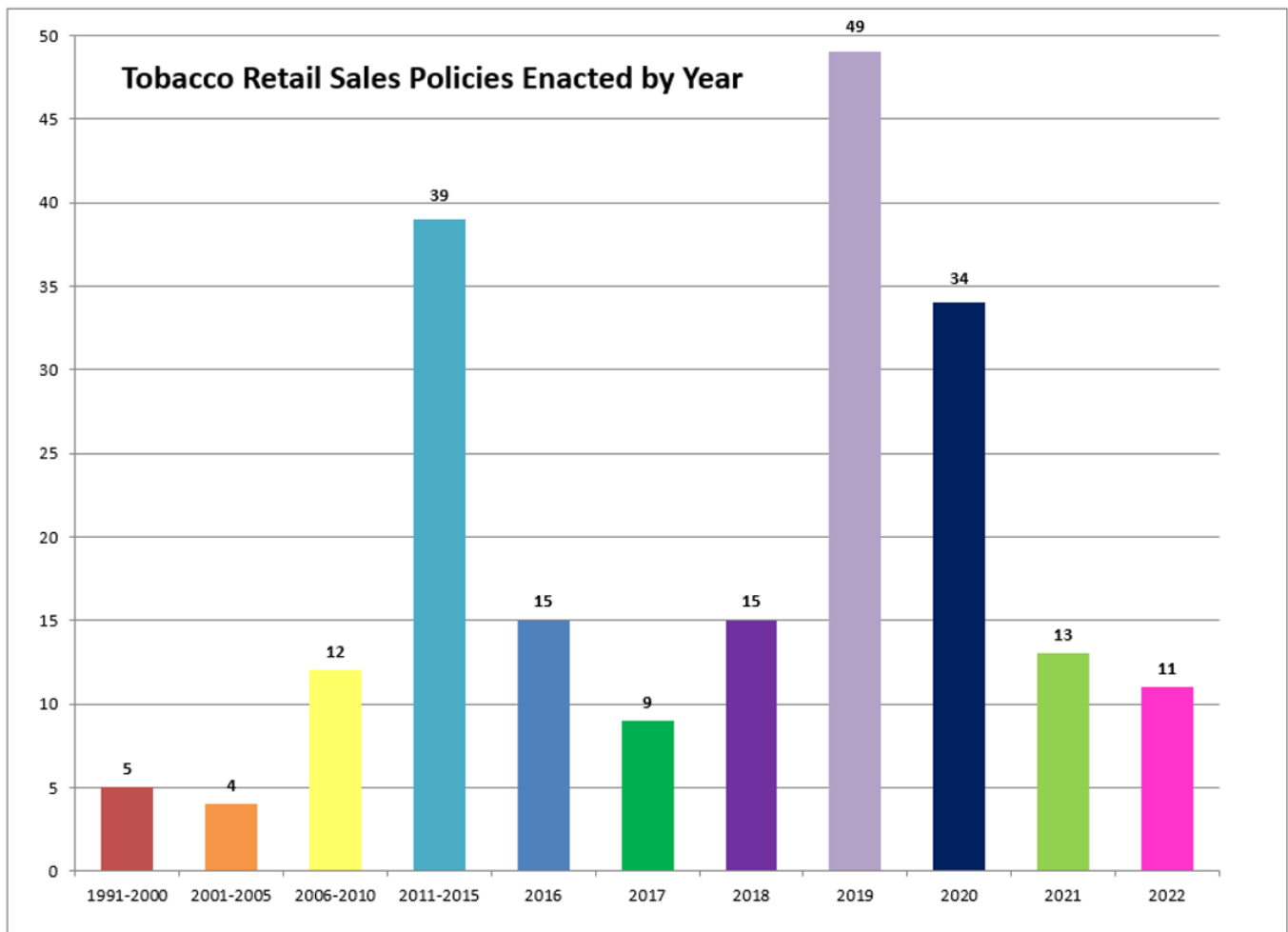
Jurisdictions in the Bay Area have led the way on policy adoption, with this region accounting for 33.5% of all jurisdictions that have enacted tobacco retail sales policies. Los Angeles follows, with 18% of the jurisdictions that have enacted tobacco retail sales policies. Notably, policies have been adopted in all but one of the 11 CTPP Geographic Regions.

Timing of Local Laws

The policies in the 206 jurisdictions that have adopted at least one of the 13 policy provisions addressed in this brief were enacted over 33 years, between 1991-2022. This brief looks at the date of the most recently enacted policy that qualifies for either of the two tobacco retail sales matrices, and many jurisdictions have enacted additional sales policies over the years.

Between 1991-1999, only three jurisdictions enacted policies, and another ten jurisdictions enacted policies between 2000-2009. Starting in 2010, multiple jurisdictions were enacting policies each year, with a sharp uptick in annual policy adoption starting in 2014.

Significantly, 40% of all jurisdictions appearing on the two matrices adopted their policies in 2019 (49) and 2020 (34). One reason for this concentration of policy adoption is that these retail sales restrictions were frequently adopted in the same ordinance as flavored tobacco sales restrictions, or were adopted shortly thereafter, and there was a strategic effort to adopt local flavored tobacco restrictions building up to the August 2020 enactment of the statewide flavors law, SB793. The numbers of jurisdictions enacting tobacco retail sales policies and those enacting flavored tobacco policies in 2019-2020 are closely aligned.



It is important to note that California jurisdictions have been regulating the tobacco retail sales environment for decades and have enacted a wide variety of policy provisions, including ones that are outside the scope of these 13 retail sales provisions. For example, many jurisdictions enacted tobacco retail sales policies in the 1990s and early 2000s that regulate or prohibit tobacco vending machines, tobacco product sampling, and self-service displays, as well as policies in the 2010s that increase the tobacco sales age to 21.

Likewise, [226 jurisdictions require retailers](#) to have a tobacco retailer license (TRL) to sell tobacco products. A best practice is for jurisdictions to adopt tobacco retail sales restrictions within a framework of requiring a tobacco retailer license, which in part helps facilitate the implementation and enforcement of other retail sales requirements, including flavored tobacco sales restrictions. However, requiring a TRL is not a new type of policy provision. Two examples of early adopters of a TRL requirement are Huntington Beach in 1909 and San Jose in 1933.

Jurisdictions also often adopt multiple policies regulating the tobacco retail sales environment. For example, a jurisdiction may adopt a requirement for retailers to hold a tobacco retail sales license one year, then come back in subsequent years to adopt a policy that sets initial tobacco retailer sales restrictions, like prohibiting free samples and prohibiting the sale of tobacco at pharmacies. Later, an additional policy may be adopted to end the sale of ESDs. Likewise, years later, the same jurisdiction may adopt a policy regulating the density or proximity of tobacco retailer locations that is addressed in a separate zoning section of municipal code.

Future

California jurisdictions are expected to continue adopting innovative policies to regulate the tobacco retail sales environment, including more communities adopting any of the 13 policy provisions covered in this policy brief, as well as additional sales restrictions that fall outside the scope of this brief. The California Tobacco Prevention Program and its funded projects continue developing Endgame strategies to end the sale of tobacco products and tobacco industry influence through various policy approaches, which is anticipated to create additional support and motivation for jurisdictions to adopt retail sales policies that meet the specific needs of their communities.

ANR Foundation anticipates additional local policy innovations and will strive to track new policy provisions that may fall outside the current scope of PETS analysis so that PETS can provide information on emerging trends, such as ending the sale of single-use ESDs and the nuance of different approaches to Endgame policies.

As additional jurisdictions adopt policies to end the sale of tobacco, ANR Foundation will develop a PETS document that focuses on Endgame approaches and explains the policies and language that jurisdictions are adopting to end the sale of both tobacco leaf products and ESD products.

ⁱ California Department of Public Health, California Tobacco Control Program. [Key findings from the Online California Adult Tobacco Survey: 2022 results](#). Sacramento, CA: California Department of Public Health. May 2023.

ⁱⁱ Dutra LM, Ingold-Smith M, Rotermund S, Clodfelter R, Levine B. [Annual results report for the California Youth Tobacco Survey 2022](#). RTI International. 2022.

ⁱⁱⁱ U.S. Department of Health and Human Services. [The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General](#). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014.

^{iv} California Department of Public Health, California Tobacco Control Program. [California Tobacco Facts and Figures 2022](#). Sacramento, CA: California Department of Public Health. May 2023.

^v Lee JG, Sun DL, Schleicher NM, Ribisl KM, Luke DA, Henriksen L. [Inequalities in tobacco outlet density by race, ethnicity and socioeconomic status, 2012](#), USA: results from the ASPIRE Study. *J Epidemiol Community Health*. 2017;71(5):487-492.

^{vi} Lee JG, Henriksen L, Rose SW, Moreland-Russell S, Ribisl KM. [A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing](#). *Am J Public Health*. 2015;105(9):e8-18.