

Considerations: Tobacco Sales Restrictions

*Information Prepared by Malone Tobacco Policy Research Group,
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The tobacco epidemic: Background and current context

- *The tobacco epidemic is a phenomenon of the 20th century.* Only after the invention of the cigarette rolling machine in the late 1800s did the cigarette become the single most deadly consumer product ever sold, causing millions of premature, preventable deaths.¹
- The tobacco industry knew for decades that its products were deadly, but concealed the evidence from the public.²
- Globally, public health leaders have begun discussing how to end the tobacco epidemic.³
- The 50th anniversary edition of the U.S. Surgeon General's Report on the Health Consequences of Smoking suggests policies to do this, including "greater restrictions on sales, particularly at the local level, including bans on entire categories of products."⁴
- *California is a world leader, with the second-lowest smoking prevalence of any US state after Utah.*⁵
- If present progress continues, retailers will soon need to develop new business models that do not rely on tobacco sales.

Facts about smoking

- Smoking is the leading preventable cause of disease and death in the US, responsible for about 1 in every 5 deaths, more deaths each year than human immunodeficiency virus HIV, illegal drug use, alcohol use, motor vehicle injuries, microbial agents, such as flu and pneumonia, and toxic agents, combined.⁶
- In California, 40,000 adults die annually from smoking, and 440,600 California youth now aged 0-17 are projected to eventually die from smoking.⁷
- In 2009, the cost of smoking in California totaled \$18.1 billion: \$9.8 billion in healthcare costs, \$1.4 billion in lost productivity from illness, and \$6.8 billion in lost productivity from premature mortality. This adds up to \$487 per state resident and \$4,603 per smoker.⁸
- Smoking is concentrated among marginalized communities, including those living below the poverty level, sexual and gender minorities, and persons with mental health disorders, contributing to disparities in smoking-related disease and death.⁹⁻¹⁴

The retail environment influences smoking

- *The ubiquity of tobacco outlets undermines a strong public health message that tobacco products are addictive and deadly,*¹⁵ and helps normalize smoking, suggesting that tobacco use is common and acceptable.¹⁶
- Tobacco outlet density increases the likelihood of smoking among both minors¹⁶⁻²⁸ and adults,²⁹⁻³¹ and living near tobacco outlets is associated with unsuccessful quit attempts.³²⁻³⁵
- Tobacco use disparities have also been linked to the greater concentration of tobacco outlets in economically and socially deprived neighborhoods compared with wealthier neighborhoods.³⁶⁻⁴⁴
- Emerging evidence suggests that tobacco retailer reduction is associated with a decline in cigarette pack purchases.⁴⁵

Policy considerations

- The most fundamental purpose of consumer protection law is to protect people from hazardous products. The 1985 United Nations consumer protection guidelines state that “Governments should adopt or encourage the adoption of appropriate measures . . . to ensure that products are safe for either intended or normally foreseeable use.”⁴⁶ Any other product that caused the well-documented levels of death and disease that the cigarette does would have been recalled from the market decades ago.
- Sales of other legally sold consumer products that were found to be dangerous to the public have been phased out, including leaded gasoline, leaded paint and asbestos. Recently, New Jersey and California have ended cash bail systems as harmful to defendants and communities.
- The 2009 Family Smoking Prevention and Tobacco Control Act specifically permits states and localities to prohibit sales of tobacco products.⁴⁷ A phased approach, where policy tools are used to raise prices, create incentives for retailers to make the transition, and shrink further the number of places in which tobacco is sold, may be the most feasible.
- Nationwide, support for a ban on tobacco sales within a ten-year time frame was 55% among nonsmokers and 33% among smokers in 2011.⁴⁸
- Resources focused on other sales-related policies are available e.g., banning the sale of tobacco in pharmacies,⁴⁹ setting high minimum prices, and using zoning or tobacco retail licensing ordinances to cap the number of retailers in a particular area.⁵⁰⁻⁵²

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