

Strong tobacco retail licensure (TRL) provides standards for retailers of tobacco products and electronic smoking devices in order to ensure the minimum legal sales age is being enforced, that applicable local, state, and federal laws are being followed, and where applicable, taxes are being accurately collected.

Following the 1998 Master Settlement Agreement that restricted advertising by tobacco companies, the industry shifted its focus to marketing in the retail setting. Since 1998, tobacco company advertising and marketing has increased from \$6.7 billion to \$9.1 billion in 2018.¹ This focus on retail spending is strongly associated with smoking initiation, particularly among youth.²

The increase in popularity of e-cigarette and vaping products has placed increased need for tobacco retail licensure among all products.³

- According to the National Youth Tobacco Survey, 16.5% of middle and high school students under the age of 18 report obtaining e-cigarettes in a vape shop in the past month, and 9.8% from a gas station or convenience store.³
- Furthermore, nearly 75% of youth that tried to buy tobacco products stated they were not refused sale.⁴
- The easy availability for over 1 in 4 youth e-cigarette users to obtain products from retail settings also likely contributes to the high amounts of youth reporting that they obtain e-cigarette products from social sources like friends and classmates.

In response, some states and communities have passed laws requiring e-cigarette retailers and vape shops to have a license or permit to sell their products.

In an evaluation of multiple jurisdictions with varying degrees of retail licensure requirements, the jurisdictions with more restrictive requirements may benefit from lower cigarette and e-cigarette use and initiation among youth and young adults.⁴

Strong retail licensure requirements are an effective policy tool to limit youth initiation of tobacco products, as well as to prevent access and continued usage of these products.

- In 2016, California required retailers to obtain tobacco product retailer license for any retailer that attempted to sell any product containing nicotine or tobacco, electronic smoking or vaping devices that deliver nicotine, and any component, part, or accessory of a tobacco product. A 2019 study evaluating the impact of California's local tobacco retail licensing ordinances on youth smoking rates found that youth and young adults that reside in jurisdictions with strong tobacco retail licensing ordinances had lower rates of e-cigarette and cigarette use compared to those who live in jurisdictions with poor TRL policies.⁵ Additionally, youth were less likely to smoke in high school and initiate smoking at 18.

Retail licensure strategies are an effective approach to decrease the prevalence of youth tobacco use and reduce the socioeconomic disparities in tobacco use and retailer density.

- A study conducted in Philadelphia, Pennsylvania found a significant decline in tobacco retailer density after implementation of strong tobacco retail regulations. Retailer density declined by 20.3% after 3 years of implementation, and a 12% decrease in the rates of retailers near schools.⁶

To effectively curb the high rates of access to tobacco products by youth in the retail setting, adequate retail licensure is necessary. The American Heart Association recommends that in order to be effective, the following elements must be included:

- An annual license fee that is high enough to cover the cost of enforcement and compliance.
- Clear process to establish requirements to apply for a license.
- Minimum of one compliance check per store per year, with a mandatory recheck for compliance failures.
- Escalating monetary compliance check failure penalties paid by the retailer, with a license suspension of at least 15 days by the third offense, and license revocation by the fourth offense within at least a two-year period.
- No criminal or monetary penalties for youth use and possession.
- Penalty for selling tobacco products without a license.

¹ U.S. Federal Trade Commission (FTC), Cigarette Report for 2018, 2019, <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2018-smokeless-tobacco-report-2018/p114508cigarettereport2018.pdf> [data for top 5 manufacturers only].; FTC, Smokeless Tobacco Report for 2018, 2019, <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2018smokeless-tobacco-report-2018/p114508smokelesstobaccoreport2018.pdf> [data for top 5 manufacturers only].

² 2012 U.S. Surgeon General's Report, *supra* note 4, at 543; see also Lisa Henriksen et al., Is Adolescent Smoking Related to the Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?, 47 Preventive Med. 210–12 (2008); William J. McCarthy et al., Density of Tobacco Retailers Near Schools: Effects on Tobacco Use Among Students, 99 Am. J. of Pub. Health 2006, 2011–2012 (2009); Sandy J. Slater et al., The Impact of Retail Cigarette Marketing Practices on Youth Smoking Uptake, 161 Arch. Pediatr. Adolesc. Med. 440 (2007); Nina Schleicher et al., Tobacco Outlet Density Near Home and School: Associations with Smoking and Norms Among Teens, 91 Preventive Med. 287–93 (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5065244>.

³ Liu, ST, et al., "Youth Access to Tobacco Products in the United States, 2016–2018," Tobacco Regulatory Science, 5(6): 491–501, 2019

⁴ Pediatrics February 2019, 143 (2) e20173536; DOI: <https://doi.org/10.1542/peds.2017-3536>

⁵ Astor RL, Urman R, Barrington-Trimis JL, et al. Tobacco Retail Licensing and Youth Product Use. Pediatrics. 2019;143(2): e20173536

⁶ Lawman HG, Henry KA, Scheeres A, et al., "Tobacco Retail Licensing and Density 3 Years After License Regulations in Philadelphia, Pennsylvania (2012–2019)." American Journal of Public Health 110, 547–553, <https://doi.org/10.2105/AJPH.2019.305512>