

County of San Diego Tobacco Retail Licensing Program

Frequently Asked Questions



Tobacco Retail Licensing Program Basics

1. What is the County of San Diego's Tobacco Retail Licensing Program?

On December 8, 2020, the County of San Diego (County) Board of Supervisors approved the Tobacco Retail Licensing Ordinance ([Ordinance No. 10699](#)), which created a Tobacco Retail Licensing Program for the unincorporated area of San Diego County.

In addition to applying for and obtaining a County Tobacco Retail License (TRL), tobacco retailers must comply with other eligibility, operating, and tobacco product requirements. All retailers will be required to renew their TRL and pay an annual application fee (amount to be determined) by July 1, 2022.

More information can be found on the County's Tobacco Control Resource Program webpages at www.sandiegocounty.gov/hhsa/tobacco. As a part of the Tobacco Retail Licensing Program, the County will conduct unannounced inspections of and decoy operations at all tobacco retailers. Inspections will begin October 2021.

2. What are the eligibility requirements to apply for a TRL for the unincorporated area of San Diego County?

The Tobacco Retail Licensing Program includes the following eligibility requirements:

- Tobacco retailers must be licensed by California's Department of Tax and Fee Administration. More information can be found at <https://www.cdtfa.ca.gov/>.
- Facilities with onsite pharmacies are not eligible for a County TRL.
- Persons under 21 years of age are not eligible to receive a TRL.
- TRLs can only be transferred to a parent, child, spouse, or domestic partner for tobacco retailing at the same retail location. The transferee must submit a TRL application and meet TRL eligibility requirements.
- After January 1, 2022:
 - No new retailers within 500 feet of an already licensed tobacco retailer will be eligible for a TRL.
 - No new TRL will be issued if the current number of TRLs already issued equals or exceeds 330.

3. How do I apply for a TRL?

To apply for a TRL, retailers must submit a TRL application with the required attachments, which include:

- A copy of the driver license(s) or governmental ID(s) for all business owners.
- A copy of the State of California Department of Tax and Fee Administration Cigarette and Tobacco Products License for the business location applying for a TRL.

The TRL application is available on the County's Tobacco Control Resource Program webpages at www.sandiegocounty.gov/hhsa/tobacco. Application processing will take approximately four to six weeks. The County will not carry out compliance monitoring activities at a retailer whose application is being processed.

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Beginning in 2022, retailers renewing their existing TRL or applying for a new TRL must also submit an application fee. The County of San Diego Board of Supervisors is expecting to pass a fee next year. All TRLs must be renewed and application fees paid by July 1, 2022.

4. What are the licensing requirements for a TRL?

| July 1, 2021 | July 1, 2022 |
|---|--|
| <ul style="list-style-type: none"> • Tobacco retailers will be required to obtain a TRL to continue selling tobacco products. • Retailers can submit TRL applications early beginning June 1, 2021. • Retailers applying for a new TRL will <u>not</u> be required to submit a TRL application fee. | <ul style="list-style-type: none"> • A TRL application fee will be approved by the County Board of Supervisors in Spring 2022. • By July 1, 2022, all existing TRLs <u>must</u> be renewed and application fees paid, regardless of when they were issued. • Retailers applying for a new TRL <u>must</u> submit a TRL application fee. |

5. How long is a TRL good for?

As long as the tobacco retailer remains in good standing with the Tobacco Retail Licensing Program, the TRL will be good until June 30 of each year. Regardless of when the TRL is issued between July 1, 2021 and June 30, 2022, it must be renewed by July 1, 2022. Afterwards, TRLs must be renewed and application fees paid by July 1 of each year.

6. What if my question isn't answered in this document?

More information about the Tobacco Retail Licensing Program is available on the County of San Diego's Tobacco Control Resource Program webpages: www.sandiegocounty.gov/hhsa/tobacco.

The Compliance Officer in the County of San Diego's Tobacco Control Resource Program is available to answer questions related to the Tobacco Retail Licensing Program by:

- Phone: (619) 542-4178
- E-mail: tobacco@sdcounty.ca.gov

Definitions Questions

7. What is an electronic smoking device starter kit?

"Electronic smoking device starter kit" means a combined package of an electronic smoking device and materials consumed during the use of the device.

8. What is a flavored tobacco product?

"Flavored tobacco product" means any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit or any candy, dessert, alcoholic beverage, herb, or spice.

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9. What is a tobacco product?

“Tobacco product” means a tobacco product as defined in paragraph (8) of subdivision (a) of Health and Safety Code section 104495, as that provision may be amended from time to time. As of the date of this material, that definition reads:

“Tobacco product” means any of the following:

- A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
- An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
- Any component, part, or accessory of a tobacco product, whether or not sold separately.
- “Tobacco product” does not include a nicotine replacement product approved by the United States Food and Drug Administration.

10. What is a tobacco product flavor enhancer?

“Tobacco product flavor enhancer” means a product designed, manufactured, produced, marketed, or sold to produce a flavor when used with a tobacco product.

Operating Requirements Questions

11. When are tobacco retailers required to get a TRL?

The County will begin processing applications for and issuing TRLs on June 1, 2021. After January 1, 2022, no *new* TRL will be issued to retailers within 500 feet of an already licensed retailer or if the current number of TRLs already issued equals or exceeds 330. Enforcement will begin in October 2021.

12. How much will the required TRL application fee cost and how will the cost be determined?

Although the County would begin to receive applications and issue TRLs on June 1, 2021, TRL fees will not be collected from retailers until 2022. The County of San Diego Board of Supervisors is expecting to pass a fee next year.

13. What are the new restrictions on retail sales of flavored tobacco products and tobacco product flavor enhancers?

Tobacco retailers may not sell flavored tobacco products or tobacco product flavor enhancers.

“Flavored tobacco product” means any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit or any candy, dessert, alcoholic beverage, herb, or spice.

“Tobacco product flavor enhancer” means a product designed, manufactured, produced, marketed, or sold to produce a flavor when used with a tobacco product.

Loose leaf tobacco, premium cigars, and shisha for use in a hookah are exempted from this requirement.

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- “Loose leaf tobacco” consists of cut or shredded pipe tobacco, usually sold in pouches, excluding any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes, including roll-your-own cigarettes.
- “Premium cigar” means any cigar that is handmade, is not mass produced by use of mechanization, has a wrapper that is made entirely from whole tobacco leaf, and has a wholesale price of no less than \$12.00. A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.
- “Shisha tobacco product” means a tobacco product smoked or intended to be smoked in a hookah. “Shisha tobacco product” includes, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. “Shisha tobacco product” does not include any electronic devices, such as an electronic hookah, electronic cigarette, or electronic tobacco product.

14. Can a retailer sell flavored liquids that do not contain nicotine?

No. The County’s Tobacco Retail License Ordinance prohibits the sale of flavored tobacco products. Flavored liquids that do not contain nicotine fall into the definition of tobacco product.

“Tobacco product” means:

- A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
- An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
- Any component, part, or accessory of a tobacco product, whether or not sold separately.

“Tobacco product” does not include a nicotine replacement product approved by the United States Food and Drug Administration.

15. When does the flavored tobacco product and tobacco product flavor enhancer prohibition go into effect?

The prohibition on sales of flavored tobacco products and tobacco product flavor enhancers begins on July 1, 2021.

16. Will there be a sell down period?

The sell down period will be between December 8, 2020 and June 30, 2021. The last day to sell prohibited products would be June 30, 2021.

17. Are online or delivery sales of tobacco products allowed?

Neither online nor delivery sales of tobacco products are allowed. All sales of tobacco products must be conducted in-person and at the licensed location.

18. Can a location with an onsite pharmacy sell tobacco products?

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No TRL may be issued to authorize tobacco retailing at a location with an onsite pharmacy.

According to the County of San Diego's Tobacco Retail Licensing Ordinance, "pharmacy: means any retail establishment as defined in section 4037 of the California Business and Professions Code. As of the date of this material, that definition reads:

- "Pharmacy" means an area, place, or premises licensed by the board in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" includes, but is not limited to, any area, place, or premises described in a license issued by the board wherein controlled substances, dangerous drugs, or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which the controlled substances, dangerous drugs, or dangerous devices are furnished, sold, or dispensed at retail.
- "Pharmacy" shall not include any area in a facility licensed by the State Department of Public Health where floor supplies, ward supplies, operating room supplies, or emergency room supplies of dangerous drugs or dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment of patients receiving emergency care in the facility.

19. What is the age requirement for salesclerks?

Tobacco retailers are prohibited from allowing a person under 18 years of age to handle or sell tobacco products unless under the continuous supervision of a person 21 years of age or older.

20. What are the density requirements and the cap on the number of TRLs that will go into effect on January 1, 2022?

All retailers will be able to apply for a TRL between June 1, 2021, and December 31, 2021, with no regard to density or the number of licenses. All retailers who apply for a TRL by December 31, 2021, and are subsequently approved, will be able to renew their TRL so long as they remain in good standing with the Tobacco Retail Licensing Program.

After January 1, 2022, no *new* TRL will be issued:

- To retailers within 500 feet of an already licensed retailer.
- If the number of TRLs already issued equals or exceeds 330.

Cannabis

21. Does obtaining a TRL from the County of San Diego authorize the sale of cannabis or cannabis products?

No. According to the County of San Diego's Tobacco Retail Licensing Ordinance, a TRL is required to engage in tobacco retailing in the unincorporated area of the County. Neither the definition of tobacco retailing nor the definition of tobacco product includes language regarding cannabis. Refer to question nine for the definition of tobacco product.