



# TOBACCO RETAIL LICENSING PROGRAM AND SAN DIEGO COUNTY ORDINANCE NO. 10699

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*County of San Diego, Health and Human Services Agency,  
Tobacco Control Resource Program*

*Updated 5/12/2021*

[www.sandiegocounty.gov/hhsa/tobacco](http://www.sandiegocounty.gov/hhsa/tobacco)



# INTRODUCTION



- The Tobacco Retail Licensing Ordinance ([Ordinance No. 10699](#)) requires tobacco retailers in unincorporated San Diego County to obtain a Tobacco Retail License (TRL) from the County of San Diego (County) and establishes a Tobacco Retail Licensing Program to monitor compliance with the Ordinance.
- The County's Tobacco Control Resource Program (TCRP) is available to provide guidance and information on how to comply with the Tobacco Retail Licensing Ordinance.
- For questions or to request assistance with your application, e-mail [tobacco@sdcounty.ca.gov](mailto:tobacco@sdcounty.ca.gov) or call (619) 542-4178.

# PRESENTATION GOALS



## This presentation will discuss:

- The anticipated health impacts of the Tobacco Retail Licensing Program.
- The requirements of the Tobacco Retail Licensing Ordinance.
- Key definitions of the Tobacco Retail Licensing Ordinance.
- Compliance monitoring of the Tobacco Retail Licensing Program.
- Available resources.



# ANTICIPATED HEALTH IMPACTS OF THE TOBACCO RETAIL LICENSING ORDINANCE

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# ANTICIPATED HEALTH IMPACTS OF THE TOBACCO RETAIL LICENSING PROGRAM



- Reduce youth access and exposure to tobacco products.
- Reduce COVID-19 complications.
- Reduce smoking rates.
- Reduce morbidity and mortality due to smoking-related illnesses.



# REQUIREMENTS OF THE TOBACCO RETAIL LICENSING ORDINANCE

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# TOBACCO RETAIL LICENSING ORDINANCE



- On December 8, 2020, the County Board of Supervisors approved the Tobacco Retail Licensing Ordinance for the unincorporated area of San Diego County.
- The Ordinance establishes a County Tobacco Retail Licensing Program to monitor retailer compliance.



# OVERVIEW OF THE TOBACCO RETAIL LICENSING ORDINANCE



- Tobacco retailers in the unincorporated area will be required to obtain a TRL to sell tobacco products.
- Tobacco retailers must comply with operating and tobacco product requirements.
- Retailers can submit TRL applications for County review beginning **June 1, 2021**.
- The County will conduct unannounced inspections of and decoy operations at tobacco retailers beginning October 2021.
- All retailers will be required to renew their TRL by **July 1, 2022**. At that time, an annual application fee (TBD) will also be required.



# TOBACCO RETAIL LICENSING PROGRAM TIMELINE



**June 1, 2021:**

**TRL Application Process Open**

County begins to receive and process TRL applications. Neither the number of TRLs nor proximity to existing retailers will be considered when reviewing TRL applications.

**July 1, 2021:**

**Tobacco Retail Licensing Ordinance Operative**

Tobacco retailers must be in compliance with all Ordinance requirements. This is also the date at which the Ordinance becomes enforced.

**October 2021:**

**Compliance Checks Begin**

Unannounced inspections of and decoy operations conducted at tobacco retailers.

**January 1, 2022:**

**Density Restrictions Begin**

Number of licenses and proximity to existing retailers begin to be considered for *new* TRL applications

**July 1, 2022:**

**TRL Renewal Date**

**All** TRLs, regardless of when they were Issued, must be renewed and TRL application fees received by this date.

# TRL ELIGIBILITY REQUIREMENTS



- Tobacco retailers must be licensed by California's Department of Tax and Fee Administration (<https://www.cdtfa.ca.gov/>).
- Facilities with an onsite pharmacy are *not eligible* for a 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.

# HOW TO 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 ([www.sandiegocounty.gov/hhsa/tobacco](http://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.
- Beginning in 2022, retailers renewing or applying for a new TRL must also submit a TRL application fee. The County Board of Supervisors is expecting to pass a fee next year.
- All TRLs must be renewed and application fees paid by July 1, 2022.



## Licensed tobacco retailers should:

- Follow all federal, state and local tobacco laws.
- Clearly display the TRL.
- Verify the age of any person attempting to buy tobacco products or attempting to enter a wholesale tobacco shop or private smoker's lounge.
- Sell products only in-person and at the licensed location (no online or delivery sales).

# GENERAL OPERATING REQUIREMENTS



## Licensed tobacco retailers should not:

- Sell or gift a tobacco product to someone under the age of 21.
- Sell tobacco products in a self-service display, including vending machines.
- Permit an employee 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.
- Offer samples, promotional items, or coupons.
- Accept coupons or discounts.

# REQUIREMENTS FOR TOBACCO PRODUCTS



## Tobacco products for sale should:

**Be in the original packaging**

**Have the price clearly displayed**

**Comply with the minimum package size and minimum price requirements**

**Not be flavored**

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

# PACKAGE SIZE AND PRICE REQUIREMENTS



## Minimum Package Size Requirements

- **Cigars that individually cost less than \$10.00:** 6 cigars
- **Little cigars:** 20 little cigars

## Minimum Price Requirements (prices include all applicable taxes and fees)

- **Cigarettes:** \$10.00 per pack of 20
- **Cigars:** Package must be at least \$5.00 per cigar (*Example: A package of 6 cigars must cost at least \$30.00*)
- **Little cigars:** \$10:00 per pack of 20
- **Electronic smoking device:** \$20.00 per device
- **Materials to be consumed in the use of an electronic smoking device (ex. e-liquids):** \$10.00 per unit
- **Electronic smoking device starter kit:** \$30.00 per kit



# KEY DEFINITIONS OF THE TOBACCO RETAIL LICENSING ORDINANCE

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# WHAT IS A “TOBACCO PRODUCT”?



**According to the Tobacco Retail Licensing Ordinance, “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.

On the next slide, we will review Paragraph (8) of subdivision (a) of Health and Safety Code section 104495.



**According to Paragraph (8) of subdivision (a) of Health and Safety Code section 104495, “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.



**According to Paragraph (8) of subdivision (a) of Health and Safety Code section 104495, “tobacco product” means:**

- 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.

# WHAT IS A “TOBACCO PRODUCT FLAVOR ENHANCER”?



## **According to the County Tobacco Retail Licensing Ordinance:**

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

# WHAT IS A “FLAVORED TOBACCO PRODUCT”?



## According to the County Tobacco Retail Licensing Ordinance:

- “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.

# WHAT IS AN “ELECTRONIC SMOKING DEVICE STARTER KIT”?



**According to the County Tobacco Retail Licensing Ordinance:**

- “Electronic smoking device starter kit” is defined as a combined package of an electronic smoking device and materials consumed during the use of the device.



# COMPLIANCE MONITORING OF THE TOBACCO RETAIL LICENSING PROGRAM

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# TOBACCO RETAIL LICENSING PROGRAM EXCEPTIONS



## The Tobacco Retail Licensing Program is not intended to penalize:

- The provision of tobacco products to any person as part of a noncommercial Native American practice or a lawfully recognized religious or spiritual ceremony or practice or
- The purchase, use or possession of a tobacco product by any person under the legal age to purchase tobacco. Laws prohibiting the possession, use, and purchase of tobacco products by minors disproportionately impact youth of color and youth from lower-income communities.\*

\* ChangeLab Solutions. PUP in Smoke: Why Youth Tobacco Possession and Use Penalties are Ineffective and Inequitable. April 2019.



# PENALTIES ASSOCIATED WITH VIOLATING THE TOBACCO RETAIL LICENSING ORDINANCE



**1st Violation:** License suspended for 30 days



**2nd Violation (within any 5-year period):** License suspended for 60 days



**3rd Violation (within any 5-year period):** License suspended for 90 days



**4th+ Violation (within any 5-year period):** License revoked

The County may pursue any additional remedy for violation of the Tobacco Retail Licensing Ordinance including, but not limited to, administrative civil penalties. Any violation of the Tobacco Retail Licensing Ordinance may also be deemed a public nuisance and may be enforced by any remedy available for abatement of public nuisances.

# APPEALING A TRL SUSPENSION OR REVOCATION



## 1<sup>st</sup> Appeal Hearing:

The retailer has the right to a hearing to contest the suspension or revocation of the license.

- If the retailer fails to request the hearing within 21 days of the date of the notice, the applicant waives all rights to appeal.

## 2<sup>nd</sup> Appeal Hearing:

The retailer has the right to contest the outcome of the first appeal.

- The retailer can only request the second appeal if they appear at and complete the first appeal hearing.
- The appeal request must be received within 15 days of the date of the first appeal hearing's decision.



# AVAILABLE RESOURCES

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# WHERE TO GET RESOURCES AND OTHER INFORMATION



- To learn more about the County Tobacco Retail Licensing Ordinance and obtain resources, visit: [www.sandiegocounty.gov/hhsa/tobacco](http://www.sandiegocounty.gov/hhsa/tobacco).
- If you have other questions, contact the Compliance Officer in the County's Tobacco Control Resource Program by e-mail at [tobacco@sdcounty.ca.gov](mailto:tobacco@sdcounty.ca.gov) or call (619) 542-4178.

# REVIEW: WHAT YOU NEED TO KNOW ABOUT THE TOBACCO RETAIL LICENSING ORDINANCE



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# THANK YOU!

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