



Tobacco Retail Licensure

OVERVIEW

The American Heart Association is committed to ending all tobacco use and nicotine addiction in the U.S. by the use of all combustible and non-combustible tobacco products while ensuring the next generation of youth do not become addicted to emerging tobacco products.

Strong tobacco retail licensure (TRL) provides standards for retailers of tobacco products and electronic nicotine delivery systems (ENDS) 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 \$6.8 billion to \$8.4 billion in 2020.^{1,2} Additionally, in its first report on e-cigarettes, the U.S. Federal Trade Commission reported advertising and marketing by the e-cigarette industry substantially increasing from \$197.8 million in 2015 to \$643.6 million in 2018 (a 225% increase in spending), with almost a 400% increase in promotional allowances for wholesalers and retailers.³ This focus on retail spending is strongly associated with smoking initiation, particularly among youth.⁴

The increase in popularity of ENDS products has placed increased need for tobacco retail licensure among all products.

According to the 2021 National Youth Tobacco Survey, 20% of middle and high school students reported obtaining tobacco products from vape shops or tobacco shops in the past month, and almost 20% from a gas station or convenience store.⁵ Furthermore, prior to the Tobacco 21 (T21) age-law, nearly 75% of youth that tried to buy tobacco products stated they were not refused sale⁶, but after T21 laws were enacted (prior to federal T21 law) localities found 12th-grade student cigarette use decreased 35% and an increase in ID checks.⁷

Increasingly, states and communities have passed laws requiring e-cigarette retailers and vape shops to have a license or permit to sell their products. [Tobacco Retail Licensures by State](#)

In an evaluation of multiple jurisdictions with varying degrees of TRL requirements, the jurisdictions with more restrictive requirements may benefit from lower cigarette and e-cigarette use and initiation among youth and young adults.⁶

Strong TRL 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, ENDS, and any component, part, or accessory of a tobacco product. A 2019 study evaluating the impact of California's local TRL ordinances on youth smoking rates found that youth and young adults that reside in jurisdictions with strong TRL ordinances had lower rates of e-cigarette and cigarette use compared to those who live in jurisdictions with poor TRL policies.⁶ Additionally, youth were less likely to smoke in high school and initiate smoking at 18.⁶

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.⁸

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.⁸

THE ASSOCIATION ADVOCATES

To effectively curb the high rates of access to tobacco products by youth in the retail setting, The American Heart Association recommends that effective TRL laws must include the following elements:⁹

- An annual license fee that is high enough to cover the cost of enforcement, education trainings, and operational/administrative costs.
- Clear process by which the tobacco retailer applies, receives, and maintains permission to sell tobacco products, including electronic nicotine delivery systems.
- Minimum of one compliance check per store per year, with a mandatory recheck for compliance failures.
- Tobacco retailers must be required to comply with all federal, state, and local laws.
- Escalating monetary compliance check failure penalties paid by the retailer, with a license suspension and license revocation as a part of the penalty structure.
- Penalties for sale should be levied on the owner/operator of the establishment, and ideally not the employee. The violation count should also be levied on the store, not the employee.
- Penalty for selling tobacco products without a license.
- No criminal or monetary penalties for youth use and possession.

References

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