
SAN FRANCISCO'S TOBACCO RETAIL DENSITY REGULATION: AN E-CIGARETTE POLICY CASE STUDY

On December 16, 2014, the San Francisco Board of Supervisors unanimously passed a comprehensive tobacco retailer density policy that imposes a cap on the number of tobacco retailers permitted to operate within each of the city's eleven supervisorial districts.

COMMUNITY SNAPSHOT

San Francisco, a consolidated city-county in Northern California, is the 17th most populous city in the United States and the fourth most populous in California. With a population of 873,965 residents as of 2020, it is the second most densely populated U.S. city (following New York City) and the fifth most densely populated U.S. county.¹ A global cultural, financial, and commercial hub, San Francisco is home to many educational and cultural institutions, including the University of California, San Francisco (UCSF), the University of San Francisco (USF), the de Young Museum, the San Francisco Symphony, and the California Academy of Sciences. It has one of the largest economies – and highest per capita income and gross domestic product (GDP) – in the U.S. and is ranked fifth in the world and second in the United States on the Global Financial Centers Index.² Politically, the city leans strongly along liberal Democratic party lines.



BACKSTORY

San Francisco's tobacco retail regulation story goes back to 2008, when an organization known as the Youth Leadership Institute received funding and technical assistance from the San Francisco Department of Public Health's Tobacco Free Project.³ The Institute's goal is to build the capacity of young people to address community tobacco control through policy change using what is called the Community Action Model ("CAM") Process.⁴ The CAM process involves a framework for training advocates to diagnose and research a tobacco control issue in their community and design policies to address that issue.⁵ The Tobacco Free Project offers training, resources, and technical assistance to support community-based organizations that use the CAM process.⁶ Following the CAM model, the Youth Leadership Institute recruited over a dozen youth advocates to research tobacco control issues in their community. Based on their research and personal experiences, the advocates identified tobacco retailer density as a significant public health issue within San Francisco. This team of youth advocates was called the Tobacco Use Reduction Force ("TURF").⁷

In the first phase of the CAM process – the diagnosis and analysis phase – TURF advocates conducted community walking tours, mapping, interviews, and public opinion surveys. The youth advocates discovered that tobacco retail outlets (stores, bars, restaurants, tobacco shops, and others) were inequitably distributed throughout San Francisco. They noticed differences in the number of tobacco retail stores in low-income neighborhoods compared with higher income neighborhoods. The six supervisorial districts with the highest number of tobacco retailers were also the districts with the lowest median household incomes. For instance, District 2 with median household income of \$105,509 had 56 tobacco permits, while District 6 with a median household income of \$37,431 had 180 tobacco permits.⁸

Based on their mapping of the tobacco retailers in various districts, the youth advocates also discovered that communities of color had access to higher numbers of tobacco retail outlets than white people, most of whom tended to reside in the lowest density districts.⁹ The youth advocates also found that nearly 60 percent of tobacco outlets in San Francisco were within 1,000 feet of schools, increasing the likelihood that youth will initiate tobacco use.¹⁰ In sum, their research disclosed that lower income residents, people of color, and young people, were disproportionately exposed to the harms associated with tobacco use.¹¹

Youth advocates also interviewed policymakers, city and county stakeholders, and retailers to understand their perspectives on the tobacco retail environment. At that time, San Francisco imposed no limits on the location or number of tobacco retailers. Additionally, most establishments that wanted to sell tobacco products could easily apply to receive a license, which was usually approved. Not only was it easy to obtain a license, youth advocates also found that tobacco regulations, including minimum legal sales age laws, were weakly enforced. When a retailer was caught selling tobacco to an underage person, the Environmental Health Branch (a branch of the

Department of Public Health) would suspend the retailer’s license, but the suspension period was often shorter than the minimum period specified in the city’s code and the appeals process made it unlikely that a tobacco retailer’s license would be revoked.¹² In sum, the existing policy and its enforcement did not adequately regulate tobacco retailers to prevent youth access to tobacco, including e-cigarettes – a major public health concern for policymakers and community members in San Francisco.¹³

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The youth advocates found that most businesses that hold a tobacco retailer license in San Francisco are small businesses (such as “mom and pop” shops, corner stores, or small grocers) owned by a sole proprietor.¹⁴ Based on interviews with these retailers, youth advocates discovered that tobacco products make up to 30 percent of their sales and between 8 to 10 percent of their profits.¹⁵ To better understand community concerns, youth advocates also conducted public opinion surveys of a representative sample of San Francisco residents in 2009 and 2012.¹⁶ The survey results were important in demonstrating to city officials and other stakeholders, the community’s strong support for a tobacco retail density policy.¹⁷

Key Takeaways

- The community action model (“CAM”) offers a comprehensive framework for building the capacity of community advocates, particularly young people, to address tobacco issues through policy change.
- Using the CAM process, youth advocates mapped tobacco retailers, interviewed members of the community, including retailers and policymakers, and conducted public opinion surveys.
- Advocates found that tobacco retailer density was a significant public health and equity issue, disproportionately exposing lower income residents, people of color, and young people to tobacco products, and that the community broadly supported a tobacco retail density policy.

SAN FRANCISCO'S TOBACCO RETAIL DENSITY POLICY

San Francisco first attempted to pass a tobacco retail density policy in 2009. With the CAM grant funding from the Tobacco Free Project, the Youth Leadership Institute selected its first group of TURF advocates. Youth advocates researched tobacco retailer licensing requirements, accessed permit and community data, gathered support from some members of the city's Board of Supervisors, and drafted a policy proposal.¹⁸ A supervisor agreed to sponsor the policy, but the mayor introduced a different policy on the same issue, which divided political support for the bill.¹⁹ There was also strong opposition from the business community. Due to their reliance on tobacco sales as a core part of their business model, tobacco retailers – largely small businesses – as well as the American Grocers Association and similar organizations, strongly opposed the density policy.²⁰ Ultimately, the policy failed to pass. This first attempt, however, was instrumental in the later passage of a similar density policy, because it helped educate policymakers and the broader public about tobacco retailer density as a significant public health and equity issue.²¹

In 2011, a new CAM grant allowed the Youth Leadership Institute to resume the effort to pass a tobacco retailer density policy.²² The advocates updated the 2009 data and built new alliances with policymakers, the business community, and other community leaders. They also obtained 39 organizational endorsements as well as support from the media.²³ In 2013, San Francisco's Board of Supervisors passed the [Healthy Food Retailer Ordinance](#),²⁴ which provides resources to incentivize corner stores to shift their business model to one that predominantly offers fresh and healthy affordable food. Because of its benefits for small businesses, the ordinance increased the opportunity to reach agreement with a key stakeholder – the Arab American Grocers Association (“AAGA”) – on the tobacco retail density policy and to craft a policy sensitive to the concerns of the small business community.²⁵

After extensive negotiations with AAGA, one Board supervisor agreed to sponsor the bill. TURF advocates, together with legislative aides from the sponsoring supervisor's office, staff from the Tobacco-Free Project, and AAGA started a working group to discuss the various provisions of the policy.²⁶ Between July and December 2014, the working group met at least six times at local restaurants owned by AAGA members.²⁷ The group afforded all stakeholders the opportunity to share their concerns, needs, and priorities. The goal was to develop a policy that both protected community health and supported the small business community.²⁸



In this May 17, 2018 photo, Miriam Zouzounis looks through a selection of tobacco products while interviewed at Ted's Market, her family's store, in San Francisco. (AP Photo/Jeff Chiu).

In the work group meetings, AAGA educated city and community stakeholders about the economic pressures facing their businesses and the value of the corner stores to Arab families in San Francisco.

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Arab families were concerned about policies that would make it difficult for them to sell their businesses, since the sale of their stores was a crucial part of their retirement plans.²⁹ As a result, the working group added exemptions to the final policy aimed at alleviating some of the concerns of these retailers.³⁰

The group also educated retailers about the tobacco retailer license (“TRL”) and corrected misconceptions. For instance, retailers believed that their licenses were transferable to anyone purchasing their businesses and that restricting the opportunity to sell a tobacco license would devalue their business.³¹ Staff from the Tobacco-Free Project explained to retailers that a TRL was non-transferable and new business owners are required to apply for a new tobacco retail license.³² However, to minimize the economic impact of the policy on small business owners, particularly long-time San Francisco business owners close to retiring or selling their business, the proposed density policy was amended to permit new buyers to obtain a one-time license if the prior owner had been a licensed tobacco retailer for at least five consecutive years before the policy took effect.³³ Additional exemptions were included in the density policy to address the concerns of small business owners.

As a result of these discussions, the AAGA ultimately endorsed the policy and, along with thirty youth advocates and community members, testified for its adoption before the Board of Supervisors.³⁴ The Neighborhood Services and Safety Committee also recommended the policy to the full Board.³⁵ For many Supervisors, the small business community’s support was a deciding factor in the passage of the policy.³⁶

On December 16, 2014, the San Francisco Board of Supervisors unanimously approved the tobacco retail density policy.³⁷ The density policy builds upon the city’s existing tobacco retailer licensing requirements and applies to all retailers, including vape shops, that sell any tobacco products, including e-cigarettes.³⁸

Under San Francisco’s tobacco retail density policy, permits to sell tobacco products are not issued to establishments where:

- The total number of existing permits in the Supervisorial District exceeds 45³⁹
- The location is within 500 feet of another location licensed to sell tobacco
- The location is within 500 feet of a school
- The location was not previously occupied by a permitted store (i.e., permits are not issued to locations unless they previously held a tobacco license)
- Restaurants, bars, or other tobacco shops that are not already permitted⁴⁰

The policy, however, contains several exceptions, including:

- For retail food stores or tobacco shops that submit evidence that they have had a continuous tobacco permit with the same owner and at the same location for five years, a one-time permit may be issued to a new buyer
- For retail food stores or tobacco shops, a one-time permit may be issued to the child of an owner holding a tobacco license as of the effective date of the policy⁴¹

On January 18, 2015, the tobacco retail density policy took effect.⁴²

Key Takeaways

- In 2009, San Francisco made its first attempt to pass a tobacco retail density policy, which failed due, in part, to strong opposition from the small business community.
- In 2011, TURF advocates resumed the effort to pass a tobacco retail density policy; they built alliances with policymakers, the business community, and other community partners and obtained endorsements from community organizations as well as support from the media.
- Meetings and negotiations with members of the small business community gave advocates the opportunity to learn about their perspectives, needs, and priorities and to educate retailers about the tobacco retail licensing ordinance. This allowed advocates to obtain the community’s support, which was critical for policy passage.
- On December 16, 2014, the San Francisco Board of Supervisors unanimously passed a comprehensive tobacco retail density policy that caps the number of tobacco permits in each Supervisorial District and establishes other retailer location restrictions.

IMPLEMENTATION

Once the tobacco retail density policy took effect on January 18, 2015, the San Francisco Department of Public Health defined regulations to ensure compliance with the policy.⁴³ Unfortunately, conditions soon arose that the legislation had not fully addressed.⁴⁴ For instance, the Department needed to determine whether people who were in escrow to purchase a retail store before the policy took effect would be eligible for the one-time license exemption clause.⁴⁵ The regulations also had to clarify how to address eligibility for a tobacco retailer license under the one-time exemption provision if the business owner were to die, marry, or divorce. Additionally, regulations needed to update definitions to address different types of business ownership.⁴⁶

The most challenging aspect of the density law was its impact on existing businesses interested in a change of ownership. Exemptions in the law complicated implementation and enforcement and made it challenging to explain the policy clearly to retailers. Despite the involvement of members of the business community, like the AAGA, many retailers remained unaware of the policy at the time it became effective, and misunderstanding remains. Following implementation, retailers who were notified that their tobacco license applications were denied were confused and often outraged. Previously, a tobacco license application was typically only denied if the applicant supplied fraudulent information or if the business had repeatedly sold tobacco to underage persons.

To address this, and educate retailers about the new policy, the Environmental Health Branch and the Tobacco-Free Project began a broad outreach effort. Staff sent retailers letters about the law and gave presentations before the Small Business Commission and the Board of Appeals. The Environmental Health Branch also periodically conducted in-person compliance check visits to tobacco stores, which gave staff an opportunity to educate retailers about the law and to explain how the law would impact them in the event of a change of ownership.



Advocates of the Tobacco Use Reduction Force (TURF) of the Youth Leadership Institute (YLI). Credit: San Francisco Tobacco-Free Project

Because the Department has limited personnel to educate tobacco retailers and to process tobacco permit applications, Department staff developed processes and tools to manage tobacco license applications and train retailers. When the Department receives an application for a tobacco permit, it first determines whether any exceptions in the law apply to the applicant. It then determines whether the applicant meets the density restrictions. In addition to developing resources to help applicants complete the application process, the Department also now requires prospective sellers and applicants to submit additional documents, such as proof of sale from the original owner to the new owner.

One important tool that has significantly helped in managing license applications and educating retailers is a Tobacco Permit Map, a tool developed by the Environmental Health Branch in collaboration with the Planning Department that is updated quarterly. This map serves as an initial starting point in determining whether a permit may be granted based on the density law. However, the Department often must further investigate cases that involve corporations or partnerships, since the density law contains specific provisions pertaining to these types of businesses.

Even six years after the policy's implementation, retailers still call the Department of Public Health confused about and concerned with the law's impact on them. Retailers have expressed that the law has affected their livelihoods, especially those whose business represents much of their retirement income.



Credit: AP File/Samantha Maldonado.

Key Takeaways

- After the retail density policy took effect, the Department of Public Health developed regulations to address specific conditions that arose in tobacco permit applications that the legislation had not covered.
- The Department conducted broad outreach to educate retailers on the updated policy including sending letters and conducting compliance checks.
- The Department developed new resources and tools to address the increased complexity of processing tobacco retail license applications, including a regularly updated Tobacco Permit Map.
- Despite outreach and implementation efforts, many tobacco retailers remain unaware of or confused by the policy and have voiced concerns that the law has negatively impacted their livelihood.

POLICY IMPACT

Despite some implementation challenges, San Francisco's tobacco retail density policy has been quite successful to date. The city's goal was to reduce tobacco retail permits within each of its 11 Supervisorial Districts to a maximum of 45 permits per district. Prior to the policy's implementation, the city had issued approximately 900 permits and only one district had fewer than 45 permits. As of July 2021, the total number of tobacco retail licenses in the city has decreased by about 30 percent – to 635 – and five districts have fewer than 45 tobacco permits.⁴⁷ Districts with the highest number of tobacco retailer licenses before the policy's implementation have seen the greatest declines. For instance, as of July 2021, District 6 which had about 180 tobacco permits before the policy's implementation, had 97 permits, an almost 50 percent decline.⁴⁸ The city projects that it will take 10 to 15 years for the number of tobacco retail licenses per district to meet the 45 cap.⁴⁹

The success of San Francisco's density law may also be due to the city's increasing regulation of tobacco and e-cigarette retailers. In June 2019, the city passed a regulation prohibiting the sale of electronic cigarettes⁵⁰ that have not received a marketing order from the FDA.⁵¹ The city also passed a regulation prohibiting the sale of flavored tobacco products,⁵² and imposed fees on retailers to abate the costs of cigarette litter.⁵³

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These regulations are increasingly making it unprofitable to operate as a tobacco and e-cigarette retailer in San Francisco.⁵⁴ Faced with the difficulty of obtaining a tobacco retailer license and increased regulation, retailers are reevaluating the financial and regulatory costs of selling tobacco and many are even choosing to leave the business entirely.

Key Takeaways

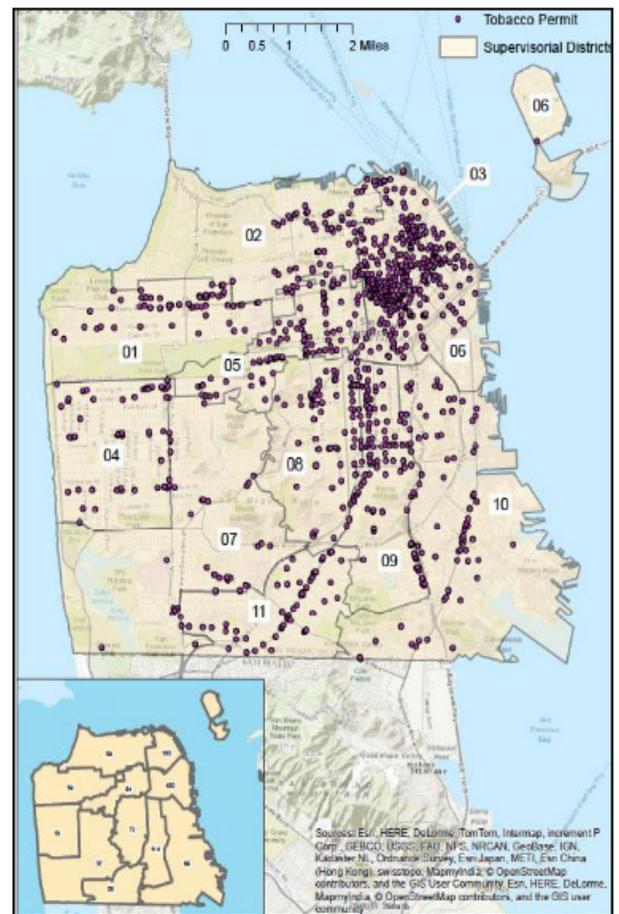
- After the retail density policy took effect, the Department of Public Health developed regulations to address specific conditions that arose in tobacco permit applications that the legislation had not covered.
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- The Department developed new resources and tools to address the increased complexity of processing tobacco retail license applications, including a regularly updated Tobacco Permit Map.
- Despite outreach and implementation efforts, many tobacco retailers remain unaware of or confused by the policy and have voiced concerns that the law has negatively impacted their livelihood.

CONCLUSIONS AND RECOMMENDATIONS

San Francisco’s tobacco retailer density policy is one of the first and most comprehensive efforts in the U.S. to reduce the number of establishments that sell tobacco products, including e-cigarettes. It was the result of a six-year effort by youth advocates concerned about the inequitable distribution of tobacco retail outlets in the city and the disproportionate negative health impact of high tobacco retailer density on vulnerable communities – particularly young people, low-income communities, and people of color. Using the “community action model,” youth advocates engaged in extensive data collection, organizing, messaging, and negotiations with key stakeholders.

Policy implementation has been rigorous, and thus far, quite successful. The Department of Public Health developed resources and tools to educate retailers about how the law might affect them and to process tobacco permit applications more effectively. Policy implementation has resulted in a 30 percent decline in the total number of tobacco permits in the city, and districts with the highest number of tobacco retailer licenses before the policy’s implementation have shown the greatest declines.

However, given the complexity of the density law, retailer education may have been inadequate. The policy contains several complicated exceptions, and many retailers remain confused by the policy. Some retailers have expressed concern that the law has negatively impacted their livelihoods. Although efforts were made to educate retailers and obtain community support before the policy took effect, more extensive retailer education, coupled with other outreach efforts, prior to and after policy passage might have made for a smoother implementation. It also might have resulted in a policy that was easier to communicate, implement, and enforce.



Map of Tobacco Permits in San Francisco by District, Before the Density Policy (2014). Credit: San Francisco Tobacco-Free Project

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[Vaping Prevention Resource](#) is a leading online destination for vaping prevention media, research, policy, and advocacy. A non-commercial, educational resource for communities, VPR was created by UNC-Chapel Hill researchers working on the front lines of tobacco control at the Lineberger Comprehensive Cancer Center and affiliated UNC schools.



IMAGE SOURCES AND CREDITS

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