



# Monterey County

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Board Report

File Number: 22-628

**Agenda Date:** 7/12/2022

**Version:** 1

**Status:** Agenda Ready

**In Control:** Board of Supervisors

**File Type:** General Agenda Item

Receive a presentation from the Monterey County Health Department (MCHD), Tobacco Retail Licensing Program on young adult tobacco purchase survey data, enforcement activities, fines and penalties, and the MCHD strategies to improve the effectiveness of young adult tobacco purchase surveys, and enforcement.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive a presentation from the Monterey County Health Department (MCHD), Tobacco Retail Licensing Program on young adult tobacco purchase survey data, enforcement activities, fines and penalties, and the MCHD strategies to improve the effectiveness of young adult tobacco purchase surveys, and enforcement.

### SUMMARY/DISCUSSION:

In May 2012, the Monterey County Board of Supervisors adopted Ordinance Number 5200 to add Chapter 7.80 to the Monterey County Municipal Code to establish local licensing requirements for tobacco retailers operating in unincorporated Monterey County. The purpose of the ordinance is to further reduce illegal sales of tobacco products to youth and young adults by increasing the frequency of outreach and education to tobacco retailers and enforcement of tobacco laws.

Today, the county and eight cities require tobacco retailers to obtain an annual local tobacco retail license from the MCHD in addition to the state tobacco retail license from the California Department of Tax and Fee Administration (CDTFA). The current annual cigarette and tobacco products license fee set by CDTFA is \$265, and the license fee set by MCHD is \$384.

Since the inception of the Tobacco Retail Licensing (TRL) program in 2012, there has been a 25 percent reduction in tobacco retailers. Program staff speculates that tobacco retailers withdrew from the tobacco market because new local fees were introduced and/or low tobacco product sales revenues did not warrant the cost of the local fee. There are approximately 317 tobacco retailers operating in the nine jurisdictions with a TRL ordinance, which represent approximately 90 percent of Monterey County tobacco retailers. To date, the cities of Del Rey Oaks, Greenfield, Marina, and Sand City have no TRL ordinance.

A strong TRL ordinance ensures tobacco retailers are compliant with local, state, and federal laws that address public health concerns in the tobacco retail environment such as the illegal sale of tobacco to youth. In addition, TRL ordinances ensure retailers are held accountable for violating tobacco control

laws. Currently three Monterey County agencies work together to enforce tobacco control laws with an emphasis on educating retailers before active enforcement begins.

The Monterey County Public Health Bureau (PHB) onboards new retailers by providing outreach and education and collecting the application and the initial fee. PHB provides ongoing outreach and education to existing licensed tobacco retailers while the Monterey County Environmental Health Bureau (EHB) provides annual TRL invoices to retailers and collects fees. EHB enforces the TRL ordinance by providing annual inspections at the point of purchase to ensure compliance issues are addressed onsite. The Monterey County Sheriff's Office conducts young adult tobacco purchase surveys to identify tobacco retailers that are not in compliance. Additional enforcement is conducted by the Stop Tobacco Access to Kids Enforcement (STAKE) program of the Food and Drug Branch of the California Department of Public Health.

Various data sources reveal local tobacco retailers have sold tobacco to youth and young adults within Monterey County. STAKE program data reveal that for nearly two-decades the rate of illegal sales of tobacco to youth has been approximately 29 percent. More recent STAKE program data from 2019, shows a 55.2 percent illegal sales rate within the Central Coast region of Monterey, San Benito, and Santa Cruz Counties. Monterey County Sheriff's Office data from 2019 shows a 16 percent illegal sales rate in the cities of Gonzales, Salinas, and Soledad.

Tobacco retail licensing fines and penalties should be set high enough to provide a financial deterrent for licensed tobacco retailers. TRL ordinances should also include the suspension and/or revocation of the license for ongoing violations. Local law enforcement agencies have the general authority to enforce state penal code section 308 that includes progressive fines based on the number of violations; \$200 for the first, \$500 for the second and up to \$1,000 for the third violation. The Monterey County TRL ordinance also has progressive fines based on the number of violations; \$1,000 for the first and \$5,000 for the second violation. The Monterey County TRL ordinance also includes progressive penalties based on the number of violations; revocation of the tobacco retail license for one day following the first violation and ten days following the second violation. The District Attorney's Office may also choose to pursue penalties or injunctions under California's Unfair Competition Law.

The ability of a TRL program to further reduce the illegal sale of tobacco products to youth and young adults depends on effective outreach and education to retailers, effective young adult tobacco purchase surveys and enforcement. Under the current county TRL ordinance, the County Health Officer issues licenses, and as stated earlier MCHD provides education, receives applications, collects fees, and issues fines and penalties. MCHD has delegated the Monterey County Sheriff's Office as the entity to conduct young adult tobacco purchase surveys. PHB has facilitated meetings with EHB and the Monterey County Sheriff's Office to discuss opportunities to enhance outreach and education and to improve the young adult tobacco purchase survey portion of the program. MCHD has identified strategies that could improve the effectiveness of the TRL program such as enhancing outreach and education to retailers, delegating EHB as the entity to conduct young adult purchase surveys, and reassessing fees to cover the cost of the program. MCHD requests support from the Board to implement these strategies. MCHD will work with the Monterey County Sheriff's Office, EHB, County Counsel, and the incorporated cities to implement these strategies.

File Number: 22-628

This work supports MCHD 2018-2022 Strategic Plan Goal: 2. Enhance public health and safety through prevention. Additionally, this work supports four of the ten essential public health services: 3. Communicate effectively to inform and educate people about health, factors that influence it, and how to improve it; 4. Strengthen, support, and mobilize communities and partnerships to improve health; 5. Create, champion, and implement policies, plans, and laws that impact health; and 6. Utilize legal and regulatory actions designed to improve and protect the public’s health.

OTHER AGENCY INVOLVEMENT:

The office of the County Counsel has reviewed and approved the presentation.

FINANCING:

There is no financial impact to the General Fund from receiving this report.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Strategic Initiative Policy Areas integrate with the Board Policy Manual Policies:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

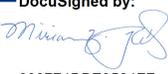
- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Michelle House, Health Program Supervisor, 755-4607

Approved by:

DocuSigned by:  
  
 293774DBE9524FF...

Date: 6/28/2022 | 1:59 PM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

PowerPoint Presentation