
The Truth About the Tobacco Industry and the Retail Environment

Tobacco companies rely on the retail environment to reach both current and future customers by advertising and promoting their products and normalizing the presence of tobacco products in everyday life.¹⁻⁴ Point-of-sale tobacco marketing refers to advertising and promotions by the tobacco industry to sell its products in the retail environment, such as product displays and placement, exterior and interior advertisements, and promotional and price incentives for consumers.^{5,6}

The industry's investment in marketing in the retail environment reveals the importance it places on this sales tool. The tobacco industry spent almost \$9.5 billion marketing its cigarette, smokeless tobacco, and e-cigarette products in 2021, the most recent year with data for all three categories. Almost \$9.1 billion (or 95.6%) of that was spent on marketing in the retail environment that year, amounting to over \$1 million every hour.^{2,3,7}

This report reviews the science around marketing in the retail environment and the massive impact it has on driving tobacco use, particularly among youth and young adults. It examines how state and local governments have spearheaded innovative solutions to mitigate this impact and highlights endgame policies that restrict points of sale.¹

¹ While retail display, price discounting, and promotional practices and policies may include anything related to the retail environment (including health warnings, minimum legal sales age, tobacco taxation), this report focuses on tobacco retailer licensing, retailer density, price discounting, retail placement, and promotional practices. This report does not cover the online tobacco retail environment.

The impact of tobacco marketing in the retail environment

The reason the tobacco industry invests in the retail environment is simple: it works. When discounts and promotions are advertised in stores, tobacco product sales go up by as much as 30%.¹

Tobacco marketing in the retail environment is associated with impulse purchases of tobacco products. Cigarette displays at the point-of-sale tempt smokers to buy tobacco, even among customers not intending to do so and smokers trying to quit.^{8,9} A study of adult daily smokers found unintended cigarette purchases were made by 22% of study participants, and point-of-sale displays caused nearly four times as many unplanned purchases as planned purchases.¹⁰ Another study found that 11.3% of cigarette pack buying was described as unplanned. Young adults ages 18-24, in particular, were more likely to make unplanned cigarette pack purchases.¹¹ These impulse purchases are sometimes made instead of a planned purchase on items like food.¹²

Retail marketing and in-store advertising and display is also associated with compromising quit attempts.^{13,14} A study interviewing smokers who had attempted to quit in the last six months found that the high visibility of tobacco product advertising in-store was extremely tempting and stymied cessation attempts.¹⁴ Another study found that higher exposure to in-store advertising and price promotion at the point-of-sale was associated with a lower probability of successful quitting among adult smokers.¹⁵ Exposure to e-cigarette advertising in the retail environment is also associated with compromising cigarette smoking cessation. A study of 18- to 29-year-old current cigarette smokers found that exposure to e-cigarette product displays was associated with lowered odds of cigarette smoking abstinence at a six-month follow-up.¹⁶ A survey of young adult smokers found that one in three reported that frequent exposure to tobacco advertising made it difficult to quit.¹¹

Research shows point-of-sale marketing is more prevalent in communities with a greater number of low-income residents and groups that have been economically and socially marginalized, and it is more effective in garnering the attention of these communities and populations.¹⁷⁻²² A study of adult current smokers found that those with incomes below the poverty level were more likely to notice in-store tobacco promotions and ads and were more than twice as likely to purchase a tobacco product due to a special price promotion.²³ Black or Hispanic individuals have higher odds of reporting exposure to tobacco advertising than those who are White.^{21,22}

This phenomenon is not limited to cigarettes – geographic, socioeconomic, and racial and ethnic disparities also exist for exposure to e-cigarette advertising in the retail environment.²⁴ In one study of point-of-sale e-cigarette advertising in Omaha, Nebraska, higher levels of exposure to such advertising was significantly associated with lower median household income, higher percentage of Hispanic individuals, and higher percentage of young adults.²⁴

Youth

Youth are especially affected by tobacco marketing in the retail environment. Advertising and promotional efforts by tobacco companies influence the initiation and progression of tobacco use among young people.^{1,25–27} Studies show that tobacco use is associated with both exposure to retail advertising and relatively easy in-store access to tobacco products.¹ Frequent exposure to tobacco product advertising and retail marketing over time normalizes tobacco and smoking for youth and makes them more likely to smoke.^{26,28,29} In fact, youth who are more frequently exposed to point-of-sale tobacco promotion have 1.6 times higher odds of having tried smoking and around 1.3 times higher odds of being susceptible to future smoking, compared to those exposed less frequently.²⁶ Exposure and attention to the tobacco power wall, the area behind the cash register where tobacco advertising is concentrated and tobacco products are displayed, in particular, is associated with future smoking susceptibility.³⁰

The retail environment also has a great impact on youth use of e-cigarettes. E-cigarette use has increased greatly in recent years, especially among youth and young adults who use e-cigarettes more than any other age group. While youth prevalence has fallen in the past few years, current use is still concerning. Exposure to e-cigarette ads in the retail environment is associated with susceptibility to use among youth, higher likelihood of current e-cigarette use, and the perception of reduced harmfulness of e-cigarettes compared to regular cigarettes.^{31–33} Exposure to the tobacco power wall is associated with willingness to use e-cigarettes in the future.³⁴ In particular, youth visiting convenience stores at least weekly have 1.51 times the odds of e-cigarette susceptibility and 1.79 times the odds of e-cigarette initiation, compared to youth who never visit convenience stores.³¹

Tobacco marketing in the retail environment is also associated with youth brand preference.^{1,35} Youth who described frequent exposure to tobacco marketing in retail stores had a greater likelihood of attributing positive imagery to specific

tobacco product brands. Other studies show that youth who view photos of stores with tobacco displays and advertising have a greater likelihood of overestimating the percentage of adolescents and adults who smoke and believe that tobacco products are easier to buy than those who view photos without retail tobacco advertising. Research also shows that youth smokers prefer tobacco brands marketed most heavily in the convenience store closest to their schools.¹

Licensing and retailer density

Retailer density is an important predictor of youth and young adult smoking. This is unsurprising since, as previously noted, youth are especially susceptible to marketing in the retail environment. As the number of tobacco retailers increase, so does exposure to tobacco advertising and promotion. As of 2022, an estimated 380,000 retailers sell tobacco products in the U.S.³⁶ This number is equivalent to 25 tobacco retailers for every Starbucks or 28 tobacco retailers for every McDonalds.³⁷ According to data from 2016, an estimated 48% were convenience stores (with and without gas), 25% were supermarkets, 13% were off-premise liquor stores, 7% were pharmacies, 4% were tobacco shops, and 3% were discount department stores, warehouse stores, and newsstands.³⁸ The number of tobacco retailers that are pharmacies may be underestimated as many supermarkets and warehouses also contain retail pharmacies.

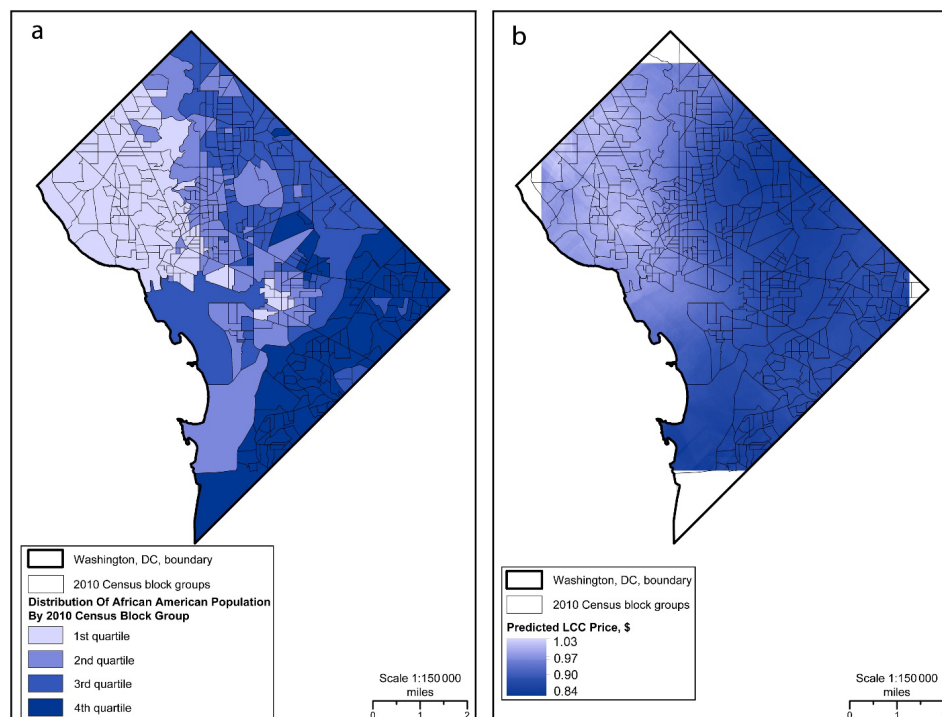
Experimental smoking among youth is correlated with the number of tobacco retailers in high school neighborhoods and in communities where youth live.¹ In one study, the incidence of smoking was significantly higher among students in schools with the highest density of surrounding tobacco retailers compared with students in schools without any tobacco retail outlets.³⁹

Tobacco retailers are often more heavily populated in areas with a greater number of minority and low-income residents.⁴⁰⁻⁴² This may account for the significantly higher prevalence of youth and adult smoking found within populations with low socioeconomic status (SES). Young adults living in communities having a high density of residents from racial/ethnic minority backgrounds and/or lower socioeconomic statuses are more likely to be exposed

to tobacco marketing, especially flavored tobacco marketing, than those who live outside these communities.⁴³ In Philadelphia, for example, low-income areas

have 69% more tobacco retailers per person and more tobacco retailers within 500 and 1,000 feet of schools than high-income neighborhoods. These low-income areas also have higher adult smoking rates than the high-income areas.⁴⁴ In major cities like Washington, D.C., there are up to 10 times more tobacco advertisements in neighborhoods with a majority of Black residents compared with other neighborhoods.^{17,45,46} Little cigars and cigarillos and menthol tobacco products are also cheaper in neighborhoods with a majority of Black or young adult residents, a technique used by the tobacco industry to increase demand, particularly among price-sensitive populations.^{19,45}

The figure below from 2017 shows that as the proportion of Black residents in Washington, D.C. neighborhoods increases, the predicted price per cigarillo decreases. Figure (a) shows the quartile distribution of the Black population in Washington, D.C., with darker blue representing a greater number of Black residents. Figure (b) shows a prediction map of price per cigarillo with darker colors representing lower prices.



Pharmacies play an important role in our health system as community resources for health information and services. Despite their increasing importance in health

care, pharmacies are also leading retailers of tobacco products.¹ In 2014, CVS Health stopped selling tobacco products and eight months later reported that cigarette purchases had dropped a percentage point in states where the company has a large presence. That amounted to 95 million fewer packs of cigarettes sold in those states in the eight months following the tobacco removal.⁴⁸ Consumers who purchased cigarettes exclusively at CVS were 38% more likely to cease buying cigarettes after their removal. Those who had bought three-or-more packs during the study's baseline, or had greater baseline cigarette consumption, were more than twice as likely to cease buying cigarettes.⁴⁹ Furthermore, a study using CDC data found 66% of U.S. adults favor a ban on tobacco products in pharmacy stores, including nearly half of smokers.⁵⁰ In 2015, almost 54,000 pharmacies in the United States sold tobacco products.⁴⁷

The tobacco industry understands the impact of policies that limit tobacco retailer licensing and density and has in fact sued to prevent such regulations. In 1999, Lorillard Tobacco Company sued the Attorney General of Massachusetts over a regulation prohibiting outdoor advertising within 1,000 feet of a school or playground.⁵¹

Price

Over time, tobacco company expenditures have become increasingly concentrated on marketing efforts that reduce the price of tobacco products, especially at the point-of-sale.¹ Tobacco companies employ several options for reducing the prices of their products, ranging from directly dropping the wholesale prices to engaging in a variety of price-reducing tactics such as couponing, multipack discounts (e.g. buy-two-get-one-free or buy-two-for-one deals), and price discounts (e.g. \$2.50 off one pack).¹ Retailers also frequently sell cigars, little cigars, and cigarillos as singles or in multi-packs for less than \$1. In the past decade, price-reducing promotions have been the primary means of price competition among manufacturers, with some evidence that these promotions have been targeted to specific brands or venues that are important for young people.¹ For example, from 1985-1986, RJ Reynolds promoted its Camel brand cigarettes to 18- to 24-year-old males in the Midwest with price-reducing promotions like “buy three, get three free” discounts, leading to a

dramatic increase in the brand's market share after a previously flat-to-declining-share trend.⁵²

These price-reducing promotions also mitigate the impact of tax increases. When retail prices rise following tax increases, tobacco companies engage in a variety of price-related marketing efforts to soften the impact of the increased prices, such as increased distribution of coupons and multipack discounts.¹ There is also evidence that the tobacco industry uses pricing promotion strategies to lower cigarette prices in states with stronger state and local tobacco control policies than in states with weaker policies. This strategy is used to offset the impact of these policies on tobacco use.¹ This was shown in a study using data from 1960-1990 that found states and localities with stronger tobacco control laws had lower cigarette prices, or price discrimination.⁵³

The industry knows that price increases have an immediate negative impact on sales. We know that both youth and adult smokers are sensitive to price promotions, and low-income and minority smokers have greater price-responsiveness.^{1,54-56} The Surgeon General's 2012 Report concluded that "the industry's extensive use of price-reducing promotions has led to higher rates of tobacco use among young people than would have occurred in the absence of these promotions".¹ Tobacco product coupons are received more often by individuals of lower educational attainment, higher intensity tobacco users, and people who identify as sexual and gender minorities.⁵⁶ Tobacco companies also target female, low socioeconomic status, and BIPOC customers with coupons.^{20,57-60} Receipt of coupons or redemption is associated with increased tobacco initiation among those who had not previously used tobacco products and reduced smoking cessation among current tobacco users.^{56,61} To increase demand particularly among price-sensitive populations, the tobacco industry has also lowered prices for little cigars and cigarillos in neighborhoods where the majority of residents are Black or young adults.⁴⁵ The tobacco industry has employed similar tactics to target Black people with menthol cigarettes: in California, for each 10 percentage point increase in the proportion of Black high school students in a given neighborhood, the cost of Newport cigarettes, a menthol brand, was 12 cents lower.¹⁹ In Los Angeles County, a disproportionate quantity of price promotions and the lowest advertised pack price for menthol cigarettes was found in stores located in neighborhoods with predominantly Black residents.⁶²

Keeping the price of tobacco products high is a great benefit to public health. In fact, a CDC study found that a \$10 per pack retail price (a target established in the 2014 Surgeon General's Report⁶³) combined with eliminating discounts could

result in almost 638,000 fewer youth smokers, almost 4.2 million fewer young adult smokers, and more than 7.7 million fewer adult smokers aged 26 years and older, just one year after implementation. A \$10 per pack retail price with no discounts would be expected to prevent the early deaths of approximately 1.5 million U.S. youth and young adults.⁶⁴

In-store promotion

The tobacco industry promotes its products at the point-of-sale through displays and advertisements, spending a great deal of money to do so. In 2014, the tobacco industry spent over \$270 million dollars promoting its products at the point-of-sale through displays and advertisements.^{65,66}

Tobacco companies provide retailers with incentives for advertising their products, and many retailers take advantage of these incentives. A majority of retail stores participate in at least one cigarette company incentive program and nearly four out of five participating retailers report that the tobacco company supervises the location of marketing materials in their stores.^{1,67} A 2014 study found that 96% of stores that sold cigarettes, including gas stations, convenience stores, and tobacco shops, had at least one tobacco marketing item, with an average of 29.5 items per store. These marketing items included branded signs, displays, shelving units, and functional items such as doormats.⁴⁷

The tobacco power wall, the area behind the cash register where tobacco advertising is concentrated and tobacco products are displayed, is invaluable for the industry in marketing its products in the retail environment.⁶⁸ A study using mobile eye-tracking technology found that 72% of retail customers, regardless of smoking status, fixated on the power wall at some point during the time period of selecting a candy bar to cashing out.⁶⁸ Additionally, in the post survey, 96% of study participants indicated they noticed a cigarette brand, and 64% were able to describe a specific part of the tobacco wall or recall a promotional offer.⁶⁸

Youth are frequently exposed to tobacco product in-store promotion. Stores where adolescents shop frequently have been found to have more cigarette marketing than other stores in the same community.^{1,69} Studies show that youth

are more likely to progress from never smoking to experimental smoking as the frequency of point-of-sale tobacco product advertising and promotion increases.¹ Frequency of walking to school and stopping at tobacco-selling retailers, mostly gas stations and convenience stores, is strongly associated with current use of

cigarettes, e-cigarettes, and cigars among youth, likely due to increased exposure to marketing both on the exterior and in retail stores.⁷⁰ Young adults are also frequently exposed to tobacco product in-store promotion. A study of college campuses in North Carolina and Virginia found that 94.4% of tobacco retailers located near campuses in 2013 displayed interior tobacco product advertising and 60.5% displayed exterior advertising.⁷¹

The convenience store environment, where 70% of youth shop at least once a week, heavily promotes tobacco products.¹ Convenience stores have more tobacco marketing and sell more cigarettes than any other type of retail store. Cigarette sales account for one-third of *all* purchases at convenience stores.¹ About 92% of convenience stores have at least one tobacco branded advertisement or display and a majority of youth in the U.S. describe seeing tobacco product advertising and promotion all or most of the time when they visit convenience stores.^{1,67}

Tobacco industry marketing differentially appeals to people with the lowest income and education through point-of-sale advertising. There is more in-store tobacco advertising in predominantly racially diverse and low-income neighborhoods.^{1,17,20} The marketing of smokeless tobacco products is greater in rural neighborhoods and neighborhoods with more White residents.²⁰ In California, for each 10 percentage point increase in the proportion of Black high school students, the proportion of menthol advertising in the neighborhood increased by 5.9 percentage points and the odds of a Newport promotion were 50% higher.¹⁹ This may account for the extraordinarily higher proportion of Black smokers who use menthol cigarettes as nearly 9 in 10 Black smokers (88.5%) ages 12 years and older use menthol cigarettes.⁷²

Restricting the promotion of tobacco products at the point-of-sale would benefit public health. A recent modelling study suggests that restricting tobacco product displays and advertisements in the retail environment in the U.S. would reduce smoking prevalence by approximately 16% by the year 2065, thus preventing about 630,000 smoking-attributable deaths, 215,000 low birth weight births, 140,000 preterm births, and 1,900 infant deaths from SIDS.⁷³

Placement

We know that point-of-sale marketing encourages impulse purchases and increased sales of tobacco products, so it's not surprising that tobacco

companies strategically place their products front and center, making them easy for customers to see. They frequently do this by entering into contractual agreements with retailers that receive financial incentives in return for the placement of tobacco products in highly visible locations around the counter. These incentives help those stores price their tobacco products lower than competitors.¹

In most retail stores, the cashier counter is the best place for advertising and is where impulse buying is encouraged since customers must stop there before leaving. Tobacco companies use this to their benefit and place their products and ads strategically around checkout counters to ensure the most exposure and stimulate impulse purchases of their products.¹ For example, in California, 85% of stores have marketing materials for tobacco products within four feet of the counter and nationally, 85% of tobacco shelving units and 93% of tobacco displays are located in the counter zone.¹

While the tobacco industry acknowledges that products and advertising should be placed at adult eye level to avoid young children being exposed, about one-third of stores have low-height interior tobacco ads. In a California study, almost half of stores had at least one cigarette marketing item at or below 3 feet from the floor and almost 25% had cigarette displays next to candy.¹ In New York City, 37.2% of cigarette, cigar, smokeless tobacco, and e-cigarette advertisements were placed at a height lower than three feet.⁷⁴ While the Tobacco Control Act requires cigarettes and smokeless tobacco products to be placed behind the counter, this does not apply to other tobacco products.^{75,76} Thus, products like little cigars and e-cigarettes, which often come in youth-appealing flavors, are not subject to the behind-the-counter restriction and may be placed on countertops in tobacco retailers where they are visible and easily accessible to youth. A study of tobacco retailers in North Carolina found that more than half of retailers (52.3%) placed e-cigarettes in front of the counter, on top of the counter, or in multiple locations, while only 47.7% placed them exclusively behind the counter.⁷⁷ Additionally, 13.6% of the tobacco retailers, all convenience stores, placed e-cigarettes next to candy.⁷⁷

Placement of tobacco products at the point-of-sale affects impulse purchases made by adults. One study used a virtual convenience store to create scenarios in which the tobacco product display was either fully visible or enclosed behind a cabinet (display ban). Compared with adult recent quitters in the fully visible tobacco product display conditions, adult recent quitters in the display ban condition had lower urges to smoke. Additionally, compared with adult current

smokers in the fully visible conditions, adult current smokers in the display ban conditions were less likely to attempt to purchase cigarettes in the virtual store.⁷⁸

Policy environment

FDA regulation

- **Promotion and placement:** The 2009 Tobacco Control Act gave the FDA the authority to regulate tobacco products. The law prohibits vending machine sales except in adult-only facilities and prohibits self-service displays and brand-name non-tobacco promotional items.⁷⁹ The 2009 Tobacco Control Act also preserves the authority of state and local governments to impose specific bans or restrictions on the time, place, and manner, but not content, of the advertising and promotion of tobacco products.⁸⁰ In May 2016, the FDA finalized its “deeming” regulation, extending its authority to all tobacco products, including e-cigarettes, cigars, hookah, pipe tobacco, nicotine gels, and dissolvables.
- **Price:** Other than taxation of tobacco products, the federal government has limited experience with policies impacting the price of tobacco products in the retail environment. The 2009 Tobacco Control Act prohibits the sale of packages of fewer than 20 cigarettes as well as free giveaways or free sample cigarettes or smokeless tobacco².⁷⁹ The finalization in 2016 of the FDA’s “deeming” regulation extended the prohibition of free samples to the newly regulated tobacco products, including any of their components or parts.
- **Licensing:** Licensing and commercial zoning are areas of local concern. The federal government has no regulations affecting tobacco retailer licensing and density.

Assurances of voluntary compliance

² Free samples of smokeless tobacco are allowed in adult-only facilities

The 1998 Master Settlement Agreement between the major tobacco companies, 46 U.S. states, the District of Columbia and five U.S. territories resulted in the tobacco companies paying the states and territories billions of dollars in yearly installments. The money served as compensation for taxpayer money that had been spent in connection with tobacco-related diseases and the loss to local economies. As part of the agreement, the major tobacco companies also agreed

to new restrictions, including prohibiting tobacco advertising that targets youth; eliminating cartoons in cigarette advertising and outdoor, billboard, and public transit advertising; and prohibiting brand name merchandise.

Assurances of Voluntary Compliance (AVCs) are legally binding and enforceable agreements about tobacco advertising restrictions between state attorneys general and retailers that the attorney general believes either violated or may violate state consumer protection law regarding the marketing and sale of tobacco products. Retailers with AVCs with one or many states include BP, Chevron, Circle K, Conoco-Philips, Corner Store, CVS, Exxon, Kroger, Rite Aid, Safeway, Shell, 7-Eleven, Valero, Walgreens, and Walmart. While nearly all existing AVCs predate the introduction of e-cigarettes on the market, there is some evidence that they have an impact on illegal e-cigarette sales to minors.^{37,82}

Common AVC provisions include retailers agreeing to:

- Refrain from using tobacco advertising that targets youth
- Refrain from selling candy cigarettes and other tobacco product look-alikes
- Prohibit the use of vending machines on store premises
- Prohibit self-service tobacco displays
- Install and use cash registers that require store clerks to enter customers' birth dates before completing the sale
- Not sell smoking paraphernalia, including matches and lighters, to youth
- Use independent agencies to conduct unannounced compliance checks
- Not to hire anyone under the age of 18 for positions that involve selling tobacco products
- Train each new employee about the law and company policy regarding underage sales.^{37,82}

Other provisions in some AVCs that affect tobacco advertising at the retail environment include:

- Limiting tobacco signage to brand names, logos, and prices

- Confining all tobacco advertising signage inside the store to the area where tobacco products are sold
- Maintaining a company policy that prohibits tobacco advertising inside the store that appeals to, or directly or indirectly targets youth
- Prohibiting tobacco advertising signs that are located outdoors or on windows facing outward at stores located within 500 feet of any public playground area or any elementary or secondary school
- Maintaining a company policy that prohibits placement of tobacco signage adjacent (within two feet) to candy, toys or other products typically purchased by or for children.³⁷

State and local policies

The following are noteworthy examples of state and local policies regarding tobacco retailer licensing and density and the price, promotion, and placement of tobacco products in the retail environment. Please note this is not a comprehensive list of all such policies.

Tobacco retailer licensing and density:

- Prohibit the sale of all tobacco products:
 - Beverly Hills, California, prohibits the sale of all tobacco products in the city. Cigar lounges are exempt and guests in the city's luxury hotels can acquire cigarettes through their concierge or room service.⁸³
 - Manhattan Beach, California, prohibits the sale of all tobacco products.⁸⁴
- Prohibit pharmacies from selling tobacco products:
 - Massachusetts, New York, and 255 municipalities in California, Massachusetts, Minnesota, and New York prohibit the sale of tobacco products in pharmacies.⁸⁵
- Sunset tobacco retail licenses:
 - Bloomington, Minnesota, and Somerville, Massachusetts, have sunset tobacco retail licenses so that no additional tobacco retail licenses are issued and when a store with an existing tobacco retail license closes, that license is eliminated.^{86,87}
- Limit the nicotine content in tobacco products sold:
 - Massachusetts restricts the sale of products with a nicotine content of more than 35 milligrams per milliliter to adult-only stores and smoking bars.⁸⁸

- Utah prohibits the sale of e-cigarettes with more than 4% nicotine, beginning January 1, 2025.⁸⁹
- Philadelphia, Pennsylvania, prohibits the sale of cartridges or pods containing more than 20 milligrams per millimeter of nicotine, except in adult-only stores.⁹⁰
- Cap the number of tobacco retail licenses:
 - Philadelphia, Pennsylvania, limits the number of tobacco retailers in each planning district to 1 per 1,000 people.⁹¹
 - San Francisco, California, caps the number of tobacco sales permits in each of the city's 11 districts to 45.⁹²
- Limit tobacco retailers near youth-sensitive areas:
 - Denver, Colorado, prohibits tobacco retailers within 1,000 feet of spaces that cater to children, like schools and city-owned recreation centers.⁹³

Price of tobacco products:

- Prohibit retailers from redeeming coupons or other discounts on tobacco products:
 - New Jersey, New York, Rhode Island, and at least 26 municipalities in California, Illinois, Maryland, Massachusetts, Minnesota, New York, and Rhode Island, including Chicago and New York City prohibit retailers from redeeming coupons or other discounts on tobacco products.
- Set a minimum price for tobacco products:
 - Colorado has established a minimum price of \$7 per pack of cigarettes. Beginning July 1, 2024, the minimum price will increase to \$7.50.⁹⁴
 - Minneapolis, Minnesota, has established a minimum price of \$2.60 for a single cigar, \$5.20 for a 2-pack or "double" pack, \$7.80 for a 3-pack, and \$10.40 for packs with 4 or more cigars.⁹⁵
 - New York City has established a price floor of \$13 for a pack of cigarettes, \$8 for smokeless tobacco, \$17 for shisha packages, \$6 plus \$1.75 per cigar in a package, and \$8 for individually packaged cigars.⁹⁶
 - San Diego County, California, requires a minimum price of \$10 for a pack of cigarettes, \$5 for cigars in a package, \$10 per package of 20 little cigars, \$20 for e-cigarettes per device, \$30 for e-cigarette starter kits, and \$10 for each unit of e-liquid.⁹⁷

- Set minimum packaging requirements for tobacco products:
 - Antioch, California, requires a minimum package of 20 for little cigars and 6 for all other cigars.⁹⁸
 - San Diego County, California, requires a minimum package of 6 for cigars, except those that cost \$10 or more per cigar.⁹⁷

Promotion of tobacco products:

While states and localities are permitted to regulate the time, place, and manner of tobacco advertising, policies dealing with advertising restrictions must be dealt with carefully, due to First Amendment considerations. However, there are some policies that pass constitutional muster and help restrict exposure to advertising in the retail environment.

- Prohibit giveaways:
 - New York City prohibits retailers from giving away or discounting other items, such as lighters, in connection with the sale of tobacco products.^{99–101}
- Limit the number, size, and placement of advertising signs:
 - California prohibits alcohol retail stores like grocery stores, liquor stores, and any other store that is licensed to sell alcohol for consumption away from the premises from covering more than 33% of the square footage of windows and clear doors with signs of any sort, including signs advertising tobacco products.¹⁰²
 - Nassau County, New York, prohibits businesses located within 1,000 feet of places where children frequent such as schools, parks, and child daycare centers from displaying advertising of products that are age-restricted, including tobacco products.¹⁰³
 - Philadelphia, Pennsylvania, allows only 20% of windows and transparent doors facing a street at businesses located in a fixed structure from being covered with signs.¹⁰⁴

Placement of tobacco products:

- Prohibit self-service displays and require tobacco products to be kept out of view or behind the counter:
 - Minnesota prohibits self-service sales, except in adult-only facilities.¹⁰⁵

- New York requires tobacco products to be stored for sale behind a counter in an area accessible only to store personnel or in a locked container, except in adult-only facilities.^{99–101}

Action Needed

Truth Initiative’s mission is to prevent youth and young adult nicotine addiction and empower quitting for all. Strong restrictions on advertising, discounting, promoting, and selling tobacco in the retail environment are important to protecting youth and young adults from a potential lifelong addiction and the disease and death that result from tobacco use. Regulation of tobacco marketing practices in the retail environment are not as widespread or commonly employed as taxation or clean indoor air laws; however, [evidence](#) suggests they are potentially powerful and underutilized policies. Restrictions on price, promotion, and placement of tobacco products to reduce supply, availability, and ultimately consumer demand should be more frequently added to the traditional tobacco control toolbox of taxation, public education, and clean air laws to accelerate tobacco prevalence declines through increased cessation and prevention of initiation and progression. Consistent with Truth Initiative’s commitment to a future free from lifelong addiction, we support the following policies regarding tobacco retail marketing, discounting, and promotion practices:

- **The FDA must use all its power to enforce restrictions in the retail environment, including:**
 - **Removing all tobacco products that have not submitted premarket review applications or otherwise are illegally on the market.** The FDA should prioritize enforcement against products that appeal to youth and have the highest addiction potential – including products with high nicotine concentrations or with other design features that enable the delivery of high levels of nicotine.
 - **Establishing strong protocols with other federal agencies,** such as the Department of Defense, Customs and Border Protection, the Department of Treasury, and others to ensure a seamless enforcement approach across all agencies. This will result in relieving the backlog of products requiring enforcement actions, and eventually ensuring that the products on the market

- are only those that have followed the appropriate procedures and have in fact received marketing orders.
- **Issuing a product standard capping nicotine in combustible products** to non-addictive levels. Following this, the FDA should prioritize work to evaluate nicotine limitations in all tobacco products.
 - **Issuing a final rule establishing 21 as the minimum sales age in the United States.** In December 2019, Congress passed a law raising the federal minimum age of sale of all tobacco products to 21. Persistence of underage retail source purchases suggests retailer non-compliance with this law. While the law went into effect immediately, the FDA was also required to promulgate a final rule to conform regulations to that statutory change. The FDA has yet to finalize the regulation, which would allow the legislation to be fully implemented and enforced. The agency must act swiftly to issue a final rule and to increase transparency around enforcement of this law.
 - **Requiring that all tobacco products be kept behind the counter.**
 - **Prohibiting vending machine sales** and free samples.
- Given the well-documented association of exposure to point-of-sale tobacco marketing and initiation and progression of tobacco use among youth and young adults, **state and local governments should use their authority to protect their citizens from tobacco and regulate the tobacco retail environment by:**
 - Requiring a license for tobacco retailers
 - Expanding the scope of Assurances of Voluntary Compliance (AVCs) with retailers to include the marketing and promotion of e-cigarettes
 - Requiring tobacco retailers to prominently display signs detailing health risks associated with tobacco use and tobacco cessation information
 - Requiring tobacco retailers to carry and offer for sale at least one type of nicotine replacement therapy drug, device, or combination product that has been approved by the FDA for cessation of tobacco use
 - Prohibiting the sale of tobacco products with high nicotine content

- Limiting the sales of all tobacco products to adult-only stores where persons under the age of 21 are not allowed to enter
 - Limiting the number and location of tobacco retail outlets, including prohibiting tobacco retailers from being close to youth-sensitive areas like schools and parks
 - Sunsetting tobacco retail licenses so that no new tobacco retail licenses are issued and eliminating licenses when a store with a tobacco retail license closes
 - Prohibiting pharmacies from selling tobacco products
 - Setting a minimum pack size for all tobacco products, including cigars
 - Requiring retail stores to keep all tobacco products out of view or behind the counter
 - Banning self-service displays for all tobacco products
 - Prohibiting couponing and other discounting tactics designed to circumvent the impact of tobacco taxes
 - Setting minimum prices for tobacco products
 - Placing restrictions on all advertising in retail stores so that no advertisements of any product are allowed near cash registers and restricting advertisements to a defined percentage of window space.
- **Retailers that sell tobacco products can also self-regulate and be responsible actors by:**
 - Selling only those tobacco products that have received marketing authorization by the FDA
 - Displaying signage regarding tobacco and nicotine cessation resources
 - Carrying and offering for sale at least one type of nicotine replacement therapy drug, device, or combination product that has been approved by the FDA for cessation of tobacco use
 - Requiring all tobacco be kept out of view or behind the counter
 - Confining all tobacco advertising inside the store to only the area where tobacco products are sold
 - Refraining from displaying tobacco advertisements near the counter
 - Refraining from using self-service tobacco displays or vending machines to sell tobacco products
 - Refraining from displaying tobacco product advertisements on the exterior windows of the store.



2021 Advertising and Promotional Expenditures by the Largest U.S. E-Cigarette Manufacturers⁷

	E-cigarettes
Point-of-Sale Advertisements (materials displayed or distributed at a retail location)	\$96,481,845
Price Discounts (payments made to retailers and wholesalers to reduce the price of products to consumers, including off invoice discounts, buy downs, voluntary price reductions, and trade programs)	\$261,600,780
Promotional Allowances (payments made to retailers and wholesalers to facilitate the sale or placement of products, including payments made for stocking, shelving, displaying and merchandising brands; volume rebates; incentive payments; the cost of products given to retailers for free for subsequent sale to consumers; value-added services; promotional execution and satisfaction of reporting requirements)	\$271,412,879
Coupons (for reduction of purchase price)	\$27,415,390
Sampling	\$59,455,666
Consumer Engagement – Retail (all costs of consumer engagement at retail locations open to underage individuals)	N/A
Retail Value Added (expenditures for promotions involving free products that are given to consumers in connection with a purchase of tobacco products)	\$883,087
Total	\$717,249,647



2022 Advertising and Promotional Expenditures by the Largest U.S. Cigarette and Smokeless Tobacco Manufacturers^{2,3}

	Cigarettes	Smokeless Tobacco	Total
Point-of-Sale Advertisements (materials displayed or distributed at a retail location)	\$37,304,000	\$14,085,000	\$51,389,000
Price Discounts (payments made to retailers and wholesalers to reduce the price of products to consumers, including off invoice discounts, buy downs, voluntary price reductions, and trade programs)	\$6,876,324,000	\$394,304,000	\$7,270,628,000
Promotional Allowances (payments made to retailers and wholesalers to facilitate the sale or placement of products, including payments made for stocking, shelving, displaying and merchandising brands; volume rebates; incentive payments; the cost of products given to retailers for free for subsequent sale to consumers; value-added services; promotional execution and satisfaction of reporting requirements)	\$824,690,000	\$72,892,000	\$897,582,000
Coupons (for reduction of purchase price)	\$89,452,000	\$29,921,000	\$119,373,000
Sampling	N/A	\$220,000	\$220,000
Total	\$7,827,770,000	\$511,422,000	\$8,339,192,000

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