



SMOKELESS TOBACCO PRICING STRATEGIES

Minimum Pricing Policies

/// Comprehensive tobacco pricing policies are an effective way to combat the commercial tobacco¹ epidemic.

The availability of cheap tobacco products significantly contributes to commercial tobacco initiation, sustains nicotine addiction, and hampers cessation. Increasing the cost of tobacco products can thus reduce use. Research on price sensitivity shows that “for every 10% increase in the price of cigarettes, adult smoking decreases by 3–5% and youth smoking decreases by 6–7%; and some studies find even greater reductions.”²

/// Tobacco Industry Marketing and Price Manipulation

According to the Federal Trade Commission, U.S. cigarette manufacturers spent a total of \$8.01 billion on advertising and promotion in 2022 alone. Most of this advertising and promotion was done at the point of sale, including price discounts. Over 70 percent of tobacco advertising



and promotion money was spent on price discounts,³ accounting for the largest expenditures in the tobacco industry's marketing budget.

California's relatively high tax on tobacco products has led to an increase in the pricing of tobacco products. However, the tobacco industry circumvents the effect of such taxes by manipulating tobacco product prices. State law prohibits the industry from engaging in the "nonsale distribution" of smokeless tobacco and cigarettes, which includes coupons and rebates offered for free or a nominal price. The law does allow the distribution of coupons and other promotions if they are associated with the sale of a product, including tobacco products. The state does not restrict coupons or price promotions for other tobacco products, such as electronic smoking devices and e-liquids.⁴

Industry price manipulation often occurs at the point where the purchaser will feel or experience the discounting: this is typically the point of sale. Pricing strategies can include discount coupons, multi-pack offers, and undisclosed payments and rebates from manufacturers to wholesalers and retailers. With these pricing tactics, the industry seeks to offset price increases caused by tobacco tax increases and keep its products affordable and attractive to all its customers, but especially to younger smokers who are typically the most price-sensitive consumers.⁵

Tobacco Marketing in Rural Communities

The tobacco industry targets rural communities by heavily marketing smokeless tobacco products — that is, nicotine products, such as dip, snuff, snus, and chewing tobacco, that are not smoked or burned but are sucked, chewed, and sniffed up the nose.⁶ This has led to rural tobacco users using smokeless tobacco at a disproportionately higher rate than their nonrural counterparts.⁷ A recent California-wide study that compared tobacco marketing of licensed tobacco retailers in rural and nonrural areas found that, compared to nonrural stores, rural stores were more than twice as likely to sell roll-your-own tobacco and chewing tobacco.⁸ Rural stores were also more likely to advertise discounts on chewing tobacco.⁹ The study also noted that greater availability of chewing tobacco in rural stores may also reduce "rural adolescents' perceptions of the harms of [commercial] tobacco use, as well as create pressure to be consistent with community norms including peer and young-adult [commercial] tobacco use."¹⁰

In addition to smokeless and roll-your-own tobacco, the study found that rural retailers were twice as likely to sell little cigars and cigarillos compared to nonrural retailers. It noted that rural retailers sold larger packs of cigarillos for less than \$1.¹¹ The availability of these cheap tobacco products, as well as the related advertising appeal to price sensitive individuals, leads to commercial tobacco use initiation and continued addiction.



The Way Forward

The World Health Organization Framework Convention on Tobacco Control¹² and the U.S. Surgeon General have both concluded that increasing tobacco product prices is the most cost-effective way to reduce commercial tobacco use and encourage cessation.¹³ Although various California jurisdictions have adopted minimum pricing laws for tobacco products, most of those laws have focused on cigarettes, little cigarettes, and cigars. Establishing minimum prices for smokeless and roll-your-own tobacco is not as common an approach. Local jurisdictions have broad authority in California when it comes to regulating tobacco products, including setting minimum pricing and adopting measures to close price loopholes, such as coupons and multi-pack offers. The failure to include smokeless products in minimum pricing laws continues to exacerbate health disparities, especially in communities that the tobacco industry targets for marketing of such products. Adopting comprehensive laws that set the minimum price for tobacco products goes a long way to minimize health harms caused by predatory industry marketing.

Minimum Pricing

One way to protect rural communities from cheap tobacco products is setting minimum prices for tobacco products, i.e., prices below which tobacco products may not be sold. For more information on how a jurisdiction can determine a minimum price, see our companion

publication, *Cigarette Minimum Price Laws*. Ideally, a minimum price restriction would be coupled with a minimum packaging requirement to create a baseline for the minimum price and to prevent retailers selling smokeless tobacco in smaller quantities at a lower price.

Minimum pricing restrictions prevent tobacco manufacturers from manipulating tobacco retail prices, geographically or by brand. Below are examples of California jurisdictions that have adopted minimum price laws:

Windsor, a rural community in Sonoma County, and Yolo County all have established minimum price and package sizes for various tobacco products in their communities. Windsor has the most comprehensive policy, which includes minimum prices for smokeless tobacco:

- k. Minimum Pack Size. Notwithstanding any other provision of this chapter, it shall be a violation of this chapter for any licensee or any of the licensee's agents or employees to sell, offer for sale, or exchange for any form of consideration:
 - 1. Any single cigar or little cigar, whether or not packaged for individual sale;
 - 2. Any number of cigars or little cigars fewer than the number contained in the Manufacturer's original consumer packaging designed for retail sale to a consumer;
 - 3. Any package of cigars or little cigars containing fewer than five (5) cigars;
 - 4. Any package of chewing tobacco or snuff containing fewer than five (5) units.

This section shall not apply to the sale or offer for sale of a single cigar for which the retail price exceeds five dollars (\$5.00).

- l. Minimum Price for Cigarettes, Little Cigars, Cigars, and Chewing Tobacco. No tobacco retailer shall sell to a consumer:
 - 1. A package of cigarettes at a price that is less than seven dollars (\$7.00) per package of twenty (20) cigarettes, including all applicable taxes and fees.
 - 2. A package of little cigars that is less than seven dollars (\$7.00) per package of five (5) little cigars, including all applicable taxes and fees.
 - 3. A package of cigars that is less than seven dollars (\$7.00) per five (5) cigars, including all applicable taxes and fees.
 - 4. A package of chewing tobacco or snuff that is less than seven dollars (\$7.00) per package of five (5) units.¹⁴



Conclusion

A number of California communities have adopted policies that establish minimum prices for certain tobacco products.¹⁵ However, many of those policies fail to address the most commonly used products. Research indicates that rural communities tend to use more smokeless and roll-your-own tobacco products than nonrural communities. Addressing the price of these products by setting minimum package size and pricing through local lawmaking is one way to reduce the use of smokeless and roll-your-own tobacco products and promote a healthier life for all rural community members.

This publication was prepared by the Public Health Law Center, a nonprofit organization that provides information and legal technical assistance on issues related to public health. The Center does not provide legal representation or advice. The information in this document should not be considered legal advice. This publication was made possible by funds received from Grant Number 19-10229 with the California Department of Public Health, California Tobacco Control Program, and the American Lung Association in California.

The publication was prepared in collaboration with RISE (Rural Initiatives Strengthening Equity) the Rural Statewide Priority Population Coordinating Center. RISE is funded by the California Department of Public Health, California Tobacco Prevention Program under grant number #23-10105. RISE is a program of the California Health Collaborative.



Endnotes

- 1 Traditional and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous communities and Tribes for centuries. Commercial tobacco is manufactured for recreational use and profit, resulting in disease and death. When the word “tobacco” is used throughout this document, a commercial context is implied and intended. For more information, visit the National Native Network website: <https://keepitsacred.itcni.org>.
- 2 ChangeLab Solutions, *Point-of-Sale Tobacco Pricing Policies: Equity, Public Health, & Legal Considerations*, <https://www.changelabsolutions.org/product/point-sale-tobacco-pricing-policies>.
- 3 Federal Trade Commission, *Cigarette Report for 2022* (2023), https://www.ftc.gov/system/files/ftc_gov/pdf/2022-Cigarette-Report.pdf.
- 4 CAL. HEALTH & SAFETY CODE § 118950.
- 5 Campaign for Tobacco Free Kids, *Significant Tobacco Tax Increases Reduce Tobacco Use, Particularly Among Youth, Despite Tobacco Company Price Discounts and Promotional Efforts* (2023), <https://assets.tobaccofreekids.org/factsheets/0402.pdf>; Public Health Law Center, *Policy Approaches to Restricting Tobacco Product Coupons and Retail Value-Added Promotions* (2013), <https://publichealthlawcenter.org/sites/default/files/resources/tclc-guide-policy-approaches-pricing-cppw-2013.pdf>.
- 6 Jean A. Talbot et al., *Advancing Tobacco Prevention and Control in Rural America* (2019), <https://nnphi.org/wp-content/uploads/2019/02/AdvancingTobaccoPreventionControlRuralAmerica.pdf>.
- 7 *Id.*; Joseph G.L. Lee et al., *A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing*, 105 AM. J. PUB. HEALTH e8 (2015).
- 8 Lisa Henriksen et al., *Retail Tobacco Marketing in Rural Versus Non-Rural Counties: Product Availability, Discounts, and Prices*, 21 HEALTH PROMOTION AND PRACTICE (2020).
- 9 *Id.*
- 10 *Id.*
- 11 *Id.*
- 12 World Health Organization, *Guidelines for Implementation of Article 6*, <https://fctc.who.int/publications/m/item/price-and-tax-measures-to-reduce-the-demand-for-tobacco>.
- 13 Campaign for Tobacco Free Kids, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)* (2023), <https://assets.tobaccofreekids.org/factsheets/0146.pdf>; World Health Org., *WHO Technical Manual on Tobacco Tax Policy & Administration*, <https://www.who.int/publications/i/item/9789240019188>; U.S. Dep’t Health & Human Servs., *The Health Consequences of Smoking: 50 Years of Progress* (2014), <https://www.hhs.gov/sites/default/files/consequences-smoking-exec-summary.pdf>.
- 14 WINDSOR, CAL., CODE § 3-11-115(k), (l) (2018). Note: The units of smokeless tobacco can vary depending on the type of product.
- 15 *California Municipalities That Set Minimum Price and/or Minimum Pack Size for Tobacco Products*, Policy Evaluation Tracking System (2024), https://pets.tcspartners.org/files/Chart%20of%20Minimum%20Price%20and%20Pack%20Policies_January%202024.pdf.