

# Tobacco Retail Regulations

## PRESENTERS:

Kyle Fliflet, Acting Director of Public Health, Health and Human Services Agency  
Karen Garner, Director, Planning and Building Department  
Jeffrey Warren, Director, Environmental Management Department

July 29, 2025



# Background

2022 - 2024

November 2, 2022, Impact of Vaping on our Youth Town Hall

December 5, 2023, the Board adopted Resolution of Intention (ROI) 179-2023, authorizing staff to amend Title 130 of the County Zoning Ordinances (Legistar file 23-1992)

January 30, 2024, the Board approved Urgency Ordinance 5192, imposing an interim 45-day moratorium on new tobacco retailer applications in unincorporated areas (Legistar file 24-0022)

March 12, 2024, the Board approved Urgency Ordinance 5197, extending the moratorium by 10 months and 15 days (Legistar file 24-0083). Staff were directed to return with a retail license ordinance that reflects the Board direction



# Background

2022 - 2024

September 12, 2024, proposed addition of Chapter 130.40.340 of Title 130 of the EDC Ordinance Code entitled “Tobacco Retailers” presented to the EDC Planning Commission for consideration

October 22, 2024, the Board approved Ordinance 5210 amending Section 130.22.020, “Matrix of Allowed Uses”, of Title 130 of the EDC Ordinance Code to add Tobacco Retail

November 5, 2024, the Board approved final passage of Ordinance 5211 amending Section 130.40.340 of Title 130 of the EDC Ordinance Code to regulate Tobacco Retailers

March 25, 2025, the Board provided conceptual approval to amend Ordinance 5211 exploring items identified by the community



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## Tobacco Retailers & Enforcement of Tobacco Retail Laws

The California Department of Tax and Fee Administration (CDTFA) is responsible ensuring compliance with state tobacco tax laws, including conducting retail inspections

CDTFA data shows that for fiscal year 2023-24, only 1 in every 10 (roughly 3,000 of 30,000) licensed tobacco businesses in California (inclusive of retail, wholesale, and distributors) received inspections

The State of California does not have the capability to routinely inspect retailers for compliance with tobacco laws in all jurisdictions, largely leaving this requirement to local agencies to add local control



## Tobacco Retailers & Enforcement of Tobacco Retail Laws

Local tobacco ordinances allow greater local control and enforcement of State and Local tobacco laws

As of October 2024, 237 jurisdictions throughout the State of California have adopted a tobacco retailer licensing ordinance



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## Tobacco Retailers & Enforcement of Tobacco Retail Laws

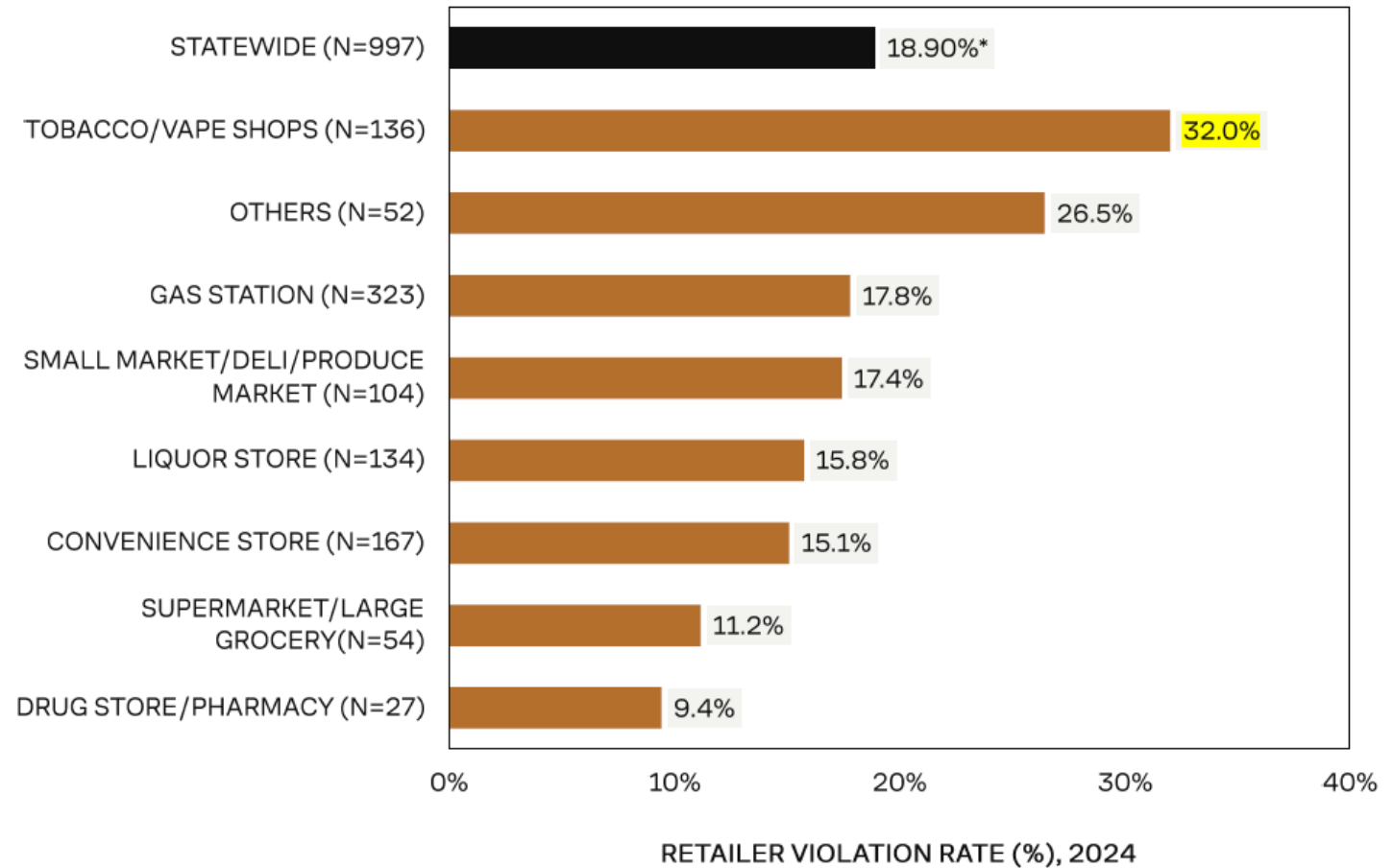
El Dorado County as a whole has 142 tobacco retailers, with 97 of those located in County unincorporated areas

Of the 97 retailers located in County unincorporated areas:

- 10 smoke shops (primary sales are tobacco & related products)
- 8 locations that include pharmacies
- 79 other retail locations (e.g., convenience, gas stations)



## Tobacco Retailers & Enforcement of Tobacco Retail Laws



\*Youth Tobacco Sales Data from Synar Tobacco Purchase Survey, 2024



Original  
Reference for  
Development of  
Ordinance 5211

Tobacco Retail Licensing Ordinance

Language modified from other like counties and cities with Tobacco retail license ordinances.

Included a necessary cost structure to fully offset General Fund use

Designed to provide local oversight, control, and retention of revenue generated from permits and penalties

Designed with the intent that inspections are conducted at least 1 or more times per each 12-month period

Enforcement was set to begin April 1, 2025



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## Board Direction for Changes to Ordinance 5211

### Tobacco Retail Licensing Ordinance

On March 25, 2025, following a presentation from staff and hearing public comment, the Board provided the direction to staff to explore modifications to Ordinance 5211, including differentiating the number of licenses between gas stations and smoke shops

And

To conduct an assessment of the potential economic impacts of implementing the Ordinance as written



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## Local Economic Impacts of Implementing the Current Local Tobacco Retail License Ordinance

Economic Development conducted a tax revenue impact assessment of the existing TRL Ordinance on two gas station tobacco retail locations based on restricting tobacco product types, package sizes, prices, and discounts.

### Sales Tax Losses (7.25% Local Rate):

Location A: \$1,151.88/month (restricted tobacco sales)

Location B: \$1,604.50/month (restricted tobacco sales)

### Potential Sales Tax Losses (Discount Prohibition):

Location A: Up to \$1,805.92/month

Location B: Up to \$3,064.15/month

### Gas Tax Losses (2.25% Gas; 13% Diesel):

Location A: \$1,750/month

Location B: \$4,943/month

Assumptions regarding the economic impacts of the Tobacco Retail Licensing Ordinance may vary across other businesses.



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Estimated  
Countywide  
Sales & Use Tax  
Impacts of  
Implementing  
the Current  
Local Tobacco  
Retail License

Per the publicly posted Sales & Use Tax Reports, Service Stations generated \$2,619,600 in Sales & Use Tax in 2024, 13.7% of Sales and Use Tax revenue.

One retailer reported that similar restrictions in other jurisdictions reduced tobacco sales by 65% - 75%.

Another retailer reported that tobacco sales account for 31% - 44% of sales with 46% - 63% of tobacco sales including other purchases.

If the Ordinance drives tobacco sales to other jurisdictions, Sales and Use Tax revenue from Service Stations could decline \$865,000 a year.\*



\*\$865,000 is 75% of estimated tobacco sales, which are 44% of sales for Services Stations which generated \$2,619,600 in Sales & Use Tax.



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## Options for Consideration for Moving Forward

A. Repeal both Ordinances and end local tobacco regulations.

B. Repeal Tobacco Retail License Ordinance 5211 and update Tobacco Zoning Ordinance 5210 to apply only to Smoke Shops, as defined as 30% of floor/display space, and add density limits for smoke shops.

C. Simplify both Tobacco Zoning Ordinance 5210 and Tobacco Retail License Ordinance 5211 to reduce restrictions on businesses while still ensuring local enforcement.

D. Maintain the current Tobacco Zoning Ordinance 5210 and update Tobacco Retail License Ordinance 5211 to address public concerns and Board direction from March 25<sup>th</sup> to reduce some restrictions on businesses.

For all options, staff would need to return to the Board for formal approval of the direction, which may require multiple steps e.g. Resolution of Intention, Planning Commission Review, and then Board approval.



## A. Repeal Both Ordinances and End Local Tobacco Regulations

1. Staff would return with a Resolution of Intention,
2. Staff would go the Planning commission to review the repeal of Ordinance 5210, and
3. Staff would return to the Board to repeal Ordinances 5210 and 5211.

### Benefits

- No additional burden on businesses
- No impacts to Sales and Use Tax

### Disadvantages

- Less local control of retailers who are violating state and federal laws
- No limit on number of tobacco retailers or smoke shops
- No regulations on retailers to reduce health impacts of tobacco



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B. Repeal Tobacco Retail License Ordinance 5211 and Update Tobacco Zoning Ordinance 5210 to Apply Only to Smoke Shops

1. Staff would return with a Resolution of Intention,
2. Staff would go the Planning commission to review changes to Ordinance 5210 to:
  - Make restrictions only apply to Smoke Shops, 30% of floor/display space
  - Add density limit for Smoke Shops
  - Decrease sensitive and same use setback to 1,000 feet for Smoke Shops
3. Staff would return to the Board to revise Ordinance 5210 and repeal Ordinance 5211.

Benefits

- No burden on established businesses or non-smoke shops
- Limits the amount of smoke shops
- Aligns setback distance to other jurisdictions and closer to retailer feedback

Disadvantages

- Less local control of retailers who are violating state and federal laws
- No limit on number of tobacco retailers
- No regulations on retailers to reduce health impacts of tobacco



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## C. Simplify the Tobacco Retail License Ordinance 5211 and Tobacco Zoning Ordinance 5210 to Reduce Restrictions on Businesses

1. Staff would return with a Resolution of Intention,
2. Staff would go the Planning commission to review changes to Ordinance 5210 to decrease sensitive and same use setback to 1,000 feet.
3. Staff would return to the Board to revise Ordinance 5210, as described, and revise Ordinance 5211 to:
  - Amend the Ordinance to remove any restrictions beyond State law regarding flavored tobacco, single-use electronic cigarettes and non-FDA authorized electronic cigarettes, product pricing and packaging, and positive identification.
  - Revise Excessive Density section to only limit smoke shops (30% of floor/display space), to 1 per 15,000 residents (current amount)
  - Modify the ordinance to add an exception to the density limit to allow for a new license to be issued for a location with an existing license when a retailer sells their business.
  - Modify the ordinance to add an exception to grandfather completed development applications received prior to January 30, 2024, mirroring the County Zoning Ordinance.

### Benefits

- Smaller burden on established businesses
- Limits the amount of smoke shops
- Aligns setback distance to other jurisdictions and retailer feedback
- Maintains local control of retailers who are violating state and federal laws

### Disadvantages

- No limit on number of tobacco retailers
- No local regulations on retailers to reduce health impacts of tobacco
- May slow growth of Sales & Use Tax from Smoke Shops



D. Maintain the Current Tobacco Zoning Ordinance 5210 and Simplify Tobacco Retail License Ordinance 5211 to Reduce Restrictions on Businesses

Staff would return to the Board to revise Ordinance 5211 to:

- Amend Retail License Ordinance to remove any restrictions beyond state or federal law to limit flavored tobacco, product pricing and packaging, and positive identification
- Revise Excessive Density section to limit smoke shops (30% of floor/display space), to 1 per 15,000 residents (current amount) and all other retailers to 1 per 1,500 residents.
- Modify the ordinance to add an exception to the density limit to allow for a new license to be issued for a location with an existing license when a retailer sells their business.
- Modify the ordinance to add an exception to grandfather completed development applications received prior to January 30, 2024, mirroring the County Zoning Ordinance.

Benefits

- Reduced burden on established businesses
- Limits the amount of smoke shops and tobacco retailers
- Maintains local control of retailers who are violating state and federal laws

Disadvantages

- Could negatively impact Sales & Use Tax revenue
- Reduced regulations on retailers to reduce health impacts of tobacco
- Setbacks remain, limiting new retail locations



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Summary of  
potential  
options for  
Board  
consideration

A. Repeal both Ordinances and end local tobacco regulations.

B. Repeal Tobacco Retail License Ordinance 5211 and update Tobacco Zoning Ordinance 5210 to apply only to Smoke Shops, as defined as 30% of floor/display space, and add density limits for smoke shops.

C. Simplify both Tobacco Zoning Ordinance 5210 and Tobacco Retail License Ordinance 5211 to reduce restrictions on businesses while still ensuring local enforcement.

D. Maintain the current Tobacco Zoning Ordinance 5210 and update Tobacco Retail License Ordinance 5211 to address public concerns and Board direction from March 25<sup>th</sup> to reduce some restrictions on businesses.

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