



California Fuels and Convenience Alliance

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Mendocino County Board of Supervisors
501 Low Gap Road
Ukiah, CA 95482

Re: Proposed Ordinance to Implement a Tobacco Retail License and Ban the Sale of Flavored Products

To:

Chair John Haschak
Vice Chair Dan Gjerde
Supervisor Carre Brown
Supervisor John McCowen
Supervisor Ted Williams

The California Fuels and Convenience Alliance (CFCA) represents nearly 90% of all the independent petroleum marketers in the state and more than one half of the state's 12,000 convenience retailers. Our members are small, family- and minority-owned businesses that provide services to nearly every family in California. Additionally, CFCA members fuel local governments, law enforcement, city and county fire departments, ambulances/emergency vehicles, school district bus fleets, construction firms, marinas, public and private transit companies, hospital emergency generators, trucking fleets, independent fuel retailers (small chains and mom-and-pop gas stations) and California agriculture, among many others. CFCA appreciates the opportunity to provide comment on this proposed ordinance.

The retailers represented by CFCA are mostly small, family, and/or immigrant owned businesses that would be crippled by regulations banning legally sold and manufactured products. They have been heavily involved in keeping age restricted products out of the hands of youth, including the recent change to California's age of sale from 18 to 21 years of age. Not only does our industry comply with federal and rapidly changing state and local laws, but they also conduct internal sting operations and build their own successful prevention policies, such as the WeCard Program. The ability to sell age restricted products, including tobacco, is part of the financial stability of these community convenience stores. Through the support of CFCA, the State of California recently passed a resolution declaring September "WeCard Awareness Month", in order to promote the safe and legal sale of age restricted products.

Implementation of a Tobacco Retail License

CFCA is a dedicated advocate for safe and responsible retail of age-restricted products. That stated, we ask that you please consider the increasing burden of cost of doing business in California and set the TRL price fairly as to not impact small businesses. For many of these stores, even what may be perceived as slight setbacks can be crippling to family operation that depends on store revenues for groceries and school supplies. We ask that you consider these elements and not unfairly burden these small businesses.

Sale of Current Stock

If this ordinance passes, it is imperative to allow enough time for retailers to sell their current stock, as most purchase products in bulk from distributors. **The Board of Supervisors should include a provision allowing retailers to sell the rest of the products they currently own or purchase prior to commencement of any ban ordinance in order to ease the burden of this ordinance.** San Francisco allowed for this in an ordinance placing similar restrictions on flavored products to assist the small business owners that will be affected.

Youth Sales

The illegal sale of tobacco and nicotine products is not a common occurrence at convenience stores. **In 2005, the California Tobacco Survey found that 82% of adolescent smokers obtained the products from “social sources”, mainly older friends and family members.**¹

Furthermore, 2016 research from the California Department of Public Health showing they are the number one retail source of youth tobacco. **Convenience stores were found to be much less likely to be a source of illegal sales, below the state average.**²

Identification Requirement and Online Sales

Given the rise of online purchases of all goods, and the government’s complicity in encouraging this - including age restricted products, the City should be more focused on the modern ways youth are obtaining these otherwise legal products. A short exploration of the ordering process for major manufacturers shows the ease with which youth can obtain these products. **Many companies do not require adult signatures for these products and they can be delivered to the user’s door with no identification verifying their legal age.**

Convenience stores and other brick-and-mortar locations are perfectly situated to adhere to federal, state, and local laws by checking a physical identification card and following the guidelines created and followed by the industry, such as the WeCard program. WeCard is a non-profit organization that provides training and materials such as age-of-purchase calendars that make it simple for an employee to ensure the purchaser is of legal age. They also have an e-cigarette specific webpage and materials.³ WeCard ensures the correct materials and standards are being used in those locations and provides an invaluable service to small businesses that sell age restricted products.

Harm Reduction through Vapes/ENDS

ENDS offer an option to adult consumers that can serve as a tool for smoking cessation and harm reduction that adds to the small list of methods available. Nicotine gum and patches are listed as smoking cessation methods, but they are not intended to get a user to zero nicotine. They are a way to alleviate the withdrawal symptoms that are commonly experienced by nicotine users moving away from nicotine products. ENDS are often used the same way, but also allow a wider variety of flavors and nicotine percentages, *including zero nicotine*. Allowing smokers to work their way to nicotine free solutions means they can reduce their risk of harm from nicotine. More flavor options and styles of ENDS increase the amount of consumer freedom and may lead to more traditional cigarette users to switch to a less harmful method.

In 2016, the Royal College of Physicians released a report concluding that e-cigarettes and ENDS are beneficial to public health as they decrease the rate of traditional cigarette use. **The study found that long term use of ENDS is unlikely to exceed 5% of the harm from traditional cigarettes. Furthermore, they found ENDS to not be a “gateway to smoking”, do not result in a “normalization of smoking”, and provide a first step to smoking cessation for many users.**⁴ Professor John Britton, chair of the Royal College of Physicians Tobacco Advisory Group, stated their report “lays to rest almost all of the concerns over these products, and concludes that, with sensible regulation, electronic cigarettes have the potential to make a major contribution towards preventing the premature death, disease, and social inequalities in health that smoking currently causes in the UK.” **Mendocino County will not be able to take advantage of these benefits if it continues down this path of overregulation that curtails healthier choices for adult users.**

Often overlooked in these studies and rulemakings is the importance of reducing the harm from second-hand and third-hand smoke. ENDS reduce the possibly harmful smoke that can be breathed in or contaminate surfaces indoors, reducing incidental risk to children, the elderly, the infirm, and those who do not use nicotine products. By promoting

¹ <https://www.tobaccofreekids.org/assets/factsheets/0073.pdf>

²

<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/YouthTobaccoPurchaseSurveyYTPSHistoricalSalesChart2016.pdf>

³ <http://www.wecard.org/e-cig-and-vapor-central>

⁴ <https://www.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report>

the use of ENDS over traditional cigarettes, we can protect the most vulnerable populations from the environmental hazards associated with second-hand and third-hand smoke. **Research shows the biomarkers for second hand smoke are 5.7 times higher in homes using traditional cigarettes than those of ENDS users.**⁵

Furthermore, smoking amongst adults and youth is at an all-time low. Fourteen percent of adults smoke, down from 16% the year prior and teen smoking has sunk to 9%, a record low.⁶ The level of smoking in the United States continues to decline while health concerns such as obesity and heart disease continue to climb at an alarming rate. **Mendocino County should focus on effective implementation of existing policies, supporting the businesses that work hard to keep age restricted products out of the wrong hands, and address the online sales that allow these products to be delivered directly to those under the legal age.**

Another study published by the New England Journal of Medicine in January 2019 shows e-cigarettes are more effective at helping smokers quit than other nicotine-replacement therapy. **Smokers in the study were twice as likely to quit using e-cigarettes than those using nicotine patches or gum.**ⁱ

Conclusion

CFCA urges the Board of Supervisors to examine the methods by which youth are obtaining these age restricted products, including cigarettes and vapes or ENDS. We encourage the County to work with the California Department of Public Health, the FDA, and others to do the necessary research in order to effectively limit youth access to tobacco while acknowledging the hard work by convenience stores and others to achieve the same goal. The fuels and convenience industry is willing to do its part to prevent youth access to age-restricted products, especially to find a manner to do it without the harm and negative impacts that ordinances such as this will bring onto small, family- and minority-owned businesses.

Please contact James Allison at james@cfca.energy or (916) 646-5999 with any further questions or comments.

⁷ <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

⁵ <https://www.ncbi.nlm.nih.gov/pubmed/25262078>

⁶ <https://apnews.com/f24650f675704019b0093e3cce23d020>