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Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR
December 1, 2026

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Terry Taplin (Co-Author), and Councilmember Igor Tregub (Co-Sponsor)

SUBJECT: Referral to Strengthen Berkeley's Tobacco Retail Ordinance to Promote Public Health

RECOMMENDATION

Refer to the City Manager to develop a density cap of no more than six Tobacco Retail Licenses for each Berkeley city council district, establishing a ban on new licenses in council districts with more than six Tobacco Retail Licenses, restrictions on transfers into those areas, and policies to prevent further concentration of retailers in disproportionately impacted neighborhoods. Further recommend the following:

- Update administrative processes related to Tobacco Retail Licenses, including business license disclosures, license application requirements, coordination with State licensing data, and internal review and enforcement procedures; and

- Evaluate and propose updates to the Tobacco Retail License fee structure to better align fees with the costs of inspection, enforcement, and program administration.

CURRENT SITUATION AND ITS EFFECTS

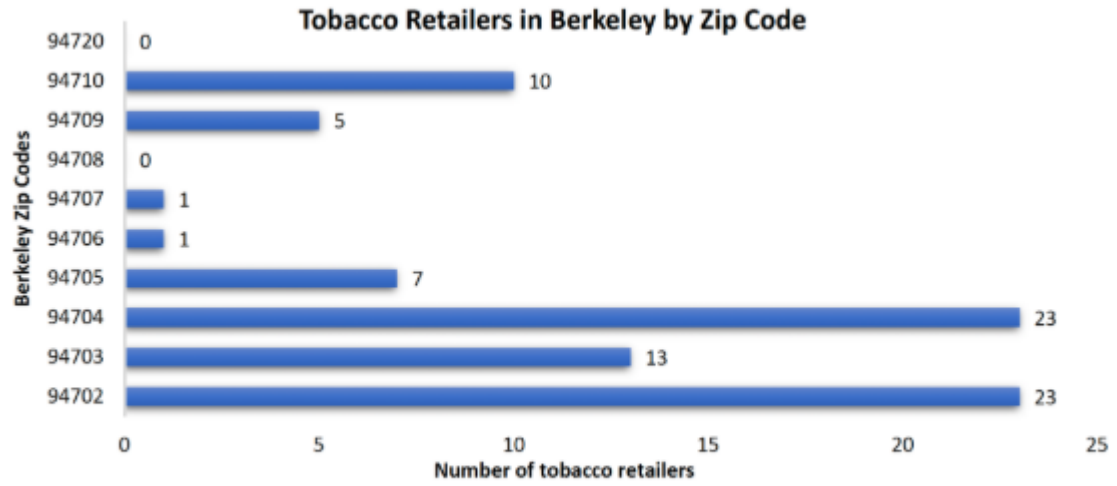
Berkeley's Over-concentration of Tobacco Retail Stores Creates a Significant Public Health Risk. According to the City of Berkeley's Health, Housing and Community Services Department (HHCS), Berkeley currently has more than 80 tobacco retailers, approximately 70 percent higher than the recommended density of one retailer per 2,500 residents.[1] This over-saturation has created both public health and equity

[1] This recommendation is found in the Public Health Law Center's Comprehensive Tobacco Retailer Licensing Ordinance developed jointly with the American Lung Institute, December, 2020:

concerns, particularly given the City's relatively small geographic size and progressive health policy history.

The Over-concentration of Tobacco Retailers in South and West Berkeley Disproportionately Burdens Low-Income Communities and Communities of Color. The concentration of tobacco retailers is unevenly distributed across the City with nearly half of all the outlets located in zip Codes 94702 (southwest Berkeley) and 94704 (downtown/south-central Berkeley), each containing 23 percent of the total number, as Exhibit 1 below illustrates.

Exhibit 1: High Concentration of Tobacco Retailers in South and West Berkeley Zip Codes

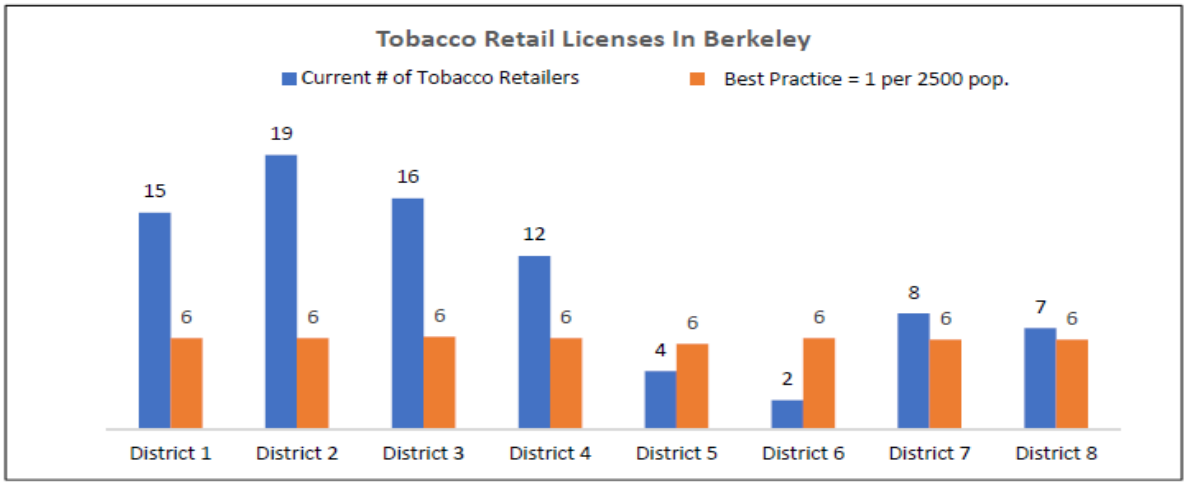


Source: Challenges with Tobacco Retail in Berkeley, HHCS staff report/infosheet

Exhibit 2 shows the overconcentration of tobacco retail outlets by City Council district.

https://www.publichealthlawcenter.org/sites/default/files/resources/Comp-Tobacco-Retailer-License.pdf

Exhibit 2: Tobacco Retail Licenses in Berkeley by Council District



Source: Challenges with Tobacco Retail in Berkeley, HHCS staff report/infosheet (attached)

These neighborhoods have higher proportions of low-income households and communities of color, revealing the overlap between this type of retail clustering and existing health inequities.

This Spatial Clustering of Tobacco Retail Outlets Mirrors Historic Patterns of Housing Discrimination and Disinvestment that Continue to Shape Health Inequities Today. Higher tobacco retailer density is associated with lower median income, higher percentages of Black and Latino residents, and contributes to inequities in smoking.[2] Research shows that adults who live in close proximity to tobacco stores are significantly less likely to successfully quit smoking. Smokers living within 250 to 500 meters of a tobacco outlet have lower chances of long-term abstinence compared to those living farther away.[3] Because living close to tobacco retail outlets makes tobacco product purchasing easier and exposes people to constant cues and marketing, it increases the risk of relapse even during periods of abstinence. This shows that tobacco retail clustering directly undermines smoking cessation and supports the case for limiting the number of tobacco outlets near residential areas.

The Proliferation of Tobacco Retailers, Especially in Areas Already Experiencing Social and Economic Disadvantages, Has Significant Public Health Consequences. Studies consistently link higher tobacco retail density with increased youth access, greater overall tobacco consumption, lower quit rates, and worse health

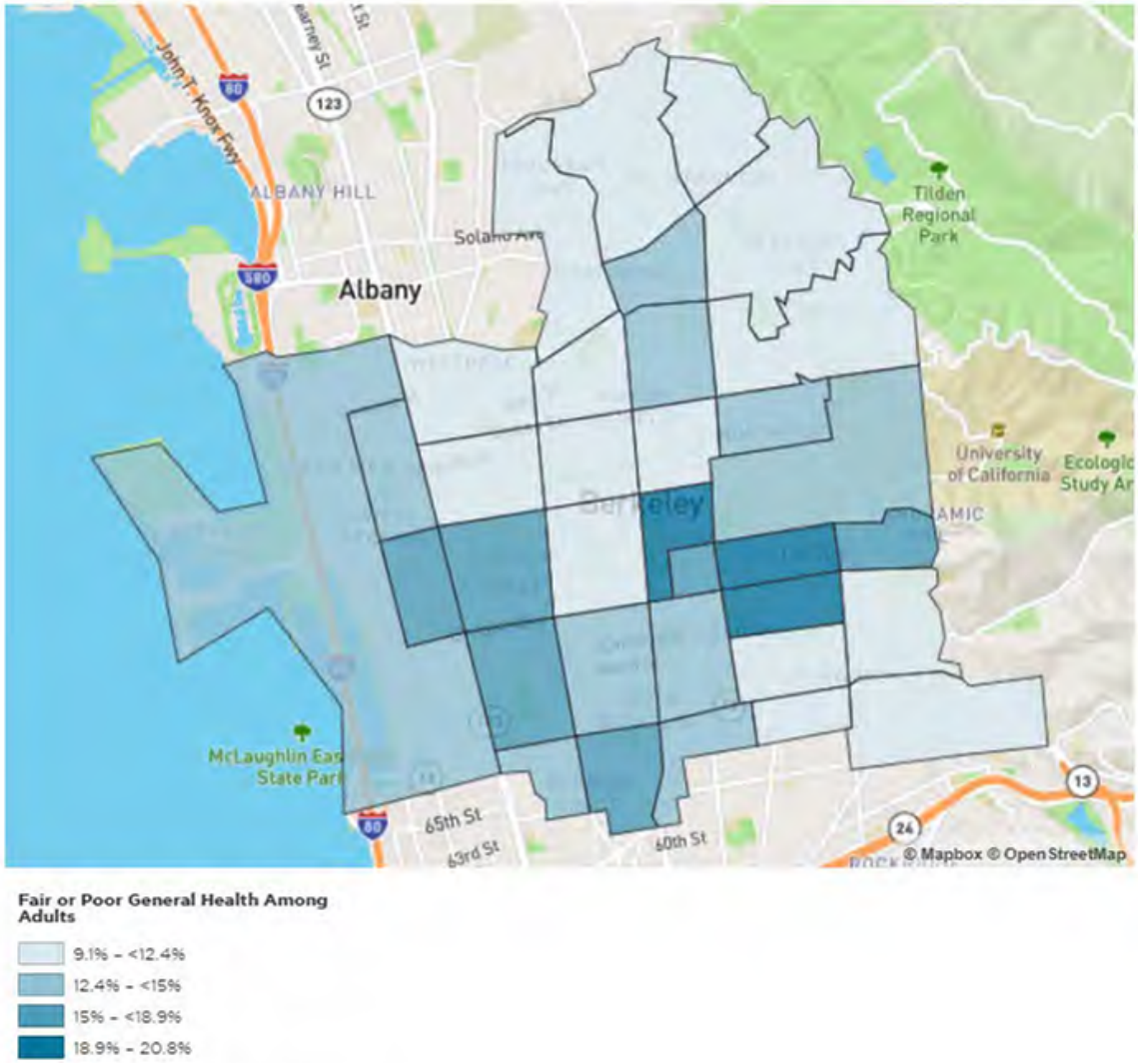
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[2] Mills S.D., Golden S.D., Queen T.L., Kong A.Y., Ribisl K.M. "Sociodemographic Disparities in Tobacco Retailer Density in the United States, 2000-2017." Nicotine & Tobacco Research. 2022. https://berkeleyca.gov/sites/default/files/documents/2025-06-24%20Item%2030%20State%20of%20Public%20Health%20in%20Berkeley%20Summary%20Report.pdf

[3] Reitzel LR, Cromley EK, Li Y, Cao Y, Dela Mater R, Mazas CA, Cofta-Woerpel L, Cinciripini PM, Wetter DW. The effect of tobacco outlet density and proximity on smoking cessation. Am J Public Health. 2011 Feb;101(2):315-20. doi: 10.2105/AJPH.2010.191676 https://pubmed.ncbi.nlm.nih.gov/21164089/

outcomes.[4] In Berkeley, this pattern means that the most vulnerable neighborhoods face disproportionate exposure and risk. This aligns with the City's 2025 Annual Update: State of Berkeley's Population Health Report revealing the higher percentage of adults in fair or poor general health in West and South Berkeley, as illustrated in Exhibit 3.

Exhibit 3: Greater Percentage of Fair or Poor Health Status in West and South Berkeley



Source: State of Public Health in Berkeley Summary Report, June 24, 2025[5]

[4] Change Lab Solutions, Jan. 31, 2019 Tobacco Retailer Density: Placed-based Strategies to Advance Health and Equity: https://www.changelabsolutions.org/sites/default/files/CLS-BG214-Tobacco_Retail_Density-Factsheet_FINAL_20190131.pdf

[5] State of Public Health in Berkeley Summary Report, presented at the June 24, 2025 council meeting, item #30: https://berkeleyca.gov/sites/default/files/documents/2025-06-24%20Item%2030%20State%20of%20Public%20Health%20in%20Berkeley%20Summary%20Report.pdf

The situation is worsened by the sale of illegal or unlicensed products not uncommonly found in outlets selling tobacco products. Recently, California Attorney General Rob Bonta declared: "Illegal e-cigarette sales remain widespread, posing a serious public health concern and requiring a more robust response."[6] Berkeley's Tobacco Prevention Program's recently published Retail Observation Survey Report on 75 licensed tobacco retailers in Berkeley similarly notes that despite the City's ban on the sale of all flavored tobacco products in 2020 that was followed by a statewide ban in 2022, 53 percent of tobacco retailers are still selling menthol cigarettes and 58 percent of stores are selling explicitly flavored (such as mint, fruit, alcohol) non-cigarette tobacco products.[7]

Regulatory Gaps and Licensing Structure Allow Tobacco Retailers to Evade Regulation. City enforcement staff report multiple compliance violations, including unlicensed tobacco sales, illegal flavored products, and evasion of licensing through ownership transfers or name changes. Since Tobacco Retail Licenses (TRLs) are site and person-specific under the BMC 9.80,[8] staff face recurring challenges when the same businesses reopen under new ownership or a slightly modified name - a "revolving door" effect that undermines Berkeley's public health objectives.

Many businesses selling tobacco do not appear in City records as tobacco retailers because they do not self-report tobacco sales on their business-license applications and the City has no separate tobacco business license category. Staff have noted that while all businesses are required to list what they sell, tobacco retailers often avoid identification unless discovered through inspections, complaints, or cross-checking with the state tobacco license database.

BACKGROUND

The City of Berkeley Has Long Been Recognized as a Pioneer in Public Health Policy, Particularly Regarding Tobacco Control and Youth Protection. In the late 1970s, Berkeley was the first community to limit smoking in restaurants and other public places.[9] In December 2002, Berkeley adopted its Tobacco Retail License Ordinance, codified in BMC Chapter 9.80, establishing a licensing framework to regulate the sale of tobacco products, limit youth access, and monitor compliance with state and federal health laws. The TRL program required all retailers selling tobacco or nicotine products to obtain a City license, ensuring oversight of sales practices and providing mechanisms for enforcement. At that time, the ordinance positioned Berkeley among the strictest municipalities in California to use business licensing as a local tobacco control tool as

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[6] Tuesday, April 28, 2026 Attorney General's Press Release: Attorney General Bonta Co-Leads Bipartisan Effort Urging Credit Card and Payment Processing Companies to Combat Illegal Sales of Tobacco and Nicotine Products: https://oag.ca.gov/news/press-releases/attorney-general-bonta-co-leads-bipartisan-effort-urging-credit-card-and-payment

[7] City of Berkeley Tobacco Prevention Program 2026 End Commercial Tobacco Campaign Retail Observation Survey Report, July 3, 2026, attached

[8] Berkeley Municipal Code Chapter 9.80 - Tobacco Retailers: https://berkeley.municipal.codes/BMC/9.80.020

[9] National Library of Medicine, "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General," 2006, Table 10.1: https://www.ncbi.nlm.nih.gov/sites/books/NBK44326/table/rpt-smokeexp.ch10.t1/

merchants would be asked to pay the entire cost of the program via the steep licensing fees.[10]

Over the past two decades, Berkeley has built upon this foundation through complementary laws such as BMC Chapter 9.80.31, which restricts smoking in public areas and prohibits flavored tobacco products.[11] Together these ordinances reflect the City's longstanding commitment to reducing youth nicotine initiation, preventing exposure to second hand smoke, and promoting health equity - particularly in communities disproportionately targeted by tobacco marketing.

In addition to licensing requirements, the City adopted buffer-zone measures to prevent tobacco retailers from locating near schools. Under Ordinance 7673-NS, codified in BMC Section 9.80.035, the City prohibits issuing or renewing TRLs for businesses located within 1,000 feet of any school; this radius was later amended to 600 feet to balance community protection with business viability.[12] The intent of these restrictions is to reduce youth exposure to tobacco retail environments and advertising - factors that have been shown to increase the likelihood of smoking or vaping initiation among minors. The City's tobacco retail information page emphasizes that this buffer-zone ordinance is "intended to protect the health of the community, in particular youth, by reducing their access to tobacco products and exposure to tobacco marketing."[13]

While the buffer-zone rules represent an important preventive measure, enforcement has revealed practical limitations. Existing licensees operating within the buffer zones may continue and some retailers circumvent location restrictions by operating under non-tobacco business classifications.

The City's Relatively Low Tobacco Retail License (TRL) Fee Does Not Reflect the Administrative and Enforcement Burden on Staff and Should be Increased, Consistent with Neighboring Cities. The TRL program requires every tobacco retailer to apply for and renew a license annually. This process involves staff review of the application, verification of the business location relative to the buffer-zone requirements, collection of fees, inspection for compliance, and enforcement of penalties for violations. Despite these intensive administrative activities, Berkeley's annual TRL fee of $533 remains low compared with neighboring cities.

The California Department of Public Health's Policy Evaluation Tracking System (PETS) comparing California Municipalities with a Tobacco Retailer License & Fees found that nearby major jurisdictions charge significantly higher annual fees, reflecting the actual

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[10] Convenience Store News: Berkeley to up Retailer Fees, November 22, 2002: https://csnews.com/berkeley-retailer-fees

[11] Berkeley Municipal Code 9.80.31: https://berkeley.municipal.codes/BMC/9.80.031

[12] Ordinance 7673-NS (2019) - Amending BMC 9.80.035 Buffer Zones (https://berkeleyca.gov/sites/default/files/documents/2019-09-10%20Item%2002%20Ordinance%207673.pdf)

[13] City of Berkeley Webpage - Tobacco Retail Information (https://berkeleyca.gov/doing-business/operating-berkeley/tobacco-retail)

costs of enforcement: Oakland charges $1,500 plus a $50 application fee, while Richmond's fee is $1,602.44.[14]

Berkeley's relatively low fee constrains staffing for compliance checks, inspections, and youth-access enforcement. City staff might be required to dedicate substantial time to processing license applications, responding to complaints, and conducting field inspections - time that is not adequately funded by the existing fee structure. When a business applies for a new business license and discloses tobacco sales, Finance routes the application to HHCS/EH. The business must then complete the Environmental Health application and a supplemental TRL application, and Environmental Health must conduct both pre-opening and follow-up inspections. Currently, only one Environmental Health staff member is authorized to conduct tobacco inspections, limiting the City's ability to meet ordinance requirements.

Berkeley's Tobacco Policies Should be Modernized to Address Market Evolutions and Retail Density Concerns. While Berkeley's ordinance has served as a strong foundation, it has not fully kept pace with rapid changes in the tobacco and nicotine marketplace. The proliferation of electronic nicotine delivery systems (ENDS), synthetic nicotine, hemp-derived nicotine products, and nicotine pouches has created new regulatory challenges.[15] While buffer-zone protections limit where new retailers can open, they do not restrict overall retailer density or address license transfers. Other jurisdictions, notably San Francisco, have implemented reforms to redefine "tobacco retailer," impose district level caps, and prohibit license transfers, resulting in a roughly 30 percent reduction in retailer density citywide.[16] These structural mechanisms have proven effective in reducing youth exposure and improving enforcement efficiency. Berkeley's current ordinance lacks these density-control measures, leading to clustering of tobacco outlets in vulnerable communities and inconsistent enforcement outcomes.

RATIONALE FOR RECOMMENDATION:

The recommendations in this item strengthen Berkeley's ability to accurately identify and regulate all businesses selling tobacco products and address the documented over-concentration of tobacco retailers in vulnerable neighborhoods. District level caps that would reduce the number of tobacco retailers through attrition will curb clustering over time and improve equitable enforcement while modernizing administrative workflows; and cross-checking with state license data will ensure that retailers cannot avoid

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[14] California Department of Public Health (October 2024), PETS Report: California Municipalities with a Tobacco Retailer License & Fees: https://pets.tcspartners.org/files/List%20of%20TRL%20Fees_October%202024.pdf

[15] California Department of Public Health, California Tobacco Control Program, *State Health Officer's Report on E-Cigarettes: A Community Health Threat*, Sacramento, CA, 2015: https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/Policy/ElectronicSmokingDevices/StateHealthEcigReport.pdf

[16] Public Health Law Center (2022), San Francisco's Tobacco Retail Density Regulation: An E-Cigarette Policy Case Study: https://www.publichealthlawcenter.org/sites/default/files/resources/ecigarette-policy-case-san-francisco.pdf

oversight through non-disclosure or ownership changes.[17] Finally, updating the TRL fee structure is essential to supporting adequate staffing and funding the level of inspections and compliance monitoring needed to protect youth and communities disproportionately impacted by tobacco-related harms.

FISCAL IMPACTS

The fiscal impacts of this referral would be limited to staff time to draft the ordinance changes.

ENVIRONMENTAL SUSTAINABILITY

Capping the number of retailers selling tobacco products and strengthening tobacco and nicotine regulations has the potential to decrease overall usage of such products. This in turn could increase health outcomes for all residents throughout the city, particularly in those areas where there is a nexus of poorer health outcomes and an over-saturation of tobacco retail outlets.

Curbing the number of stores selling tobacco products could also increase air quality and decrease litter in commercial areas near where these products are sold and elsewhere. According to the HUB, a Johns Hopkins news center for showcasing current research, roughly 4.5 trillion cigarette butts are littered annually, making them the most littered item on the planet. Cigarette butts contain nonbiodegradable plastics in their filters and toxic chemicals that leach into soil and water.[18]

CONTACT PERSON

Rashi Kesarwani, Councilmember District 1 (510) 981-7110

ATTACHMENTS

1) Challenges with Tobacco Retail in Berkeley, HHCS staff report/infosheet, June 2024
2) City of Berkeley Tobacco Prevention Program 2026 End Commercial Tobacco Campaign Retail Observation Survey Report, July 3, 2026

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[17] It is important to note that this item is not recommending pro-actively closing any business to minimize the over-saturation of tobacco retail outlets in any given zip code. Rather, staff could consider allowing the numbers to decrease through attrition. If new businesses are interested in opening within the City, they could be granted licenses to do so in zip codes not already at maximum capacity with tobacco retail outlets.

[18] HUB, April 22, 2024: “No Ifs, and, or Butts” Sarah Kuta, Johns Hopkins University: https://hub.jhu.edu/2024/04/22/cigarette-butt-filter-litter/

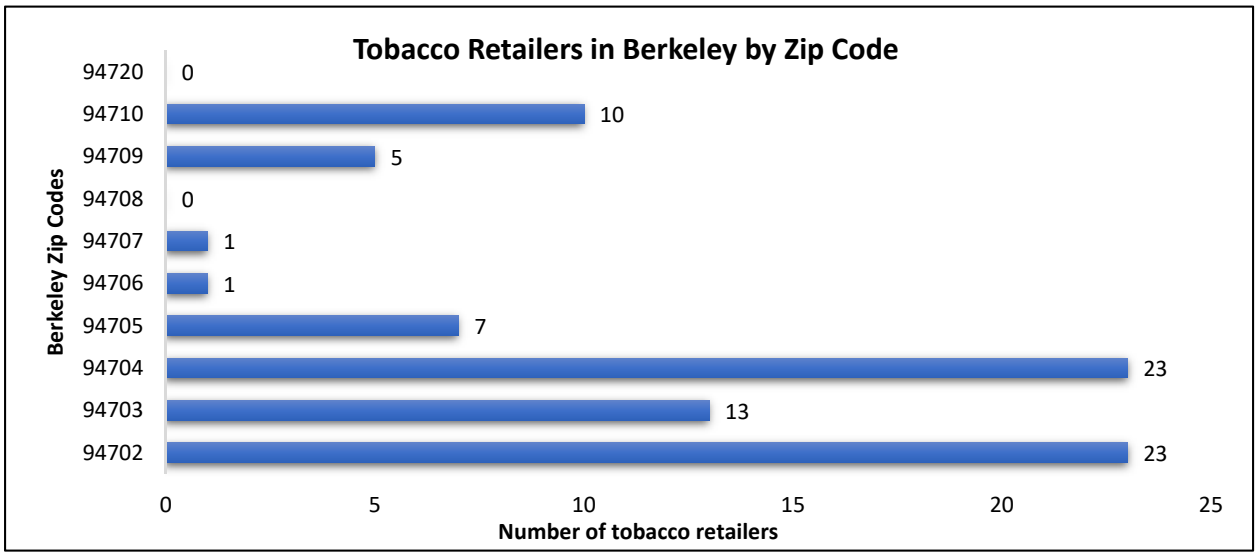
Challenges with Tobacco Retail in Berkeley

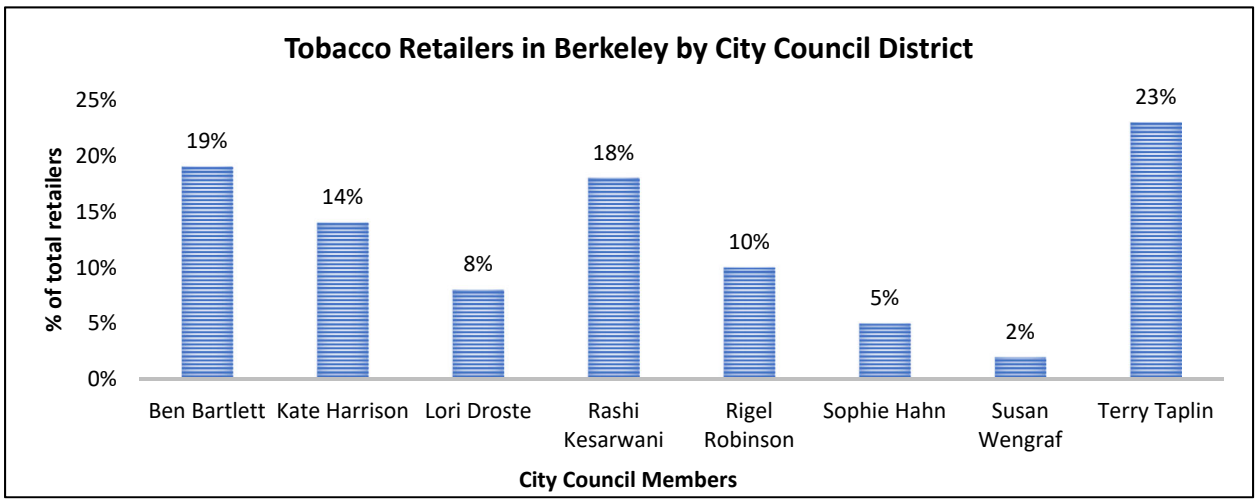
Berkeley is currently experiencing an explosion in tobacco retailers. With a constant stream of new tobacco, cannabis, and hemp products hitting the market, enforcing compliance with local and state laws has become extremely difficult.

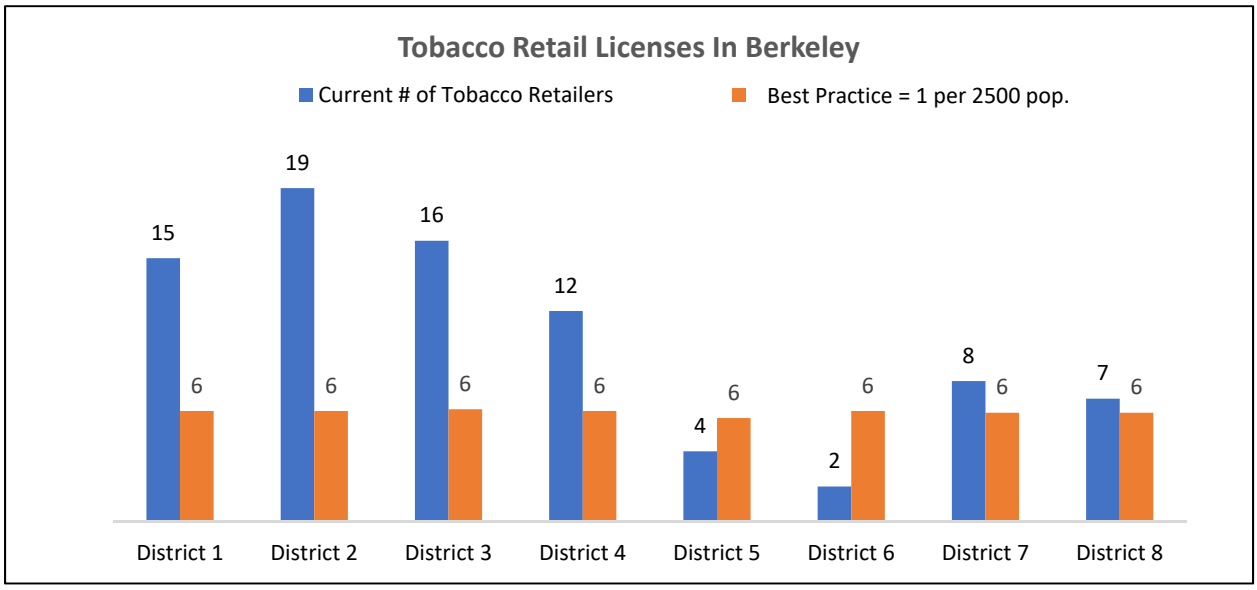
- Berkeley currently has over 80 tobacco retailers. This is almost **70% higher** than the recommended density ratio of **1 tobacco retailer per 2500 residents.**
- Tobacco retailers are highly concentrated in Berkeley in **low-income communities and communities of color** thus increasing tobacco-related heath **disparities**. More than a quarter of tobacco retailers are located in 94702 (West Berkeley, Sacramento to San Pablo, Gilman to Alcatraz) and another quarter are in 94704 (Downtown and UC Berkeley Campus areas, MLK eastward, Hearst to Derby).
- City of Berkeley enforcement staff are reporting additional **gross violations** such as unlicensed retailers and sale of out of state products, leading to the need for **additional law enforcement**.
- Policies that govern the sale of tobacco in Berkeley contain **loopholes** that other jurisdictions have closed such as difficult to enforce definitions of "tobacco-only" retailers. These loopholes allow a **"revolving door"** for retailers who have been cited for violations to simply transfer license holders and continue violating local and state laws.

Policy Suggestions

1. **Impose a cap on Tobacco Retail Licenses:** To be in compliance with the recommended density ratio, Berkeley needs to reduce current tobacco retailers from over 80 to 50. Neighboring jurisdictions such as San Francisco have capped the allowable number of tobacco retail licenses including ensuring equitable distribution. Such policies **do not revoke current licenses, only restrict new licenses**. Although full impact is expected to take many years, San Francisco saw a 10% reduction in the overall number of tobacco retailers within 1 year and reductions were greater in neighborhoods with disproportionately high numbers of tobacco retailers thus reducing inequities.
2. **Update the definition of "tobacco only" retailers:** If this definition is updated in the Berkeley zoning code, it would also provide an opportunity to revise restrictions on the sale of vapes and e-cigarettes and locations near schools which currently only apply to tobacco-only retailers. Such restrictions could be applied to all tobacco retailers.
3. **Strengthen consequences for violations** by adding a **general condition to zoning permits** that violations could result not only in revocation of a tobacco retail license but also in revocation of a zoning permit. This would **prevent the "revolving door"** where permit violators apply for new permits under different names and continue to violate laws.


Tobacco Retailers in Berkeley by Zip Code
Berkeley Zip Codes
94720
94710
94709
94708
94707
94706
94705
94704
94703
94702
0
10
5
0
1
1
7
23
13
23
0
5
10
15
20
25
Number of tobacco retailers


Tobacco Retailers in Berkeley by City Council District
% of total retailers
25%
20%
15%
10%
5%
0%
19%
14%
8%
18%
10%
5%
2%
23%
Ben Bartlett
Kate Harrison
Lori Droste
Rashi Kesarwani
Rigel Robinson
Sophie Hahn
Susan Wengraf
Terry Taplin
City Council Members


Tobacco Retail Licenses In Berkeley
Current # of Tobacco Retailers
Best Practice = 1 per 2500 pop.
15
6
19
6
16
6
12
6
4
6
2
6
8
6
7
6
District 1
District 2
District 3
District 4
District 5
District 6
District 7
District 8

City of Berkeley Tobacco Prevention Program
2026 End Commercial Tobacco Campaign

Retail Observation Survey Report

Executive Summary: Between April and June of 2026, observations were completed for 75 licensed tobacco retailers in Berkeley as part of statewide data collection efforts (64 were currently selling tobacco products). The following report details what was observed in terms of products sold (tobacco, cannabis, food and other products), tobacco product placement, tobacco advertising, pricing, and pack size.

In order to support effective education and enforcement work with tobacco retailers in Berkeley, the following is a summary of compliance and non-compliance with key Berkeley tobacco retail policies:

Sale of Flavored Tobacco Products: Berkeley banned the sale of all flavored tobacco products in 2020, followed by a statewide ban in 2022.

- 53% of tobacco retailers are still selling menthol cigarettes [34 out of 64 stores, confidence interval (CI) 40.0% to 65.7%[1]], an increase from 43% seen in 2024 and 32% seen in 2022.
- 58% of stores are selling explicitly flavored (e.g., mint, fruit, alcohol) non-cigarette tobacco products [37 stores out of 64, CI 44.8% to 70.1%], an increase from 41% seen in 2024 and 32% seen in 2022.
- 44% of stores are selling ambiguously labelled (e.g., chill, fusion, green, etc.) non-cigarette tobacco products which may be flavored [28 stores out of 64, CI 31.4% to 56.7%], a decrease from 53% seen in 2024, but an increase from 10% seen in 2022.
- 20% of stores had flavored tobacco product ads either inside or outside the store [13 stores out of 64, CI 11.3% to 32.2%]. This is a decrease from 30% seen in 2024.

Minimum Pack Size: Minimum pack size for cigarettes and little cigars/cigarillos is 20. Minimum pack size for premium cigars is 6.

- 100% of stores selling little cigars/cigarillos (41 out of 41, CI 91.4% to 100%) sold them in packs of less than five. By weight, some products labelled as cigarillos actually fall in the premium cigar category. Even if counted as premium cigars, these are non-compliant with current policy. This is an increase from 73% seen in 2024.

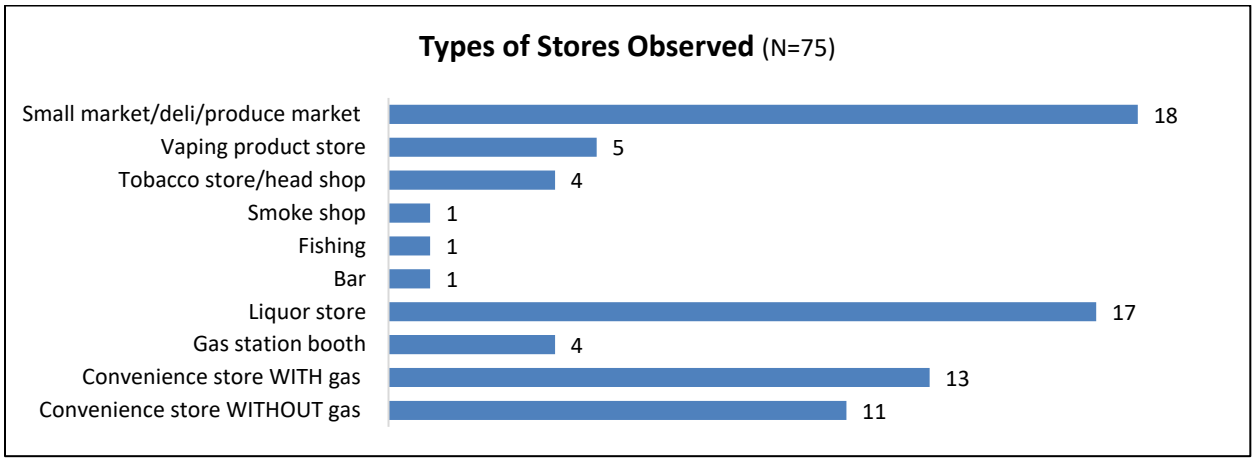
Pricing: Minimum price for cigarettes and little cigars/cigarillos is $8 per pack of 20. Minimum price for premium cigars is $5 each or $30 per pack of 6. Retailers are not allowed to offer discounts on tobacco products.

- 100% of stores selling little cigars/cigarillos (41 out of 41 stores, CI 91.4% to 100%) were selling them at a price of less than $5 per pack. This is an increase from 72% seen in 2024.
- 1 retailer (out of 58 for whom pricing data was available, 1.7%, CI 0% to 9.2%) was selling a pack of 20 cigarettes for less than $8 before taxes. This is a decrease from 16% seen in 2024.
- The vast majority of retailers (60 out of 64) had no tobacco price promotions outside the store (94%, CI 84.8% to 98.3%), however 63% (40 out of 64, CI 49.5% to 74.3%) had price promotions inside the store. Of those who had promotions, the most commonly discounted items were regular cigarettes.

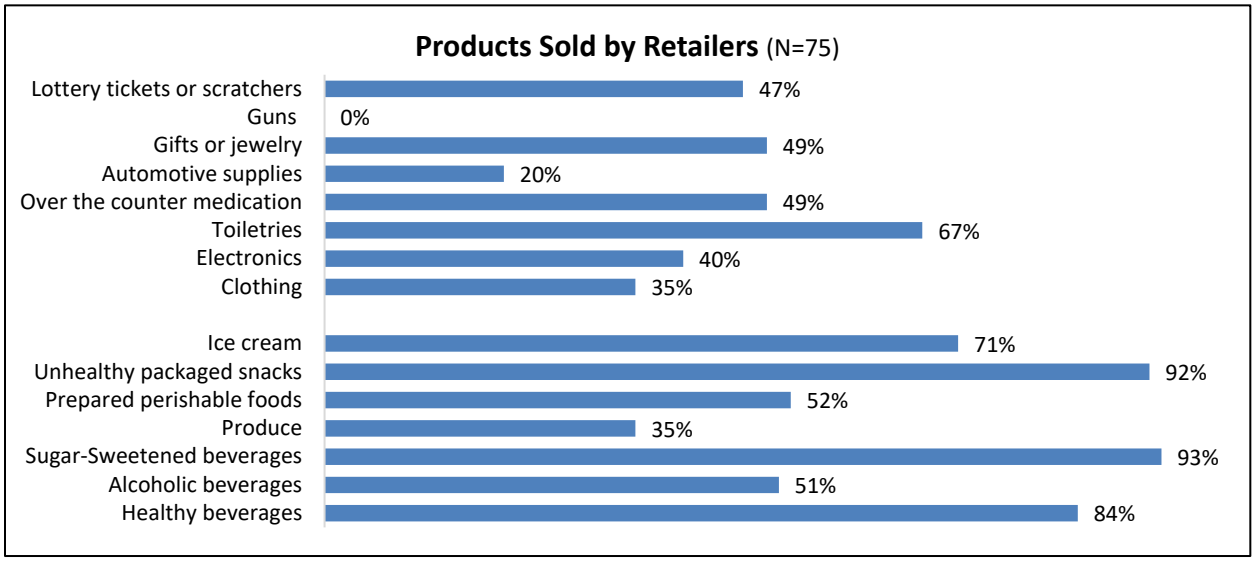
[1] All confidence intervals in this report were calculated using a 95% confidence level and confidence interval calculators available at: https://sample-size.net/

Berkeley Retail Observations: Between April and June 2026, the City of Berkeley Tobacco Prevention Program (COBTPP) attempted to complete observations of 86 licensed tobacco retailers in Berkeley to assess the retail environment and inform future program activities and policy strategies to reduce the impact of tobacco in Berkeley. The retail observations were conducted as part of a statewide initiative coordinated by the California Tobacco Control Program (CTCP) and the Tobacco Control Evaluation Center (TCEC). The retail observation survey tool was standardized across the state and CTCP drew the minimum required sample of stores to be surveyed for each jurisdiction. Data collectors were instructed not to survey retailers that had active smoking (e.g., hookah bars, cigar bars), retailers with substantial cost-consideration and membership fees (e.g., airport retailers, wholesale clubs), or retailers located in areas with restricted access (e.g., military base). Eleven of the 86 stores in Berkeley were unable to be observed due to accessibility (not open, not at listed address) or safety (including observers being asked to leave), thus 75 retail observations were completed.

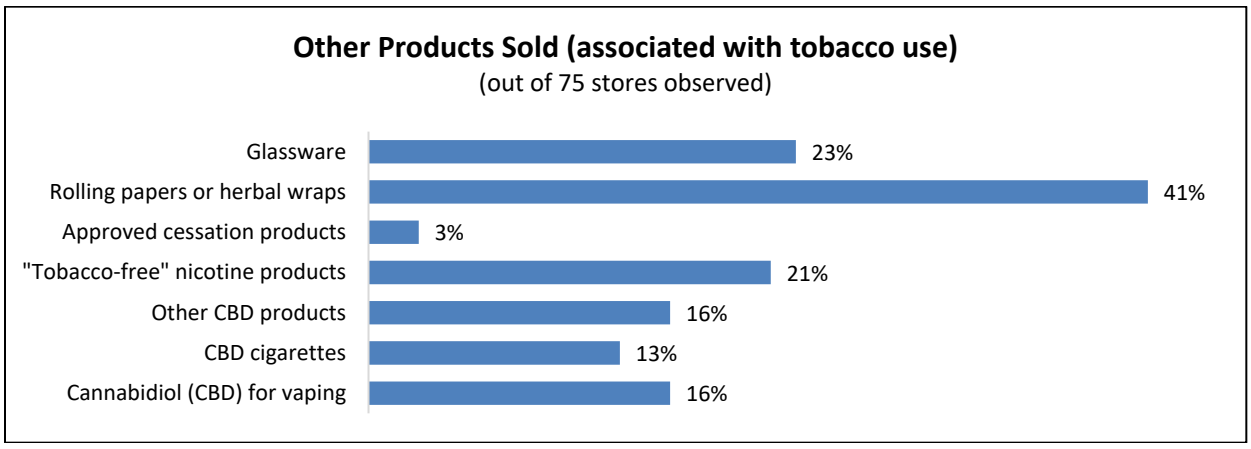
Data Collection: Retail observations were conducted by COBTPP staff, all of whom completed retail observation training. Observation data was entered directly into an electronic survey using handheld devices. Of the stores where observations were completed, 28% were in Central Berkeley (94702), 51% in South Berkeley (94703-5), 9% in North Berkeley (94706/7/9), and 12% in West Berkeley/94710). The types of stores can be seen in the chart below.



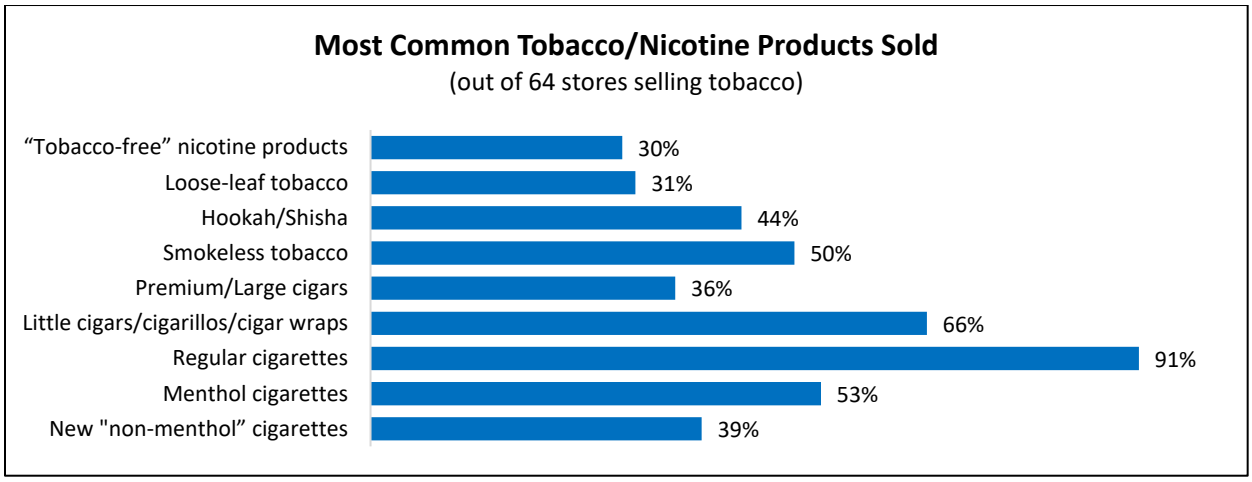
Products Sold: In addition to assessing tobacco sales, observers noted the presence or absence of a wide variety of non-tobacco products. The most commonly sold items included sugar-sweetened beverages, unhealthy packaged snacks, and healthy beverages.



A range of products associated with tobacco use were also observed, the most common of which were rolling papers/herbal wraps, glassware, and “Tobacco-free” nicotine products.

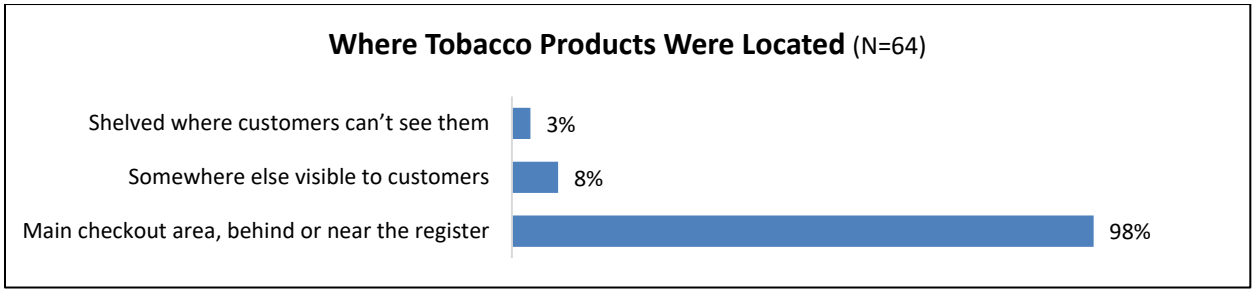


Tobacco Products Sold: Sixty-four of the 75 observed retailers sold some type of tobacco product. The most commonly sold tobacco products were regular cigarettes (91%, CI 80.7% to 96.5%) followed by little cigars/cigarillos/cigar wraps (66%, CI 52.7% to 77.1%) and menthol cigarettes (53%, CI 40.2% to 65.7%). Despite the ban on the sale of all flavored products (in effect since 2020), 53% of stores were still selling menthol cigarettes (CI 40.0% to 65.7%). Twenty-five stores were observed selling vaping products.

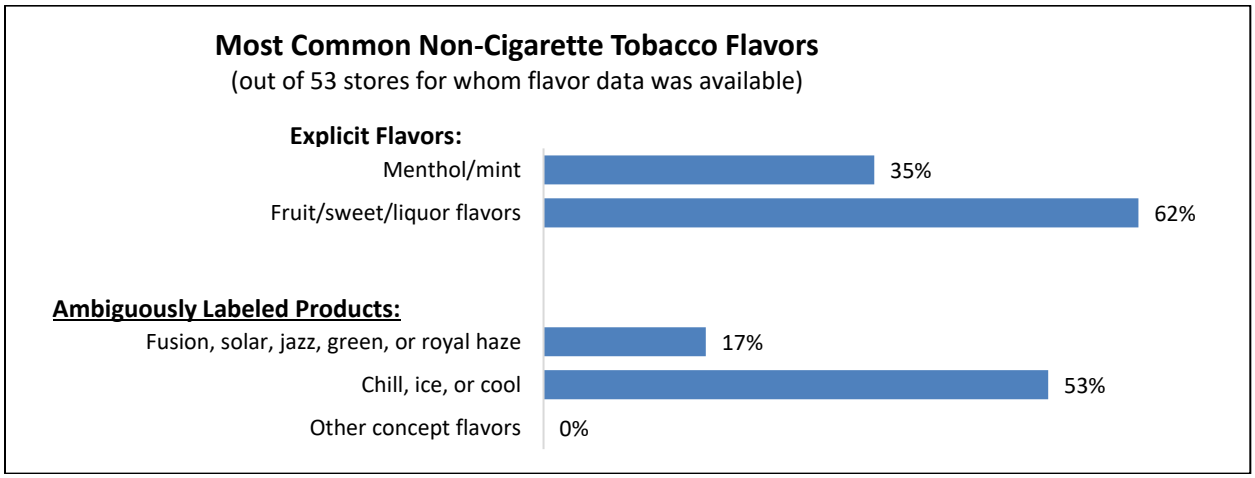


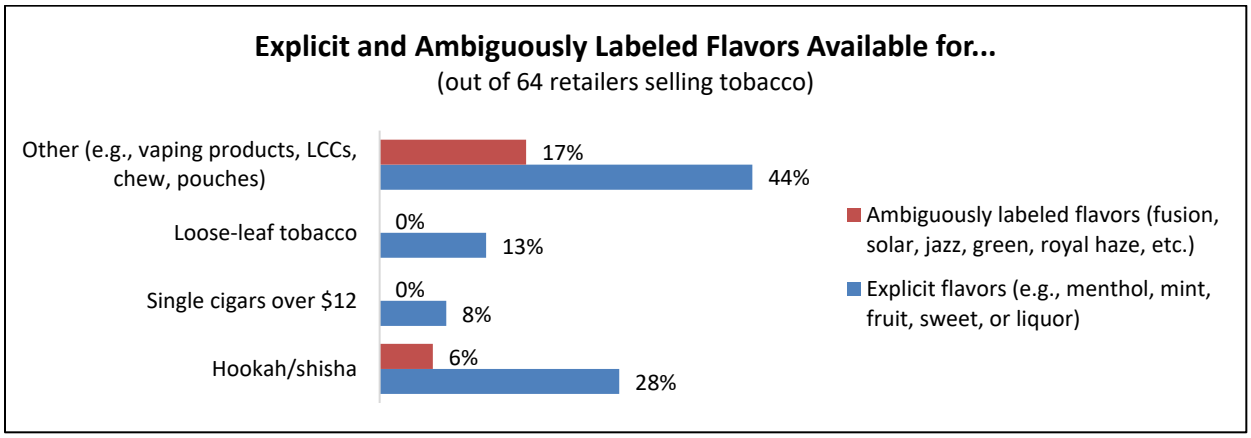


Tobacco products were most commonly located near the check-out area.

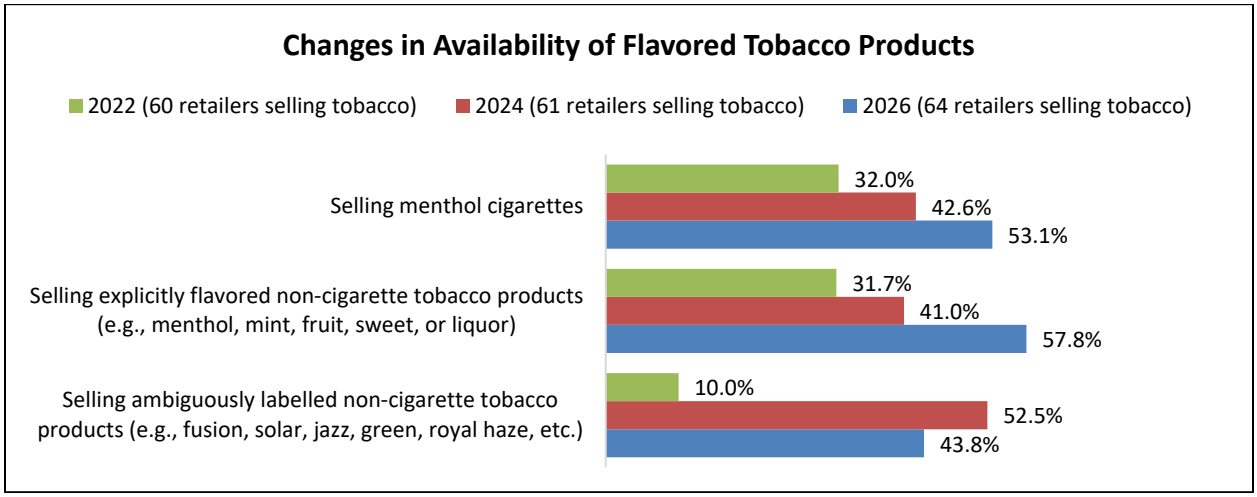


Flavored Tobacco Products Sold: Explicit and concept flavor data was collected for 53 stores selling tobacco products other than cigarettes and can be seen in the charts below. These flavors were primarily available for other tobacco products such as vape, chew, and pouches and sometimes available for hookah/shisha, loose-leaf tobacco, and single cigars.

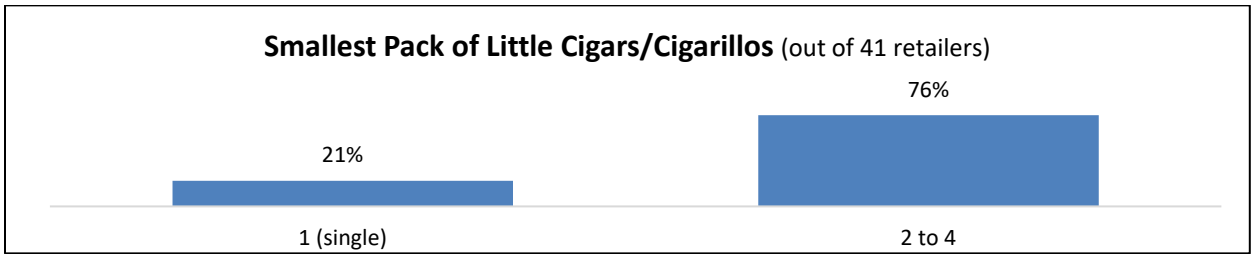


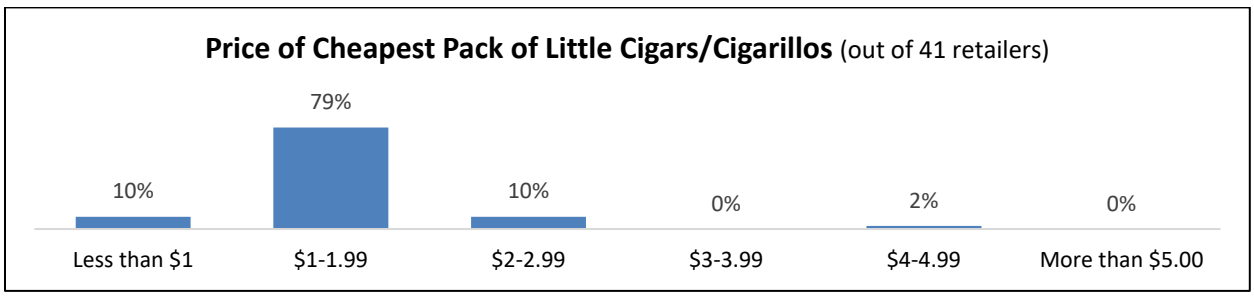


Across all tobacco products, there have been significant increases since both 2022 and 2024 data in the availability of menthol cigarettes and explicitly flavored non-cigarette tobacco products (e.g., menthol, mint, fruit, sweet, or liquor). A large increase was seen between 2022 and 2024 in the availability of ambiguously labeled non-cigarette tobacco products (e.g., fusion, solar, jazz, green, royal haze, etc.), however availability fell slightly between 2024 and 2026. Complete data can be seen in the following chart.



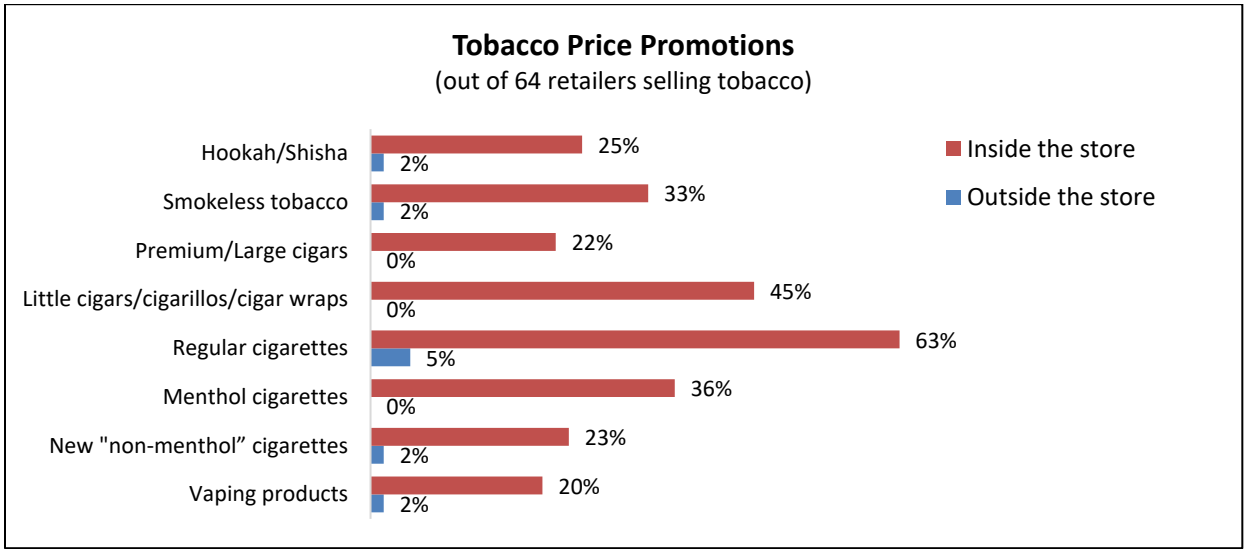
Tobacco Product Pricing and Pack Sizes: Among retailers who sold little cigars/cigarillos, 100% (CI 91.4% to 100%) sold them in packs of less than five and at a price of less than $5 per pack, well below the required minimum of $8 per pack of 20 little cigars/cigarillos. Even if counted as premium cigars, these are non-compliant with current policy (minimum pack size six, minimum pricing $5 each or $30 per pack). These rates are significant increases from those seen in 2024 when 73% were selling in packs of less than five and 72% were selling for less than $5.





The average cheapest price per single pack of cigarettes (including taxes) was $10.44 (95% CI, $9.94, $10.94), with the lowest price $7.22 and the highest price $16.50. (Forty-six percent of documented minimum prices were provided by clerks, while 49% were identified based on listed prices.) Only 1 store (1.7%, CI 0% to 9.2%) was selling a pack of 20 cigarettes for less than $8, the current minimum price mandated by Berkeley's tobacco retail policy.

Advertising: Retail observations also included assessments of advertising and price promotions both inside and outside of stores for both tobacco and non-tobacco products. Fifteen retailers had tobacco price promotions inside the store, however only 7 had tobacco price promotions posted outside stores. Of listed price promotions, the most commonly discounted items were regular cigarettes, little cigars/cigarillos/cigar wraps, and menthol cigarettes.


Tobacco Price Promotions
(out of 64 retailers selling tobacco)
Hookah/Shisha
Smokeless tobacco
Premium/Large cigars
Little cigars/cigarillos/cigar wraps
Regular cigarettes
Menthol cigarettes
New "non-menthol" cigarettes
Vaping products
25%
2%
33%
2%
22%
0%
45%
0%
63%
5%
36%
0%
23%
2%
20%
2%
Inside the store
Outside the store