



TOBACCO RETAILER LICENSING PROPOSED ORDINANCE



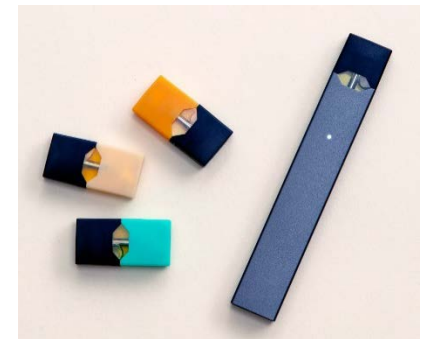
NOVEMBER 18, 2019

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Alameda County Tobacco Control Program

Presenting Problem

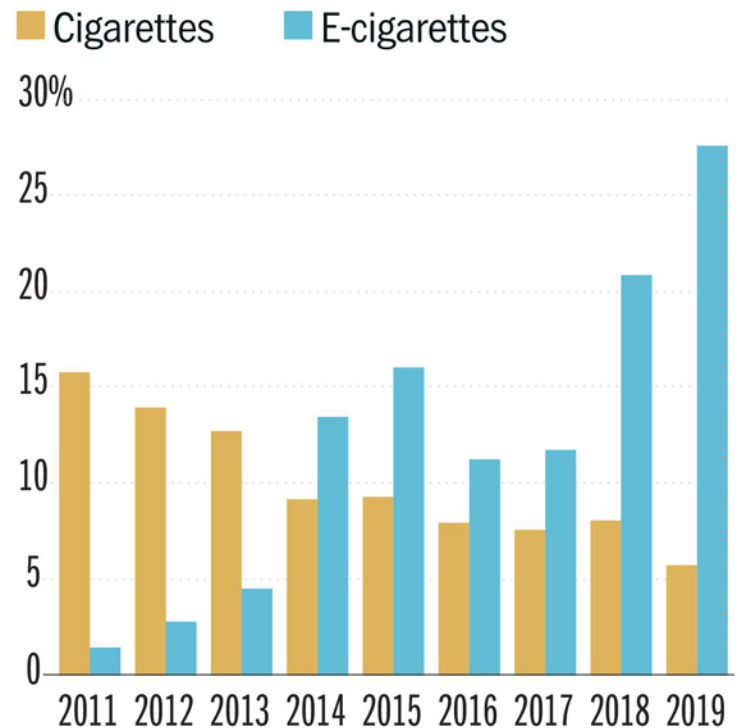
- Over 90% of adult smokers started before age 18
- Flavored tobacco initiates youth tobacco use
 - ▣ 4 out of 5 youth smokers started with a flavored product
 - ▣ Adolescents are more likely than adults to use flavored e-cigs
- Fruit and candy flavors are designed to appeal to youth users by masking the harsh taste of tobacco



Presenting Problem

- Flavored products threaten to undermine efforts to reduce youth tobacco use, putting a new generation of kids at risk of nicotine addiction and serious health harms that result from tobacco use.

Teen e-cigarette use increases

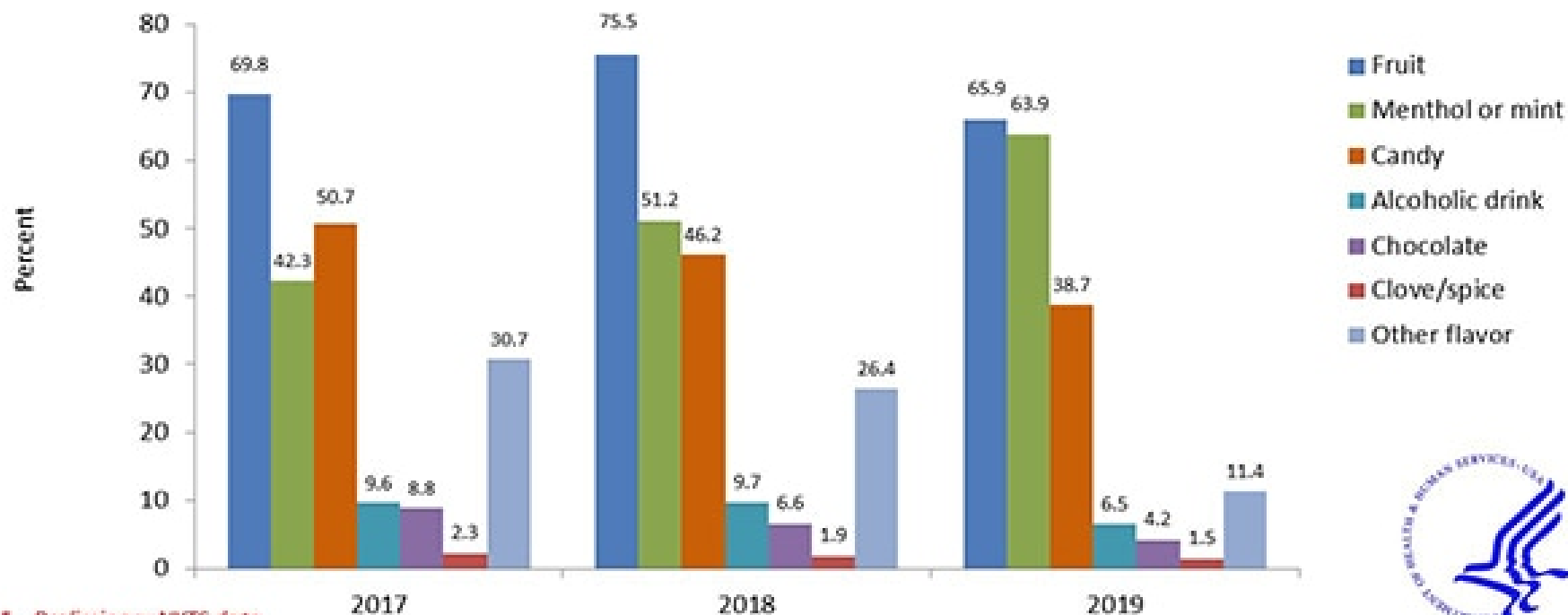


Note: Data from the 2019 National Youth Tobacco Survey conducted of students in grades six through 12. Responses are from within 30 days preceding the administration of the survey.

SOURCES: U.S. Food and Drug Administration, Associated Press

Presenting Problem

FLAVORS POPULAR AMONG HIGH SCHOOL USERS OF E-CIGARETTES*



* Preliminary NYTS data



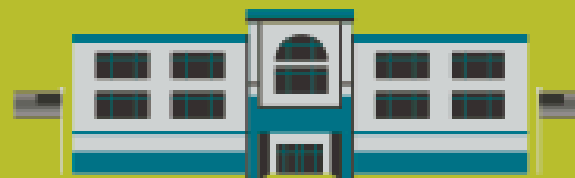
MENTHOLS

MENTHOL CIGARETTES ARE POPULAR WITH TEEN SMOKERS.

54% of current smokers in high school and 48.4% of current smokers in middle school smoked menthols.

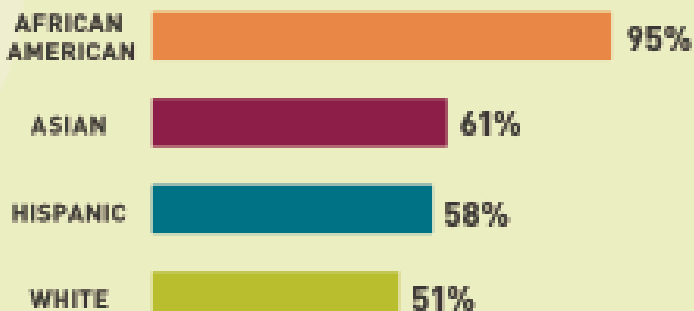


48.4% OF CURRENT SMOKERS IN MIDDLE SCHOOL SMOKE MENTHOL



54% OF CURRENT SMOKERS IN HIGH SCHOOL SMOKE MENTHOL

MENTHOL SMOKING RATES AMONG TEEN SMOKERS



NEARLY ALL AFRICAN AMERICAN TEEN SMOKERS SMOKE MENTHOLS.

95% of African American teens who are current smokers smoke menthols.



Presenting Problem

- ❑ Cheap tobacco products are affordable and attractive to youth
- ❑ More available in low-income communities of color



IT'S **NOT** JUST "HARMLESS WATER VAPOR"

E-cigarette aerosol contains
at least **10 chemicals** on
California's Prop 65 list of
chemicals known to cause
**cancer, birth defects or other
reproductive harm.**



TOLUENE
ACETALDEHYDE
BENZENENE
CADMIUM
FORMALDEHYDE
ISOPRENE
LEAD
NICKEL
NICOTINE
N-NITROSONORNICOTINE



Presenting Problem

For every adult who quits smoking using e-cigarettes, 80 youth initiate daily tobacco use through e-cigarettes.



Presenting Problem

- 2017-2018 California Healthy Kids Survey Results for Castro Valley and San Lorenzo Unified School Districts:
 - **Over 1 in 4 (28%) SLUSD 11th graders and over 1 in 5 (21%) CVUSD 11th graders have used e-cigarettes.**
 - **58% of CVUSD 11th graders & 57% of SLUSD 11th graders believe it's very or fairly easy to obtain e-cigarettes.**
 - 44% of SLUSD 11th graders and 42% CVUSD 11th graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes.

Presenting Problem

- 2017-2018 California Student Tobacco Survey
Results for Alameda County:
 - 1 in 4 teens have used e-cigarettes.
 - **87.6% of current youth tobacco users report using a flavored tobacco product.**
 - Flavored tobacco product use was high across all genders, race/ethnicities and grades.
 - **69% of high school students who purchased e-cigs reported buying them from the store themselves or from someone else; only 6.5% purchased online.**
 - Fruit or sweet was the most popular flavor.

YOUTH WHO USED **JUUL FLAVOR PODS** IN THE PAST 30 DAYS SAID THEY **OBTAINED THE DEVICE IN THE FOLLOWING WAYS.**

74%

PHYSICAL RETAIL
LOCATION



52%

SOCIAL SOURCE



6%

INTERNET



*youth could select multiple answers

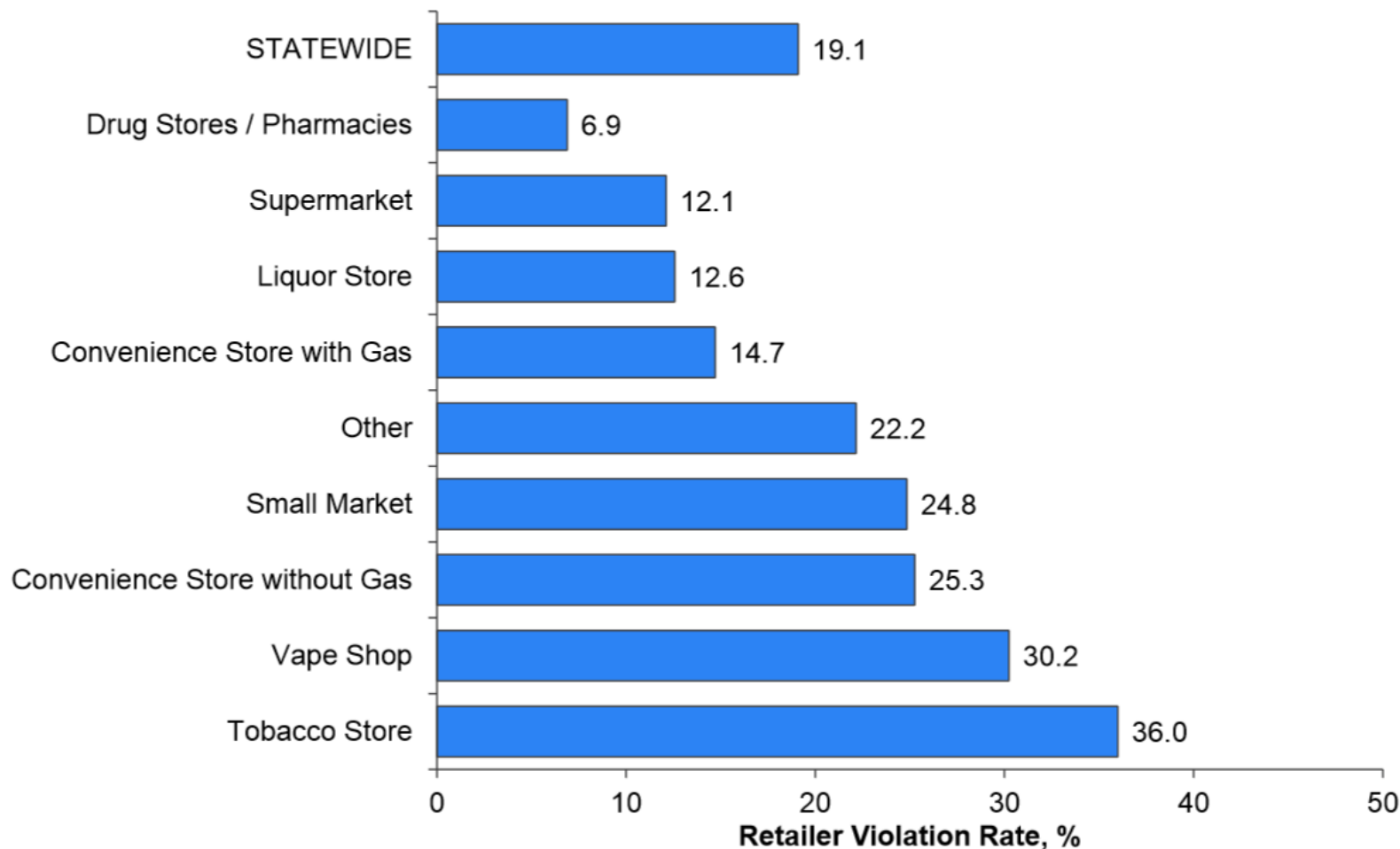
truthinitiative.org



truth initiative
INSPIRING TOBACCO-FREE LIVES



Percent of Retailers Selling Tobacco to Underage Young Adults by Store Type, 2018



Note: Tobacco stores include vape shops/lounges. Store types with small sample sizes were grouped together with the "other" category (e.g. delis, discount stores, gift stores, hotels, car washes, restaurants, cafes, donut shops). Young adults are defined as 18-19 years old. Source: California Department of Public Health, California Tobacco Control Program. Young Adult Tobacco Purchase Survey, 2018. Sacramento, CA: California Department of Public Health; October 2018.

Unincorporated Alameda County Tobacco Retailer Store Observation Survey Results

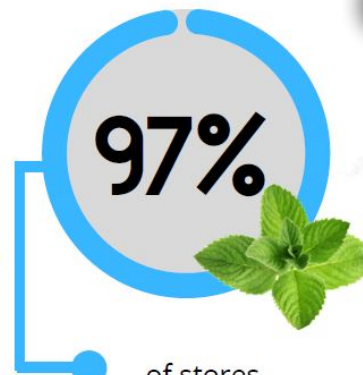
In September 2019, La Familia and the Alameda County Public Health Department conducted observation surveys in 72 stores within Alameda County Unincorporated that sell tobacco products.



FLAVORED TOBACCO PRODUCTS ...



of stores surveyed
sell flavored tobacco
products including
fruit, candy, alcohol,
and **mint/menthol**
flavors



of stores
surveyed sell
menthol
cigarettes



50% of stores surveyed
sell **flavored** electronic smoking devices



Unincorporated Alameda County Tobacco Retailer Store Observation Survey Results

In September 2019, La Familia and the Alameda County Public Health Department conducted observation surveys in 72 stores within Alameda County Unincorporated that sell tobacco products.



PRICE & PACK SIZE

83%

of stores surveyed that sell little cigars / cigarillos...

...sell them in pack sizes as

**small as
1 or 2**



...for prices **less than \$2**
(before taxes)

The lowest price for a **single flavored cigarillo** is

\$0.49



Tobacco Retailer Density



Places with greater density of tobacco retailers have higher tobacco use rates, leading to greater health inequities.

Up to 71% of homes in the Eden Area have walking access (0.5 miles or less) to tobacco stores; up to 61% of these stores are close to schools.

Overview of Proposed TRL Ordinance

- **Purpose is to reduce youth access to tobacco**, and to limit negative public health effects of tobacco use.
- Would require businesses in Unincorporated Alameda County that sell tobacco to **obtain a local license annually** in order to sell tobacco.
- **Provides enforcement mechanism**; holds retailers accountable to comply with local requirements, as well as state and federal tobacco laws.



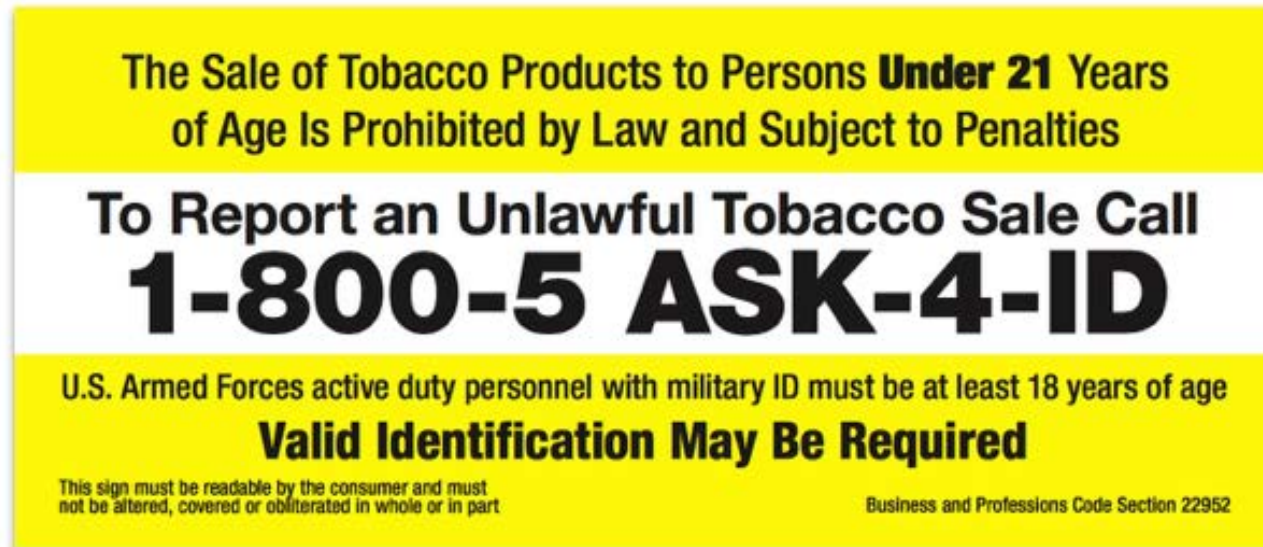
Why a Tobacco Retail Licensing Program?

- ❑ Established model to reduce youth access to tobacco products.
- ❑ 10 Cities in Alameda County have adopted TRLs:
Alameda, Albany, Berkeley, Dublin, Fremont, Hayward, Livermore, Oakland, San Leandro & Union City
- ❑ Allows for local jurisdictions to set meaningful penalties for non-compliance.



Why a Tobacco Retail Licensing Program?

- Holds businesses accountable for behavior of clerks.
- Provides ongoing consistent enforcement to prevent tobacco sales to minors.



TRL Requirements for Retailers

- Comply with all federal and state tobacco laws
- Obtain license annually in order to sell tobacco
- Follow local requirements set forth in the ordinance



Federal and California Laws

- ❑ No sale of tobacco to persons under age 21 (CA)
- ❑ All appropriate taxes must be paid on tobacco products sold in California [ATF and CDTFA]. (Fed + CA)
- ❑ No self-service displays or vending machines for tobacco (CA)
- ❑ No sale of single cigarettes or in packs less than 20 (Fed + CA)



Proposed Local TRL Requirements *



- **No selling tobacco without a valid local TRL**
- **Prohibits the sale of all flavored tobacco products**
 - Includes menthol cigarettes, flavored little cigars, flavored e-cigs
- **Prohibits the sale of all Electronic Smoking Devices**
 - Includes all e-cigarettes, e-juices, e-devices
 - Does not include FDA-approved tobacco cessation products
 - Does not regulate devices used for cannabis

* Would apply to areas of Unincorporated Alameda County

Proposed Local TRL Requirements *



- **Creates pricing requirements for the sale of tobacco:**
 - ▣ Establishes a minimum sales price of \$8.00 per package of cigarettes, little cigars and single large cigars
 - ▣ Establishes a minimum package size of at least 20 little cigars
 - ▣ Prohibits the redemption of tobacco discounts and coupons

* Would apply to areas of Unincorporated Alameda County

Proposed Local TRL Requirements *

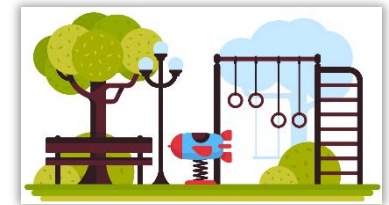


- **Creates tobacco retailing density requirements:**
 - ▣ Prohibits tobacco sales (new retailers) within 1,000 ft of youth populated areas and 500 feet of existing tobacco retailers
 - ▣ Limits the total number of tobacco retail licenses to 1 per 2,500 residents
- **Prohibits pharmacies from obtaining a TRL**

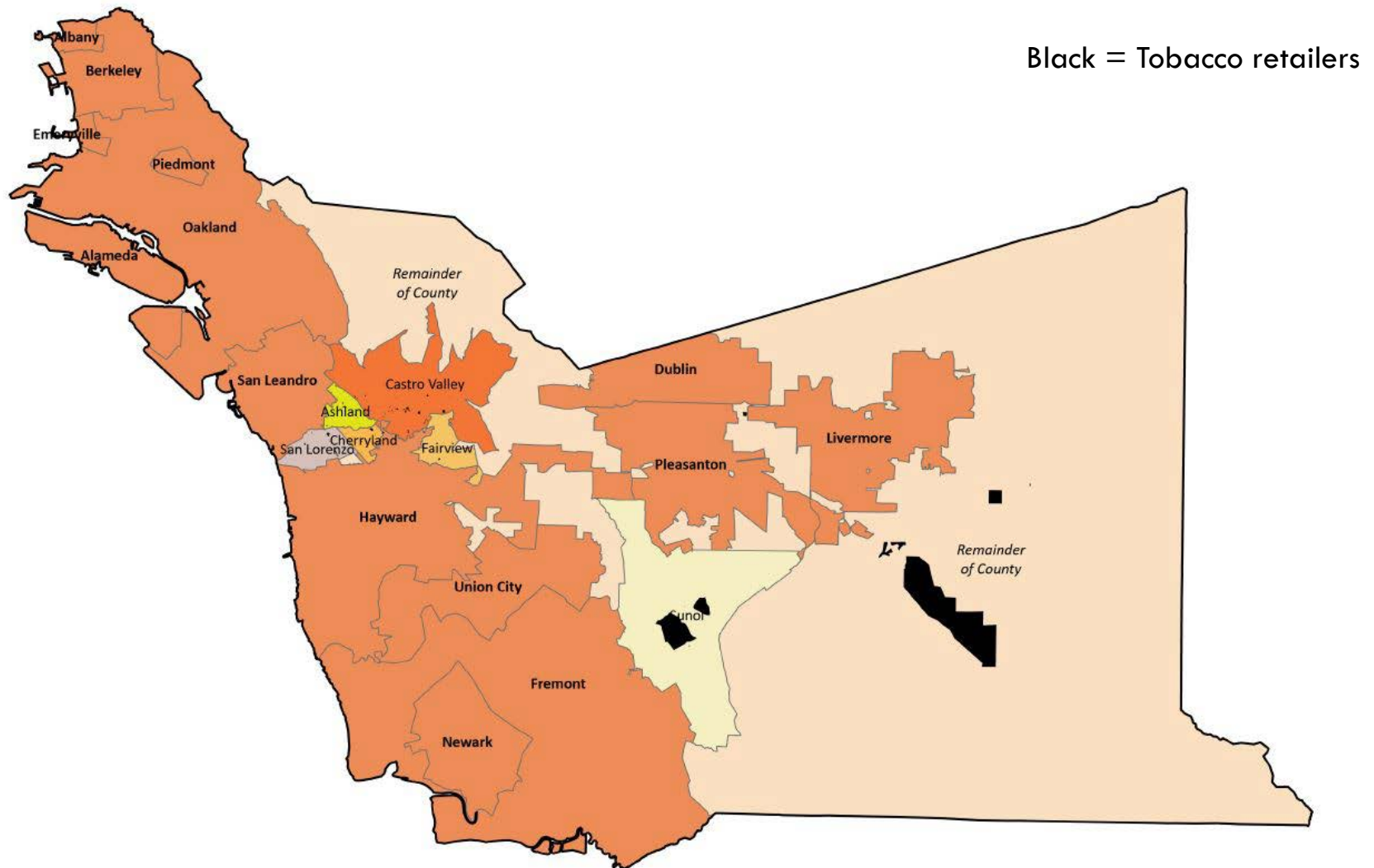
* Would apply to areas of Unincorporated Alameda County

Retailer Proximity to Youth-Populated Areas

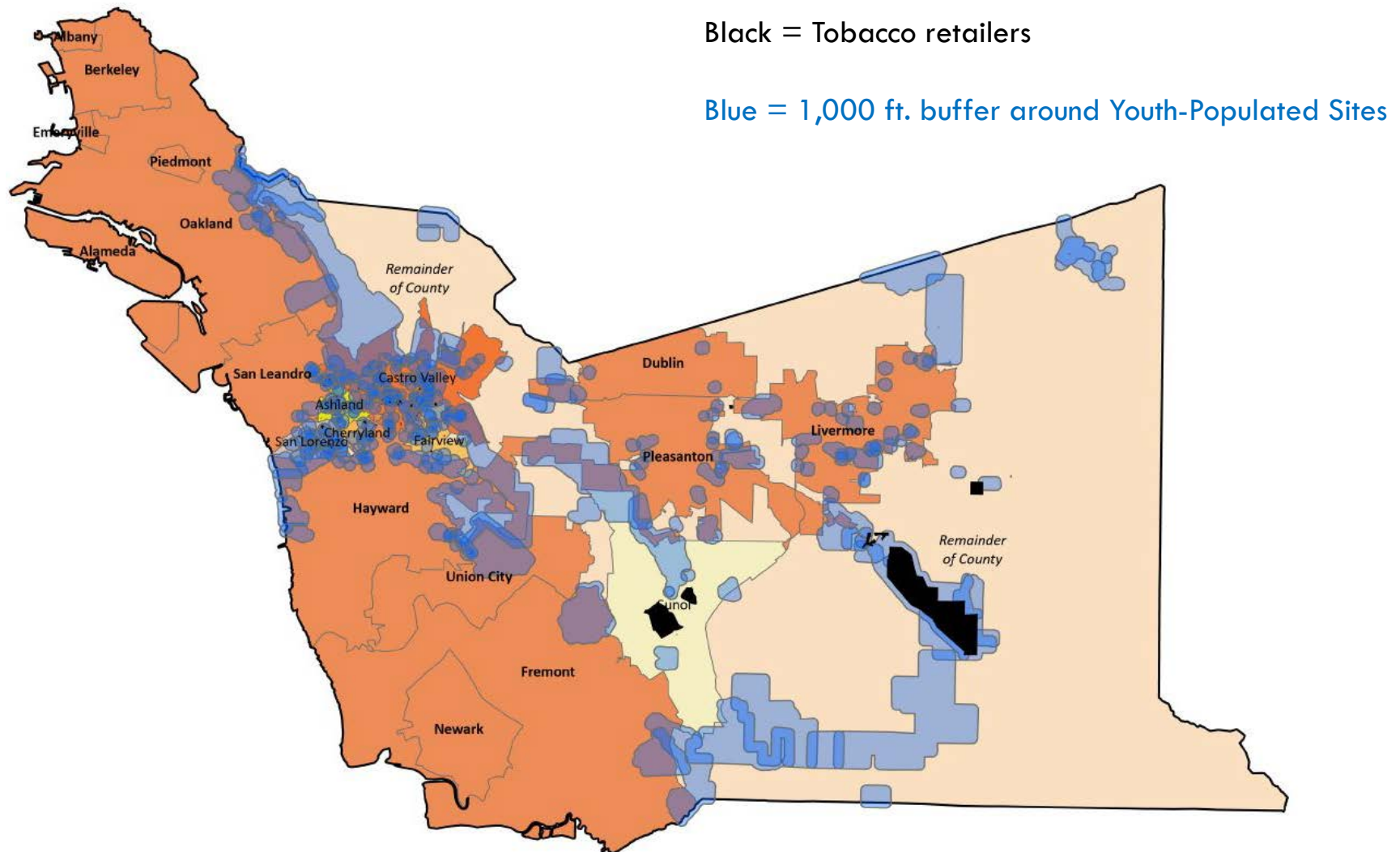
- Youth-Populated Areas include:
 - ▣ Schools (private or public K-12)
 - ▣ Libraries
 - ▣ Parks
 - ▣ Playgrounds
 - ▣ Youth centers
 - ▣ Recreation facilities
 - ▣ Licensed child-care facilities or preschools



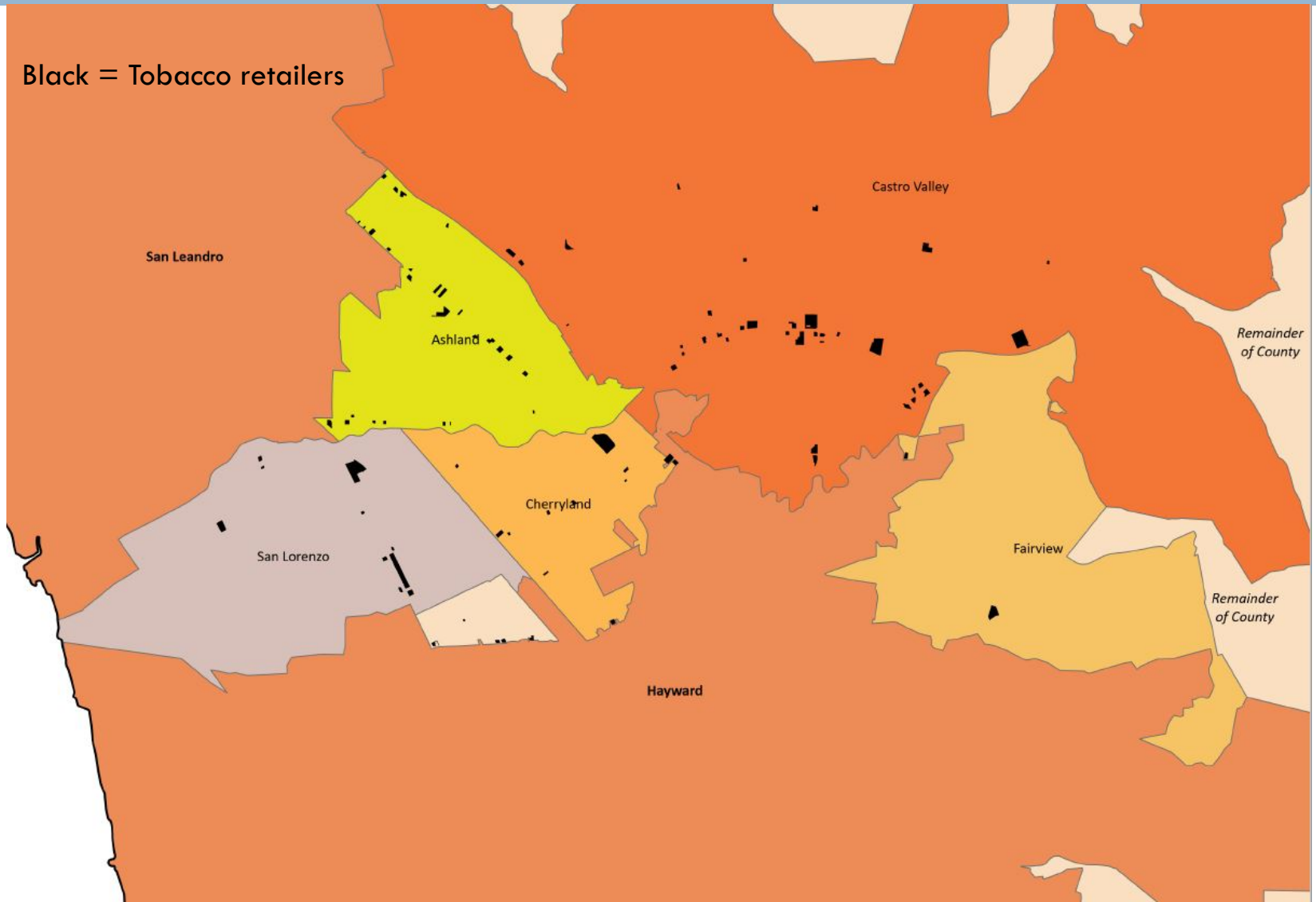
Locations of Tobacco Retailers in Unincorporated Alameda County (n=115)



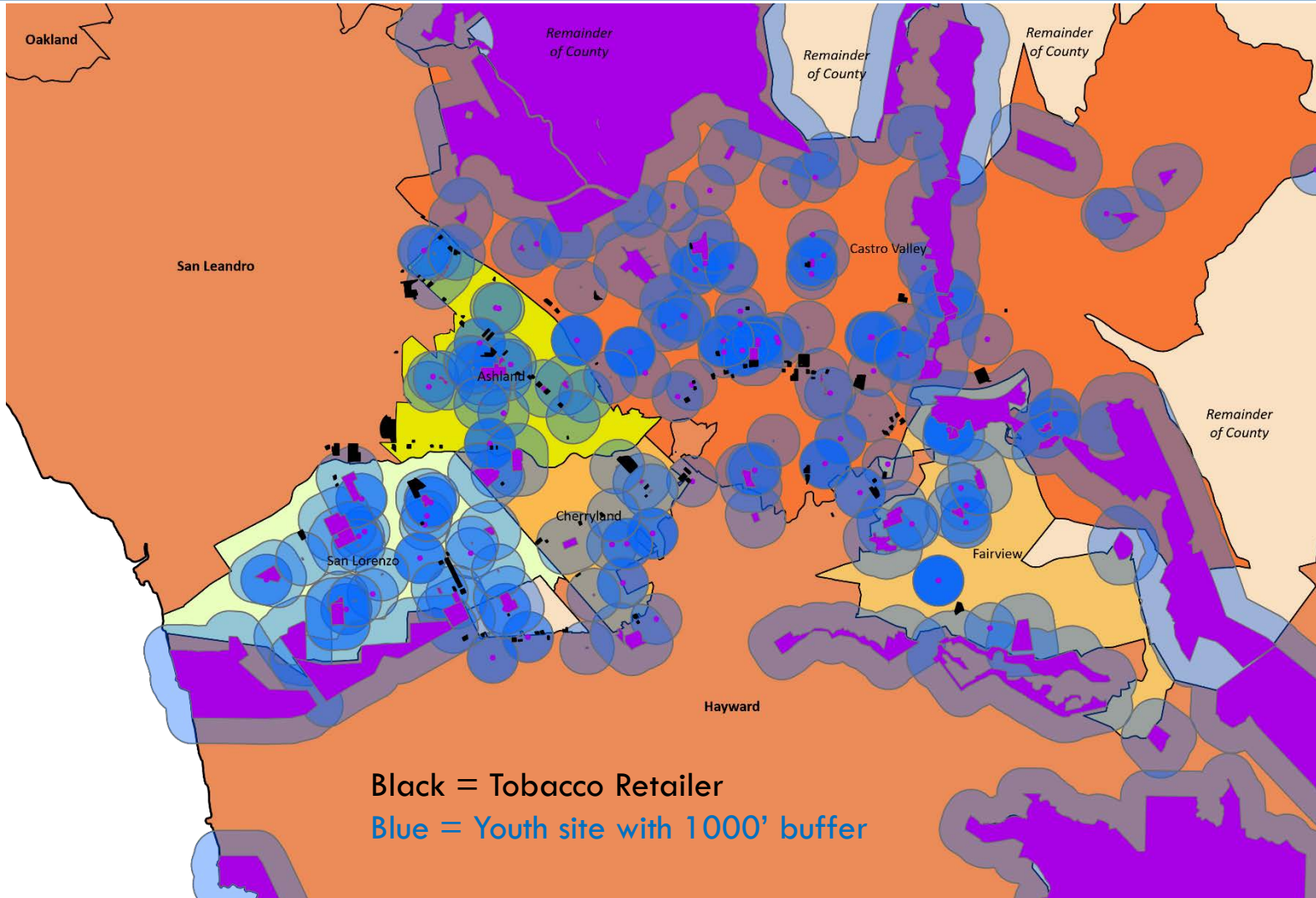
Retailer Proximity to Youth-Populated Sites



Locations of Tobacco Retailers in Central County Unincorporated Areas



Retailer Proximity to Youth-Populated Sites in Central County Unincorporated Areas



Penalties: Suspensions or Revocation

During a 5-Year Period

- 1st violation – 30 day license suspension
- 2nd violation – 90 day license suspension
- 3rd violation – 1 year license suspension
- 4th violation – license revocation



Penalties: Suspensions or Revocation

During a 5-Year Period

- ❑ Retailers alleged to have violated the ordinance may request a hearing before the Board of Zoning Adjustments.
- ❑ Violations stay on a retailer's record for 5 years.



Comparison to Other Cities Min. Price

	Pack size	Minimum Price
Proposed	20	\$8 cigarettes, little cigars, premium cigars
Alameda City	5	\$7 cigarettes \$5 little cigars or \$5 premium cigar
Albany	20	\$8 cigarettes \$8 little cigars
Berkeley	20	\$8 cigarettes \$8 little cigars or \$7 premium cigar
Dublin	no	no
Fremont	5	\$8 cigarettes \$8 little cigars or \$5 premium cigar
Hayward	5	no
Livermore	no	no
Oakland	no	no
San Leandro	5	\$7 little cigars or \$5 premium cigar
Union City	5	\$5 premium cigar

Comparison to Other Cities Fees & Fines

			Violations			
	Period	1st	2nd	3rd	4th	Annual Fee
PROPOSED	5 years	30 days	90 days	1 year	revocation	TBD
Alameda City	5 years	\$1,500	15 days	30 days	revocation	\$750?
Albany	5 years	10 days	30 days +\$250	90 days + \$500	Revocation + \$1,000	\$250
Berkeley	5 years	30 days	90 days	1 year	revocation	\$427
Dublin	3 years	warning	\$750	7 days + \$1000	revocation	\$237
Fremont	5 years	30 days	90 days	1 year	revocation	None set yet
Hayward	3 years	\$1,500 or 30 days	\$3,000 or 30 days	\$5,000 or 30 days	revocation	\$400
Livermore	5 years	30 days	1 year	revocation	n/a	none set yet
Oakland	5 years	10 days	30 days	90 days	revocation	\$1,500 + \$50
San Leandro	3 years	warning	\$2,500	20 days	revocation	\$500
Union City	5 years	warning	30 days	90	revocation	\$665

Thank You

- Paul Cummings, MPH

Tobacco Control Program Director

Paul.Cummings@acgov.org

(510) 208 - 5921

- Rachel Gratz-Lazarus, MPH

Senior Program Specialist

Rachel.Gratz-Lazarus@acgov.org

510-268-2492

