2023 UPDATE

Deadly Alliance

How Big Tobacco and Convenience Stores Partner to Hook Kids and Fight Life-Saving Policies

AATCLC The African American Tobacco Control Leadership Council Saving Black Lives · American Cancer Society Cancer Action Network · American Heart Association · American Lung Association · Campaign for Tobacco-Free Kids · The Center for Black Health & Equity · Counter Tools · truth initiative

DEADLY ALLIANCE: How Big Tobacco and Convenience Stores Partner to Hook Kids and Fight Life-Saving Policies

TABLE OF CONTENTS

Cover image from Jupiter, FL, 2018. Courtesy of CounterTobacco.org.

EXECUTIVE SUMMARY

Tobacco companies enlist convenience stores as their most important partners in marketing tobacco products and fighting policies that reduce tobacco use, thereby enticing kids to use tobacco and harming the nation's health.

As other forms of tobacco marketing have been restricted, tobacco companies now spend 97% of their marketing budget — $8.6 billion a year — to saturate convenience stores, gas stations, and other retail outlets with incentives and reminders to buy their addictive products. Tobacco companies pay stores to ensure that tobacco products are advertised heavily, displayed prominently, and priced cheaply to appeal to both kids and current tobacco users. That has led convenience stores to be partners with — and front groups for — the tobacco industry in fighting restrictions on the sale of flavored tobacco products, higher tobacco taxes, and other public policies proven to reduce tobacco use.

Key Findings

Convenience stores and other retail outlets are by far the dominant channel for tobacco product marketing in the United States. With tobacco advertisements prohibited on television, radio and billboards and less frequent in magazines, convenience stores remain the one place where consumers, including kids, are regularly exposed to tobacco advertising and promotions. Retail outlets, also known as the "point of sale," continue to be the tobacco industry's dominant marketing channel by far.

Point-of-sale marketing is very effective at reaching kids and influencing them to use tobacco. Convenience stores are where kids and adolescents go to buy candy, sodas and afterschool snacks. In fact, nearly half of adolescents visit a convenience store at least once a week, and Black youth are twice as likely as their peers to visit a convenience store every week. What better way to capture this market than to target youth where they shop? The evidence is clear that point-of-sale marketing and price promotions influence youth initiation, experimentation, and progression to regular smoking.

Tobacco companies continue to target communities of color with point-of-sale marketing, especially for menthol cigarettes and flavored cigars, leading to disproportionate and deadly health impacts among these populations. The higher density of tobacco outlets in Black neighborhoods means that menthol cigarettes and flavored cigars continue to be heavily advertised, widely available, and priced cheaper in Black communities, making them more appealing, particularly to price-sensitive youth.

Tobacco companies, inhibited by their own negative reputations, have enlisted convenience stores as front groups to oppose evidence-based policies to reduce tobacco use. Tobacco companies aggressively communicate with retailers, supply them with tools and information to lobby policymakers, and provide financial support.

In short, tobacco companies spend billions in concert with convenience stores and other retailers to make tobacco appealing, accessible, and affordable – resulting in more kids starting and fewer adults quitting. It is essential for elected officials to adopt evidence-based policies to reduce tobacco use and counter the influence of point-of-sale marketing, such as prohibiting the sale of flavored tobacco products, higher taxes on tobacco products, and funding for tobacco prevention and cessation. Policymakers need to decide whose side they are on: Our kids *OR* Big Tobacco and their allies.

THE RETAIL ENVIRONMENT IS CRITICAL TO THE TOBACCO INDUSTRY'S BOTTOM LINE

Park City, UT, 2022.

No one knows the importance of the retail environment better than the tobacco industry. The industry has long recognized how critical retail stores, particularly convenience stores, are to growing industry profits by reaching current and potential customers, including kids. Marketing restrictions in the 1998 Master Settlement Agreement (MSA)[1] and the Smokeless Tobacco Master Settlement Agreement, as well as the 2009 Family Smoking Prevention and Tobacco Control Act, have led to the emergence of the retail environment (also called the point of sale) as a critical venue for marketing and promoting tobacco products.

With more than 350,000 tobacco retailers across the U.S.,[2] the point-of-sale environment is critical for tobacco companies because it allows them to communicate directly with consumers, especially because cigarette and smokeless tobacco ads are prohibited on television, radio, and billboards. The point of sale has also become an important space for e-cigarette manufacturers to promote their products. It is at the point of sale where the tobacco industry's messages continue to reach and appeal to kids.

Conveniently Aligned

Tobacco Industry:	Convenience Store Industry:
"**Today's teen-ager is tomorrow's potential regular customer** and the overwhelming majority of smokers first begin to smoke while in their teens."[3]	"**We chose to focus on teens because of their strategic position as the next generation of shoppers.** If the convenience industry can connect with them now, we will be laying a foundation for building lifelong loyalty."[4]

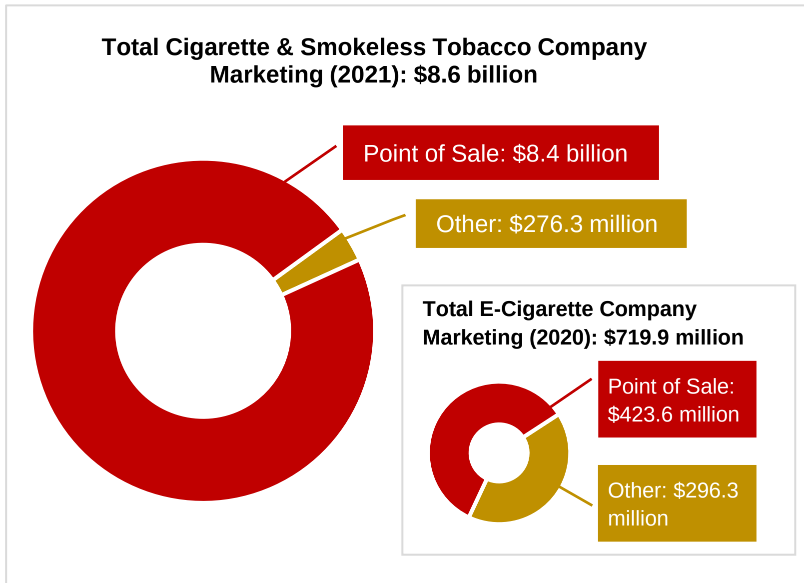
The objective of point-of-sale marketing is to promote, place, and price tobacco products to maximize their appeal and boost sales. Point-of-sale marketing builds brand recognition, creates positive feelings towards tobacco products, and gives people of all ages a reason to "buy now." This encourages tobacco use and undermines quit attempts. The ubiquity of tobacco products and marketing in stores also creates a norm that makes tobacco use seem common, acceptable, and even cool.

This prominent exposure to customers is part of the reason why the last remedy in the U.S. Government's lengthy civil racketeering lawsuit against the major tobacco companies (Altria, R.J. Reynolds, and ITG Brands)[5] is so important. After 16 years of the tobacco companies' pushback, the U.S. District Court for the District of Columbia formalized an agreement reached by the parties to the case – including the U.S. Department of Justice, six public health intervenors, and the tobacco companies – requiring the roughly

200,000 tobacco retailers that have contracts with the defendant tobacco companies to display specific signs with “corrective statements” about the dangers of smoking next to tobacco product displays beginning on July 1, 2023. The signs must be posted for 21 months. Associate Attorney General Vanita Gupta stated that this “resolution implements the last remedy of this litigation to ensure that consumers know the true dangers of the smoking products they may consider purchasing.”[6]

THE TOBACCO INDUSTRY INVESTS BILLIONS OF DOLLARS AT THE POINT OF SALE

The Federal Trade Commission (FTC) has collected data on annual cigarette and smokeless tobacco expenditures since 1996 and e-cigarette expenditures since 2015, based on data from the largest manufacturers. In the last 20 years, the point of sale has been by far the tobacco industry’s dominant marketing channel. In 2021, the top cigarette and smokeless tobacco companies spent $8.4 billion at the point of sale, accounting for 96.8% of total marketing expenditures ($8.6 billion).[7] Similarly, in 2020 (the latest year for which data are available), the top e-cigarette companies spent $423.6 million on point-of-sale marketing (58.8% of total marketing expenditures).[8] These expenditures include:



Pricing Strategies: Pricing strategies make up the vast majority of point-of-sale marketing, accounting for 99% of point-of-sale marketing expenditures and 96% of total marketing expenditures by cigarette and smokeless tobacco companies in 2021, and 85% of e-cigarette point-of-sale marketing and 50% of total e-cigarette marketing in 2020.[9] Price promotions keep tobacco prices low through price discounts (e.g., payments to retailers to reduce product prices to consumers), promotional allowances (e.g., volume rebates, payments for stocking certain brands), “retail value added” offers (e.g., buy two packs get one free), and coupons. Each of these promotional strategies makes tobacco products cheaper and more accessible to consumers, especially price-sensitive populations such as kids.

Camdenton, MO, 2021. Courtesy of CounterTobacco.org

In 2021, the cigarette companies spent $7.8 billion on price promotions, amounting to 73 cents off every pack of cigarettes sold in the U.S.[10] Similarly, smokeless tobacco companies spent $487.3 million (84.7% of total marketing spending), while in 2020, e-cigarette companies spent $361.8 million (50.3% of total marketing spending) on price-related marketing strategies.[11]

Many e-cigarette companies offered products for $1 or less—a clear effort to evade FDA's ban on free sampling that was meant to limit youth access. Between 2018 and 2020, e-cigarette company spending on sampling (free or deeply discounted) more than doubled to $140.1 million.[12]

Product Placement: Tobacco retailers enter into contracts with tobacco companies that provide financial incentives to retailers in return for tobacco companies' control over where tobacco products are placed, how they are displayed, what advertising can be shown and where, and the prices of products.[13] Mandated product and marketing placement include places in stores that are highly visible to customers, including kids. Tobacco companies know that that "eye level is buy level,"[14] so they pay retailers large sums of money (slotting allowances) to put their tobacco products on 'good' shelving space. Displaying multiple shelves of cigarettes is also often done to create a "powerwall" of branded imagery that makes tobacco products more visible, more attractive and more enticing.[15] Consistent with research on marketing of other tobacco products, studies have found that e-cigarettes are often stocked near kid-friendly products like candy. A national study found that in 2015, 20% of e-cigarette retailers had e-cigarettes displayed near candy, gum, soda, or ice cream.[16]

Point-of-Sale Advertising Materials: The general point-of-sale advertising category refers to any type of marketing piece found inside the store, such as signs, mats at the counter, or counter display pieces. In 2021, cigarette companies spent $49.1 million and smokeless tobacco companies spent $18.8 million on point-of-sale advertising materials, while e-cigarette companies spent $61.8 million in 2020.[17]

UNITED STATES V. PHILIP MORRIS USA INC., ET AL. AND CORRECTIVE STATEMENTS AT THE POINT OF SALE

The required signs posted at the point of sale are the final step in implementing the "corrective statements" the tobacco companies were first ordered to make in 2006, when U.S. District Judge Gladys Kessler issued a landmark judgment that these companies violated civil racketeering laws and lied to the public for decades about the health risks and addictiveness of cigarettes and their marketing to children. The corrective statements are powerful reminders that tobacco's horrific toll is no accident; it stems directly from the tobacco industry's deceptive and illegal practices. As Judge Kessler found in her nearly 1,700-page final opinion:[18]

> Over the course of more than 50 years, Defendants lied, misrepresented, and deceived the American public, including smokers and the young people they avidly sought as 'replacement smokers,' about the devastating health effects of smoking and environmental tobacco smoke, they suppressed research, they destroyed documents, they manipulated the use of nicotine so as to increase and perpetuate addiction, they distorted the truth about low tar and light cigarettes so as to discourage smokers from quitting, and they abused the legal system in order to achieve their goal – to make money with little, if any, regard for individual illness and suffering, soaring health costs, or the integrity of the legal system.

In requiring these corrective statements at retail locations, Judge Kessler recognized the importance of using "the same vehicles which Defendants have themselves historically used to promulgate false smoking and health messages." In her final opinion, she highlighted tobacco company documents showing how they knew for decades that convenience stores were the way to reach young people and people of color, and concluded, "The retail store has become one of Defendants' central vehicles for communication of brand imagery and promotional offers."

These signs are still vitally relevant today, given tobacco companies' ongoing marketing of tobacco products in convenience stores and their opposition to policies that reduce tobacco use, as detailed in this report. These point-of-sale signs will tell the public the truth about the health harms of smoking and secondhand smoke, the addictiveness of smoking and nicotine, and the industry's manipulation of cigarettes to make them more addictive. Critically, this truthful information will be provided to consumers at the point where they are making decisions whether to purchase cigarettes. They are welcome complements to the evidence-based policies that states and localities are implementing to reduce tobacco use, including increasing tobacco taxes and prohibiting the sale of flavored tobacco products.

Mock-up of corrective statement signs in stores.

The corrective statement signs will be installed in stores between July 1, 2023 and September 30, 2023 and must be displayed until June 30, 2025. They will appear in about 220,000 stores nationwide covered by marketing agreements with the defendant tobacco companies. The signs will be in both English and Spanish, with the latter required in geographic areas with significant Spanish-speaking populations. There are 17 distinct corrective statements, all specified by the court many years ago. Corrective statements have previously been disseminated through newspaper and television ads and on cigarette packs, and they will remain indefinitely on the tobacco companies' websites.

THE TOBACCO INDUSTRY TARGETS YOUTH WITH POINT-OF-SALE MARKETING

The tobacco industry counts on underage smokers to replace the hundreds of thousands of adult smokers who die each year. Each day, over 1,100 kids try smoking for the first time and about 100 additional kids become regular daily smokers, largely due to tobacco company marketing efforts.[19] Nearly 90% of all regular smokers begin smoking at or before age 18.[20] What better way to capture this market than to target youth where they shop?

Tobacco company documents show that tobacco companies have targeted convenience stores, grocery stores and other tobacco retailers near schools and playgrounds in an effort to attract young smokers.

Many schoolchildren have easy access to tobacco retailers, including convenience stores, which means they are easily exposed to point-of-sale marketing:

- In 30 large U.S. cities, an average of 62.6% of public schools are within 1,000 feet (about 2 city blocks) of a tobacco retailer (ranging from 32.8% in Sacramento to 94.1% in New York City). On average, 70% of city residents live within a half mile (about a 10-minute walk) from a tobacco retailer.[21]
- Nearly half of adolescents visit a convenience store at least once a week, and Black youth are twice as likely as their non-Black peers to visit a convenience store every week.[22]
- An assessment of vape shops in six cities across the US found that one-third of vape shops were within two blocks of schools.[23] E-cigarettes are also widely available in other retailers, including convenience stores. In 2015, 80% of tobacco retailers sold e-cigarettes and e-cigarette sales and use data suggest availability has likely continued to increase in recent years.[24]

Fort Wayne, IN, 2019. Courtesy of CounterTobacco.org

Unfortunately, convenience stores are also where kids meet tobacco. Data from the National Youth Tobacco Survey (NYTS) show that 6 out of 10 middle school students and 7 out of 10 high school students were exposed to tobacco advertisements in stores in 2021.[25] The volume of tobacco brand imagery and product placement in convenience stores normalizes tobacco to kids and makes the products look enticing.

AGE RESTRICTIONS ALONE WILL NOT REDUCE YOUTH ACCESS TO TOBACCO PRODUCTS

While raising the tobacco sale age to 21 is a significant milestone, age restrictions alone are insufficient to reduce youth access. Despite their claims of being responsible, many tobacco retailers continue to violate the law by selling tobacco products to youth:

- In 2022, nearly half (47.5%) of tenth graders reported that they thought cigarettes would be easy to get and 51.9% reported that vaping devices would be easy for them to get.[26]
- E-cigarettes are significantly easier for underage youth to purchase than cigarettes. Underage purchase attempts of vaping products are 35% less likely to trigger an ID request and 42% more likely to result in a sales violation, compared to purchase attempts for cigarettes.[27]
- According to the 2021 NYTS, 17.7% of youth cigarette smokers and 34.1% of youth cigar smokers reported buying these products from a gas station or convenience store in the last month. Among youth e-cigarette users, 22.2% reported obtaining e-cigarettes from a vape shop or tobacco shop in the past month and 17.7% from a gas station or convenience store.[28]

TOBACCO COMPANIES TARGET COMMUNITIES OF COLOR WITH POINT-OF-SALE MARKETING, ESPECIALLY FOR MENTHOL CIGARETTES AND FLAVORED CIGARS

For decades, tobacco companies have specifically targeted communities of color, particularly Black Americans, with intense advertising and promotional efforts. The tobacco companies developed specific strategies and specially designed product displays to adapt their point-of-sale marketing to smaller retailers that were more common in urban areas. For example, Phillip Morris implemented promotion programs and paid retailers to exhibit product displays and grow their inventory. Brown & Williamson launched its Kool Inner City Point of Purchase Program, later the Kool Inner City Family Program, with the explicit goal, “to reach the core of Kool’s franchise (young, black, relatively low income and education),” with both retailer and consumer promotions.[29]

Jupiter, FL, 2018. Courtesy of CounterTobacco.org

Today, menthol cigarettes continue to be heavily advertised, widely available, and priced cheaper in Black communities, making them more appealing, particularly to price-sensitive youth. A wealth of research indicates that Black neighborhoods have a disproportionate number of tobacco retailers, pervasive tobacco marketing, and in particular, more marketing of menthol products.[30] These tobacco marketing strategies in these disproportionately targeted neighborhoods include higher odds of tobacco price promotions and lower prices for cigarettes, including menthol cigarettes.[31] Nationwide, areas with a greater proportion of Black residents have higher tobacco retailer density and greater odds of advertisements for price promotions on tobacco products.[32]

The tobacco industry’s “investment” in the Black community has had a devastating impact. While in the 1950s, fewer than 10% of Black smokers used menthol cigarettes, today 85% of Black smokers use menthols, compared to just 29% of White smokers.[33] Because menthol cigarettes are more addictive and harder to quit, Black Americans suffer disproportionately from the health harms of smoking. From 1980 to 2018, menthol cigarettes were responsible for over 150,000 premature deaths among Black Americans.[34]

As with menthol cigarettes, years of research have documented greater cigar availability and more cigar marketing, including flavored cigars and price promotions, in Black neighborhoods.[35] Not surprisingly, youth use of cigars is highest among Black youth.[36]

Elkhart, IN, 2020. Courtesy of CounterTobacco.org.

Phoenix, AZ, 2016. Courtesy of CounterTobacco.org.

Oregon, WI, 2016. Courtesy of CounterTobacco.org.

POINT-OF-SALE MARKETING IMPACTS TOBACCO USE, PARTICULARLY AMONG YOUTH

The evidence is clear that point-of-sale marketing and price promotions influence youth initiation, experimentation, and progression to regular smoking. It is clear that such displays and promotions have an especially powerful impact on kids. Decades of research show that:

- Greater exposure to tobacco promotions at the point of sale increases youth smoking susceptibility, smoking initiation, progression to regular smoking.[37]
- A greater density of tobacco retailers, which both increases exposure to marketing and access to tobacco products, is associated with more smoking experimentation and higher smoking rates among youth.[38]
- Price promotions increase youth initiation, experimentation, and progression to regular smoking.[39]

In addition to increasing youth initiation, point-of-sale marketing also makes it harder for current users to quit. Nearly 70% of people who smoke want to quit,[40] but point-of-sale marketing makes it harder for them to do so. The advertisements and display of tobacco products cues cravings and prompts impulse purchases.[41] An older study shows point-of-sale marketing increases average retail tobacco product sales by as much as 12 to 28%.[42]

KID-FRIENDLY FLAVORED TOBACCO PRODUCTS ARE WIDELY AVAILABLE AT THE POINT OF SALE

A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act, prohibited the sale of cigarettes with characterizing flavors other than menthol or tobacco, including candy and fruit flavors. However, this prohibition did not extend to other tobacco products. In recent years, tobacco companies have significantly stepped up the introduction and marketing of flavored non-cigarette tobacco products, especially e-cigarettes and cigars, that appeal explicitly to new users. Flavored tobacco products are just as addictive as regular tobacco products. These flavored products are undermining the nation's overall efforts to reduce youth tobacco use and putting a new generation of kids at risk of nicotine addiction and the serious health harms that result from tobacco use.

Bradenton, FL. 2022. Courtesy of CounterTobacco.org.

Tobacco products are now available in a wide assortment of flavors that seem like they belong in a candy store or ice cream parlor – like mango, blue razz and pink punch for e-cigarettes and chocolate, watermelon, and cherry dynamite for cigars. With their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets.

- **E-cigarettes:** As of 2017, there were more than 15,500 unique e-cigarette flavors available, such as cotton candy, pink lemonade, mango and mint.[43] In February 2020, the FDA restricted some flavors in cartridge-based e-cigarettes but exempted menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely available in every imaginable flavor. Since then, sales of flavored e-cigarettes have continued to grow, increasing by 55.4% from February 2020 to October 2022.[44]
- **Cigars:** Flavored cigars are widely available and often at low prices. Researchers have identified 250 unique cigar flavor names.[45] The share of flavored cigars sold in convenience stores rose from 45% in 2009 to 53.3% in 2020. Among flavored cigars sold in these stores in 2020, the most popular flavors were sweet or candy (30.6%), fruit (29.5%), concept (21.4%), and wine (9.0%).[46] The top five most popular cigar brands among youth – Swisher Sweets, Black & Mild, Backwoods, White Owl, and Dutch Masters – all come in flavor varieties.[47]

Waxahachie, TX, 2018. Courtesy of CounterTobacco.org.

- **Cigarettes:** While overall cigarette sales have been declining, the proportion of smokers using *menthol* cigarettes (the only remaining flavored cigarette) has been increasing.[48] Menthol cigarettes comprised 37% of the market share in 2020, the highest proportion on record since the Federal Trade Commission began collecting this data in 1963.[49] A 2014 study of point-of-sale marketing in over 2,000 stores nationwide found that almost half of all stores (48%) had some outdoor marketing materials specific to menthols. [50]

Research shows that flavored products – no matter what the tobacco product – appeal to youth and young adults. In fact, eight out of ten youth who have ever used a tobacco product started with a flavored product.[51]

- **E-cigarettes:** 85% of youth e-cigarette users—2.1 million youth—use flavored e-cigarettes.[52] Among youth users of flavored e-cigarettes, the most commonly used flavor types were fruit (69.1%), candy/desserts/other sweets (38.3%), mint (29.4%) and menthol (26.6%).[53] 70.3% of current youth (ages 12-17) e-cigarette users say they use e-cigarettes “because they come in flavors I like.”[54]
- **Cigars:** 44.4% of current youth cigar smokers use flavored cigars. Among current youth users of flavored cigars, the most popular flavor type is fruit (65%).[55] 73.8% of youth cigar smokers smoked cigars “because they come in flavors I like.”[56]
- **Cigarettes:** Half of youth who have ever smoked initiated with menthol cigarettes.[57] Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating tobacco use. [58]

Image Courtesy of CounterTobacco.org.

TOBACCO COMPANIES ENLIST CONVENIENCE STORES AND OTHER TOBACCO RETAILERS TO OPPOSE TOBACCO CONTROL POLICIES

The tobacco industry not only uses convenience stores to promote and sell their deadly products, but also to oppose policies like prohibiting the sale of flavored tobacco products. Because of their negative reputation, tobacco companies know that policymakers don't want to be seen as doing their bidding. Therefore they enlist neighborhood convenience stores and retailer associations to oppose policy change, even if it has minimum impact on the retailers' business. This relationship is the result of a carefully orchestrated strategy developed by the tobacco industry.[59]

Tobacco companies communicate aggressively with retailers, urging them to become more involved in the legislative process. In addition to financial support, tobacco companies supply retailers with the tools and information to lobby effectively.

By using convenience stores as front groups and allies, the tobacco industry has been able to mask its real intentions – thwarting policies that reduce their profits – behind false ones such as supporting small businesses. If the tobacco industry truly sought to boost small business, it wouldn't lock retailers into promotional contracts that limit their autonomy.

The tobacco industry has invested in retailer groups to help preserve its ability to reach young people by thwarting policy efforts to prevent young people from starting to smoke and help smokers quit. Under the guise of protecting local business, front groups supported by the tobacco industry, like the National Association of Tobacco Outlets (NATO), NACS (The Association for Convenience & Fuel Retailing), and other retailer groups, provide retailers with the tobacco industry's talking points to block legislation that will reduce tobacco use and save lives. NATO, for example, has been supported by a virtual "Who's Who" of tobacco manufacturing, covering the full range of tobacco products including cigarettes, cigars, smokeless tobacco, and e-cigarettes.[60] NATO's Board of Directors has included membership from the major tobacco manufacturers, such as Altria, R.J. Reynolds (RJR), ITG Brands, Swedish Match, and Swisher International.[61] Working with NATO allows the tobacco industry to put a local business face on its efforts to protect its bottom line at the expense of our kids' well-being.

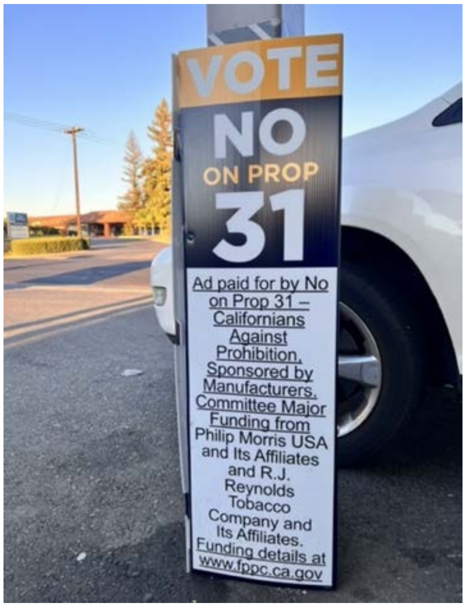
Altria ad for TobaccoIssues.com, its targeted advocacy website for tobacco retailers to contact policymakers. *NACS Magazine*, June 2022.

An article from a convenience store trade publication laid out how tobacco companies encourage and help tobacco retailers to interact with legislators:[62]

> *Altria offers retailers "analysis of the proposed legislation or regulation, talking with elected officials, speaking with their local media," says Sutton [spokesperson for Altria].*
>
> *Like Altria, McConnico [spokesperson for Reynolds American] says Reynolds "works hand in hand with retailers and trade associations" on local regulations, from its local government affairs team and Transform Tobacco website to grassroots consultants and resources deployed to build retailer and consumer awareness of proposed restrictions.*
>
> *Logic and Cheyenne have taken a similar stance: Logic now has its own government-affairs division to aid retailers on regulatory battles big and small, and Brown [vice president of governmental affairs for Cheyenne International] and his team at Cheyenne remain very active on all levels of legislation, from calling and educating retailers to partnering with state and national trade associations.*

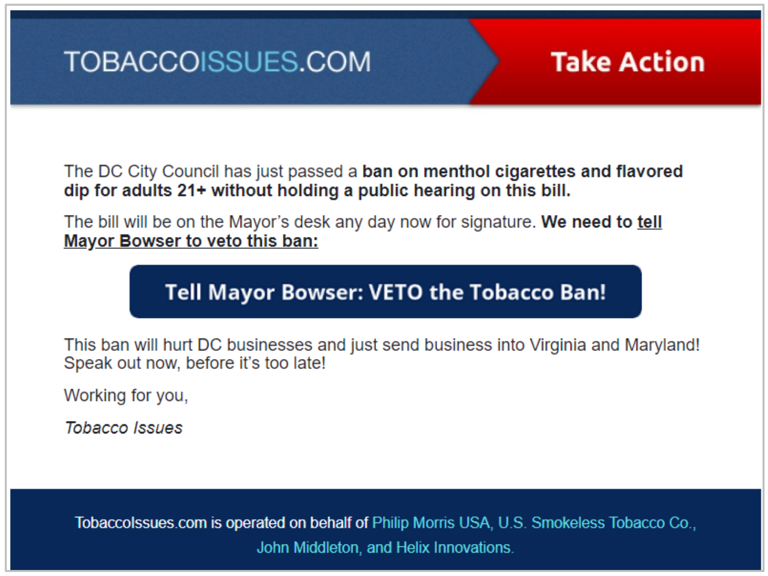
Here are some examples of retailer groups working with tobacco companies or receiving funding from them to oppose health policies:

- In 2020, along with a representative for Reynolds American, Inc., a local consultant for NATO[63] spent over $20 million to file a referendum challenging the California law to prohibit the sale of all flavored tobacco products, which had passed the legislature and had been signed by the Governor,[64] thereby delaying the implementation of the law by nearly two years. Convenience stores and gas stations subsequently posted signs to encourage customers to vote no on the referendum (Prop 31). In November 2022, California voters overwhelmingly defeated the industry's referendum, with 63% voting to uphold the flavor law.
- From 2020 to 2022, proposals to prohibit the sale of flavored tobacco products appeared in many states and localities. Tobacco company-sponsored signage encouraging customers to voice opposition for the proposals appeared in tobacco retail outlets throughout the country.
- In 2021, the Washington, DC City Council passed a ban on the sales of flavored tobacco products. Take Action emails from Altria's TobaccoIssues.com encouraged tobacco retailers to contact Mayor Bowser to veto the legislation.



Sign at a gas station in CA, 2022. Disclosure states that the sign was sponsored by Philip Morris USA and its affiliates and R.J. Reynolds Tobacco Company and its affiliates.

Door sign at a store in Dallas, TX, 2022. The QR code directs to Altria's Citizens for Tobacco Rights website to take action.



TOBACCOISSUES.COM Take Action

The DC City Council has just passed a **ban on menthol cigarettes and flavored dip for adults 21+ without holding a public hearing on this bill.**

The bill will be on the Mayor's desk any day now for signature. **We need to tell Mayor Bowser to veto this ban:**

Tell Mayor Bowser: VETO the Tobacco Ban!

This ban will hurt DC businesses and just send business into Virginia and Maryland! Speak out now, before it's too late!

Working for you,

Tobacco Issues

TobaccoIssues.com is operated on behalf of Philip Morris USA, U.S. Smokeless Tobacco Co., John Middleton, and Helix Innovations.

Email from TobaccoIssues.com, July 6, 2021.

- In 2017, Altria and R.J. Reynolds spent several hundred thousand dollars to defeat a proposed tax increase in Montana. They coached tobacco retailers, including vape store owners, to testify before legislative committees, and littered tobacco retailers with signage to contact legislators: "Altria spent $31,000 on advertising and communications in March, according to the disclosure reports. Posters and handbills appeared in convenience stores, gas stations and vape shops — urging tobacco buyers to reach to their legislators and complain about the tax increase."[65]

- In November 2016, California voters approved a ballot initiative to raise the tobacco tax in California by $2.00, despite the tobacco industry contributing more than $70 million to defeat it. The opposition committee claimed to be comprised of a broad "Coalition of Taxpayers, Educators, Healthcare Professionals, Law Enforcement, Labor, and Small Businesses," but in reality was funded almost entirely (more than 99%) by tobacco companies, primarily Altria and Reynolds American.[66] NATO also urged its California retail members to oppose this ballot initiative.[67] While NATO and convenience stores aligned with Big Tobacco, more than twenty business organizations and local chambers of commerce openly supported the tax increase.[68]

- Altria and Reynolds American are members of the North Dakota Petroleum Marketers Association (NDPMA), which helped to defeat a November 2016 ballot initiative to raise tobacco taxes in the state.[69] Mike Rud, president of the NDPMA, chaired the North Dakotans Against the 400% Tax Increase committee to oppose the ballot initiative. The NDPMA itself contributed over $33,000 and independent convenience and gas stores contributed another $40,000, but the vast majority of the funding – $3.8 million of the total $4 million in contributions – came from Altria Client Services and R.J. Reynolds Tobacco Company.[70] The NDPMA opposed the initiative under the guise of government overreach into small business while overtly claiming that it "does not support or promote the use of tobacco."[71] Both stances help Big Tobacco hide behind the "small business" image of the NDPMA to oppose a tax that will cut into its profits.

- Altria also helped to defeat a November 2016 ballot initiative to raise the cigarette tax in Colorado by $1.75 per pack. Although convenience stores did not contribute financially to the committee opposing the initiative (which was funded by more than $17 million from Altria),[72] materials opposing the tax were distributed at convenience stores and posted on gas station pumps, targeting consumers and voters right at the point of sale and clearly demonstrating a tie between Altria and retailers.

Sign at a gas pump, CO, 2016.

POLICY SOLUTIONS

Restrictions on the Sale of Flavored Tobacco Products

Prohibiting the sale of flavored tobacco products removes the products that are most attractive to young people and the products that young people use most often, which may prevent youth from ever trying tobacco. Restricting the sale of flavored tobacco products will prevent young people from using tobacco, lead more users to quit, improve health, save lives, enhance health equity, and reduce health care spending. A 2020 Surgeon General report concluded that, “Prohibiting flavors, including menthol, in tobacco products can benefit public health by reducing initiation among young people and promoting cessation among adults.”[73] Additionally, restricting the sale of flavored tobacco products ends one of the most pernicious strategies the tobacco industry has used to target communities of color, helping everyone to live longer, healthier lives.

Los Angeles, CA, 2022

In November 2019, Massachusetts became the first state to restrict the sale of all flavored tobacco products, including menthol cigarettes, followed by California in 2022, when voters upheld the state’s law from a tobacco industry-funded ballot challenge. In 2020, New Jersey, New York and Rhode Island also passed bans on the sale of flavored e-cigarettes. In addition, over 360 localities across the U.S. have enacted restrictions on the sale of flavored tobacco products, although laws differ in their application to specific products and store types. Over 170 of these communities restrict the sale of menthol cigarettes, in addition to other flavored tobacco products.[74]

Comprehensive restrictions on the sale of flavored tobacco products are the most effective since product and retailer exemptions create loopholes for the tobacco industry to continue to target youth, communities of color, and other populations. A report from the Johns Hopkins University concluded that, "A comprehensive flavor ban without product, flavor, and retailer exemptions may maximize public health benefits and minimize the opportunity for unintended consequences."[75]

Other Tobacco Control Policies to Consider

Additional policies can counter the marketing and promotion of tobacco products at the point of sale to reduce tobacco use:

- The evidence is overwhelming that tobacco tax increases reduce tobacco use, particularly among price-sensitive youth. Studies have shown that nationally, a 10% cigarette price increase, if maintained against inflation, reduces youth smoking rates by 6.5% or more, young adult (18-24 years old) smoking rates by about 3.25%, adult smoking rates by 2%, and total consumption by 4%.[76]
- With the tobacco industry's capability of manipulating prices of tobacco products at various levels of sale, it is important to implement non-tax approaches as well, including prohibiting tobacco product price discounts, multipack offers, and redemption of coupons, setting a minimum price for tobacco products, setting minimum package sizes for certain cigars and little cigars, and enhancing tobacco tax enforcement efforts to reduce tax evasion by retailers.[77]
- Tobacco retail licensing policies can address where tobacco products are sold through the number, type, location (e.g., near schools or parks), and density of tobacco retailers. In addition to providing local and state governments with a mechanism for effective policy enforcement, they can work to effectively reduce the availability and exposure to tobacco among youth, discourage tobacco use generally, and protect their citizens from the harmful effects of tobacco. [78] These types of policies can also help to reduce neighborhood disparities in tobacco retailer density and marketing volume.[79]

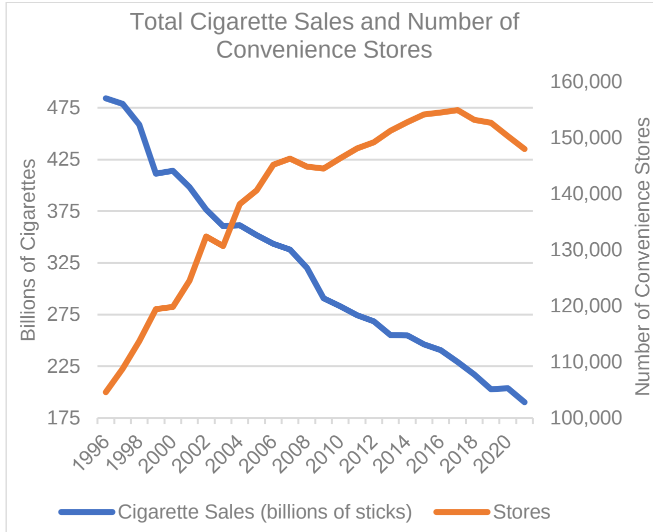
THE EFFECT OF TOBACCO CONTROL POLICIES ON CONVENIENCE STORES

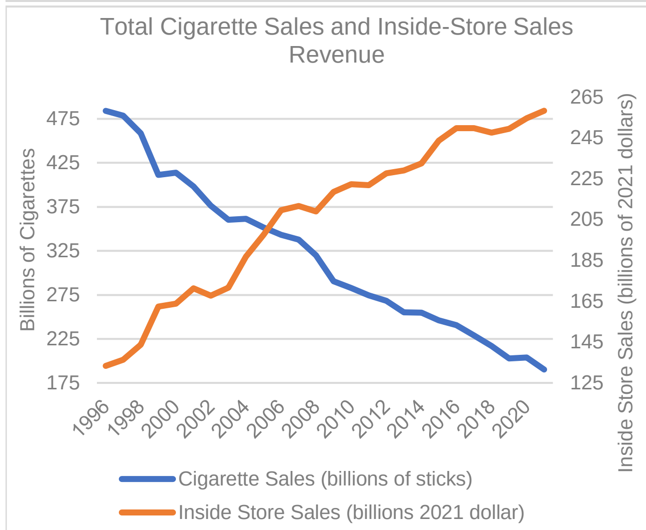
Convenience stores and other retailers often exaggerate the impact of tobacco control policies, like flavored tobacco restrictions, on business and jobs. While the tobacco industry and their retailer allies claim that enacting tobacco product flavor restrictions and other tobacco control policies will have disastrous economic consequences for retail stores, research shows that tobacco control policies, including laws to end the sale of flavored tobacco products do <u>not</u> adversely impact retailers. States and communities can act to protect kids and health without harming business.

Tobacco retailers continue to thrive despite declining cigarettes sales.

A new report from economists John Tauras, Ph.D. and Frank Chaloupka, Ph.D. at the University of Illinois at Chicago found that tobacco control policies, including laws restricting the sale of flavored tobacco products have little to no effect on overall tobacco retail businesses. It concludes, "***Taken together, the data demonstrate that tobacco retail businesses have successfully adapted to changes in market conditions, including the implementation of tobacco product flavor bans. Claims of significant negative impact of tobacco control policies that reduce demand for tobacco products are exaggerated***."[80]

The report found that while cigarette sales have been declining in the U.S., the number of convenience stores, inside total store sale revenues, cigarette sales revenues and profits have all generally increased**.** In fact, even with the impact of the COVID-19 pandemic, the total number of convenience stores and convenience store sales revenue was substantially higher in 2021 compared to 2000. Likewise, as cigarette sales have declined, the number of tobacco stores and tobacco store sale revenues have increased.[81] These findings are consistent with earlier research that found that declines in cigarette consumption do not have a negative impact on employment in convenience stores.[82]





Tauras, JA & Chaloupka, FJ, *The Economic Effects of Cigarette Sales and Flavor Bans on Tobacco Retail Businesses*, 2023.

There is also a large body of research that shows that policies that reduce tobacco use do not have a negative impact on the economy, including on the number of convenience stores and tobacco retailers.[83] A 2013 study looking at tobacco tax increases in all states over 13 years found no decline in the number of convenience stores after tobacco tax increases; in fact, the analysis revealed a slight increase.[84] A report from Johns Hopkins University found that a flavor ban would have minimal impact on retailers and any store employee that may lose their job should be able to find a comparable job in the retail sector with little trouble.[85]

Part of the reason for the limited impact on retail stores is because the money spent on tobacco products in retail stores does not disappear when users quit or cut back. For example, a pack-a-day smoker who quits can save the more than $3,100 per year[86] that they no longer spent on cigarettes to spend on other goods and services, including other products sold in convenience stores.

Cigarettes are a dying business for convenience stores.

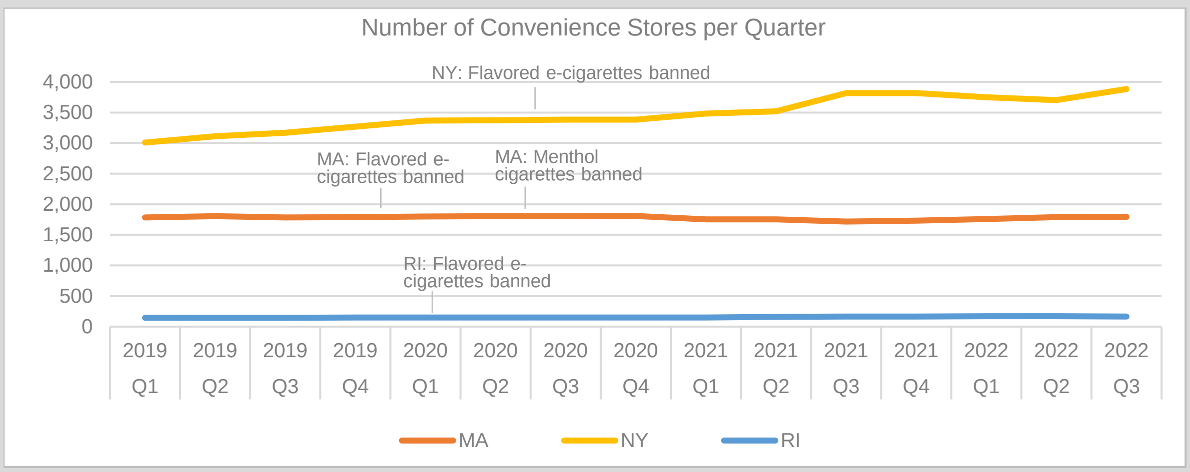
Cigarettes generate less revenue for convenience stores than they have in the past. Revenue from cigarette sales made up 25.9% of revenue from inside-store sales (that is, not including gas sales) and sales of all other products made up 74.1% in 2021; compared to 2000, when cigarette sales revenue made up 35.8% of inside-store sales revenue and all other products made up 64.2%.[87] This fact is reflected in data from the 2021 NACS State of the Industry Report, showing that gross profits and profit margins from cigarette sales in convenience stores have been declining: in 2021, gross margins were higher from foodservice and packaged beverages than from cigarettes.[88]

The convenience store industry acknowledges that gross profit margins from cigarettes are lower than those for food service and packaged beverages and have long recognized the importance of adapting to changing consumer demands.[89] Convenience stores are clinging to a product sector that even they recognize is on the decline. A foodservice director for a convenience store chain put it succinctly, "The days of smokes and Cokes are coming to an end."[90]

IMPACT OF FLAVORED TOBACCO RESTRICTIONS ON TOBACCO RETAILERS: THE MASSACHUSETTS EXPERIENCE

Massachusetts' comprehensive law to restrict the sales of all flavored tobacco products went into effect in June 2020. Contrary to claims by the tobacco industry and its allies that the law would put stores out of business, data from the state Department of Public Health shows that the number of tobacco retailers did not decrease as a result of the law. In February 2020 (prior to COVID-19 restrictions), there were 6,258 tobacco retailers (of which 3,767 were convenience stores), and as of April 2022, there were 6,491 tobacco retailers (including 3,994 convenience stores).[91]

Tauras and Chaloupka found that Massachusetts' and state laws restricting the sale of flavored tobacco products did not lead to any meaningful reduction in the number of convenience stores or convenience store employees, nor did they lead to reductions in wages in convenience stores. Furthermore, Massachusetts' neighboring states that did not pass flavor policies (Connecticut, New Hampshire, and Vermont) only saw small changes in these measures, consistent with other research showing that Massachusetts' law did not lead to a significant or sustained increase in cross-border sales.[92]



Tauras, JA & Chaloupka, FJ, *The Economic Effects of Cigarette Sales and Flavor Bans on Tobacco Retail Businesses*, 2023.

This is because money spent on tobacco products in retail stores does not disappear when smokers quit or cut back, but simply shifts to consumer spending on other goods and services, including other products sold by convenience stores. Further, Massachusetts' law still allows for the sale of tobacco-flavored products, so not all tobacco product sales in stores were eliminated. Most retailers do not rely on flavored tobacco products for their primary source of revenue and are still able to sell non-menthol cigarettes and other tobacco-flavored products.

CONCLUSION

Tobacco companies have enlisted convenience stores and other retailers as their most important partners in marketing tobacco products and fighting policies that reduce tobacco use, thereby enticing kids to use tobacco and harming the nation's health.

Tobacco companies spend billions in concert with convenience stores and other retailers to make tobacco attractive, accessible, and affordable – resulting in more kids starting and fewer adults quitting. It is essential for elected officials to adopt policies to reduce tobacco use and counter the influence of point-of-sale marketing, such as restricting sales of kid-friendly flavored products, higher taxes on tobacco products, and requiring tobacco retail licenses.

Policymakers need to decide whose side they are on: Our kids *OR* Big Tobacco and their allies.

REFERENCES

[1] Full copies of the Master Settlement Agreements are available at https://www.naag.org/our-work/naag-center-for-tobacco-and-public-health/the-master-settlement-agreement/.

[2] Golden, SD, et al., "Trends in the Number and Type of Tobacco Product Retailers, United States, 2000-2017," *Nicotine & Tobacco Research* 24:77-84, 2022.

[3] Johnston, ME, *Young Smokers Prevalence, Trends, Implications, and Related Demographic Trends*, Philip Morris market research report, March 31, 1981, Bates No. 1000390803.

[4] Clickin Research, *Convenience Teens: Bulding Loyalty with the Next Generation*, study conducted for the National Association of Convenience Stores/Coca-Cola Leadership Council, 2005.

[5] For more information about *United States v. Philip Morris USA Inc., et al*., see Campaign for Tobacco-Free Kids, *U.S. Racketeering Verdict*, https://www.tobaccofreekids.org/what-we-do/industry-watch/doj.

[6] U.S. Department of Justice, *Court Issues Order Requiring Cigarette Companies to Post Corrective Statements; Resolves Historic RICO Tobacco Litigation*, December 6, 2022, https://www.justice.gov/opa/pr/court-issues-order-requiring-cigarette-companies-post-corrective-statements-resolves-historic.

[7] U.S. Federal Trade Commission (FTC), *Cigarette Report for 2021*, January 2023, https://www.ftc.gov/system/files/ftc_gov/pdf/p114508cigarettereport2021.pdf [data for top 4 manufacturers only]; FTC, *Smokeless Tobacco Report for 2021,* January 2023, https://www.ftc.gov/system/files/ftc_gov/pdf/p114508smokelesstobaccoreport2021.pdf [data for top 5 manufacturers only].

[8] FTC, *E-Cigarette Report for 2019-2020*, August 31, 2022, https://www.ftc.gov/system/files/ftc_gov/pdf/E-Cigarette%20Report%202019-20%20final.pdf [data for top 5 manufacturers only].

[9] FTC, *Cigarette Report for 2021*, January 2023 [data for top 4 manufacturers only]; FTC, *Smokeless Tobacco Report for 2021,* January 2023, [data for top 5 manufacturers only]; FTC, *E-Cigarette Report for 2019-2020*, August 2022 [data for top 5 manufacturers only].

[10] FTC, *Cigarette Report for 2021*, January 2023 [data for top 4 manufacturers only]; U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics, 2021, http://www.ttb.gov/tobacco/tobacco-stats.shtml.

[11] FTC, *Smokeless Tobacco Report for 2021,* January 2023, [data for top 5 manufacturers only]; FTC, *E-Cigarette Report for 2019-2020*, August 2022 [data for top 5 manufacturers only].

[12] FTC, *E-Cigarette Report for 2019-2020*, August 2022 [data for top 5 manufacturers only].

[13] Reimold, A, Lee, JGL & Ribisl, KM, "Tobacco company agreements with tobacco retailers for price discounts and prime placement of products and advertising: a scoping review," *Tobacco Control*, Online ahead of print, doi: 10.1136/tobaccocontrol-2021-057026, January 24, 2022. Bloom, P, "Role of slotting fees and trade promotions in shaping how tobacco is marketed in retail stores," *Tobacco Control* 10(4):340-4, 2001.

[14] Pollay, RW, "More than meets the eye: on the importance of retail merchandising," *Tobacco Control,* 16(4), February 2007.

[15] Feighery, EC, et al., "Retailer participation in cigarette company incentive programs is related to increased levels of cigarette advertising and cheaper cigarette prices in stores," *Preventive Medicine* 38(6):876-84, 2004; Feighery, E, et al., "Cigarette advertising and promotional strategies in retail outlets: results of a statewide survey in California," *Tobacco Control* 10:184-188, 2001; Feighery, EC, et al., "How the tobacco companies ensure prime placement of their advertising and products in stores: Interviews with retailers about tobacco company incentive programs," *Tobacco Control* 12:184-188, 2003; Rogers, T & Feighery, E, "Community Mobilization to Reduce Point Of Purchase Advertising of Tobacco Products," *Health Education Quarterly* 22(4):427-43, November 1995.

[16] D'Angelo, H, et al., "E-Cigarette availability, price promotions and marketing at the point-of-sale in the contiguous United States (2014-2015): National estimates and multilevel correlates," *Preventive Medicine Reports*, published online June 26, 2020.

[17] FTC, *Cigarette Report for 2021*, January 2023 [data for top 4 manufacturers only]; FTC, *Smokeless Tobacco Report for 2021,* January 2023, [data for top 5 manufacturers only]; FTC, *E-Cigarette Report for 2019-2020*, August 2022 [data for top 5 manufacturers only].

[18] *U.S. V. Philip Morris USA, Inc., et al.*, No. 99-CV-02496GK (U.S. Dist. Ct., D.C.), Final Opinion, August 17, 2006, https://www.tobaccofreekids.org/assets/content/what_we_do/industry_watch/doj/FinalOpinion.pdf.

[19] Substance Abuse and Mental Health Administration (SAMHSA), *Results from the 2021 National Survey on Drug Use and Health, NSDUH: Detailed Tables,* Table 4.9A, https://www.samhsa.gov/data/report/2021-nsduh-detailed-tables.

[20] U.S. Department of Health and Human Services (HHS), *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General,* Atlanta, GA: HHS, U.S. Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014, https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf_NBK179276.pdf.

[21] Advancing Science & Policy in the Retail Environment (ASPiRE) Center, *Retail Tobacco Density & Access*, August 2020, http://aspirecenter.org/wp-content/uploads/2020/08/ASPiRE_RetailTobaccoDensityandAccess_ExecSumm.pdf.

[22] Sanders-Jackson, A, et al., *"Convenience store visits by US adolescents: Rationale for healthier retail environments," Health & Place* 34:63-66, 2015.

[23] Berg, C, et al., "Exploring the Point-of-Sale Among Vape Shops Across the United States: Audits Integrating a Mystery Shopper Approach," *Nicotine & Tobacco Research*, published online February 28, 2020.

[24] D'Angelo, H, et al., "E-Cigarette availability, price promotions and marketing at the point-of-sale in the contiguous United States (2014-2015): National estimates and multilevel correlates," *Preventive Medicine Reports*, published online June 26, 2020.

[25] Gentzke, A, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—National Youth Tobacco Survey, United States, 2021," *MMWR* 71(5):1-29, March 11, 2022, https://www.cdc.gov/mmwr/volumes/71/ss/pdfs/ss7105a1-H.pdf.

[26] University of Michigan, 2022 Monitoring the Future Study, *Trends in the Availability of Drugs as Perceived by 10th Graders*, https://monitoringthefuture.org/wp-content/uploads/2022/12/mtf2022table16.pdf.

[27] Levinson, AH, et al., "Asking for Identification and Retail Tobacco Sales to Minors," *American Journal of Public Health*, 145(5), 2020.

[28] Gentzke, A, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—National Youth Tobacco Survey, United States, 2021," *MMWR* 71(5):1-29, March 11, 2022, https://www.cdc.gov/mmwr/volumes/71/ss/pdfs/ss7105a1-H.pdf.

[29] Hudson, RC, Inner city POP Program, Macon, GA: Brown & Williamson Tobacco Corporation, October 15, 1979, http://legacy.library.ucsf.edu/tid/icb91d00. Yerger, VB, et al., "Racialized geography, corporate activity, and health disparities: Tobacco industry targeting of inner cities," *Journal of Health Care for the Poor and Underserved*, 18: 10-38, 2007.

[30] Rodriguez, D, et al., "Predictors of tobacco outlet density nationwide: a geographic analysis," *Tobacco Control,* published online first on April 4, 2012. See also Lee, JGL, et al., "Inequalities in tobacco outlet density by race, ethnicity and socioeconomic status, 2012, USA: results from the ASPIRE Study," *Journal of Epidemiology and Community Health*, published online March 1, 2017. Lee, JGL, et al., "A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing," *American Journal of Public Health*, published online ahead of print July 16, 2015.

[31] Ribisl, KM, et al., "Disparities in tobacco marketing and product availability at the point of sale: results of a national study," *Preventive Medicine*, in press as of April 2017. Resnick, EA, et al., *Cigarette Pricing Differs by U.S. Neighborhoods—A BTG Research Brief.* Chicago, IL: Bridging the Gap Program, Health Policy Center, Institute for Health Resarch and Policy, University of Illinois at Chicago, 2012, www.bridgingthegapresearch.org. Schleicher, N, et al., "Tobacco Marketing in California's Retail Environment (2008-2011), Final report for the California Tobacco Advertising Survey. Stanford, CA: Stanford Prevention Research Center, July 2013. Henriksen, L., et al., "Targeted Advertising, Promotion, and Price for Menthol Cigarettes in California High School Neighborhoods," Nicotine & Tobacco Research, June 24, 2011. Henriksen, L, et al., "Menthol cigarettes in black neighbourhoods: still cheaper after all these years," *Tobacco Control*, published online August 12, 2021. Moreland-Russell, S. "Disparities and Menthol Marketing: Additional Evidence in Support of Point of Sale Policies," *International Journal of Environmental Research and Public Health*, 10: 4571-4583, 2013. Widome, R, et al., "The relationship of neighborhood demographic characteristics to point-of-sale tobacco advertising and marketing," *Ethnicity & Disease* 18(2): 136-151, 2013.

[32] Ribisl, KM, et al., "Disparities in tobacco marketing and product availability at the point of sale: results of a national study," *Preventive Medicine*, in press as of April 2017; Rodriguez, D, et al., "Predictors of tobacco outlet density nationwide: a geographic analysis," *Tobacco Control,* published online first on April 4, 2012. See also Lee, JGL, et al., "Inequalities in tobacco outlet density by race, ethnicity and socioeconomic status, 2012, USA: results from the ASPIRE Study," *Journal of Epidemiology and Community Health*, published online March 1, 2017.

[33] Villanti, A, et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, 25(Suppl 2):ii14-ii20, 2016.

[34] Mendez, D & Le, TT, "Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980-2018," *Tobacco Control*, published online September 16, 2021.

[35] Cantrell, J, et al., "Marketing Little Cigars and Cigarillos: Advertising, Price, and Associations With Neighborhood Demographics," *American Journal of Public Health* 103:1902–1909, 2013. Ribisl, KM, et al., "Disparities in Tobacco Marketing and Product Availability at the Point of Sale: Results of a National Study," *Preventive Medicine* 105:381-388, 2017. Smiley, SL, et al., "Disparities in retail marketing for little cigars and cigarillos in Los Angeles, California," *Addictive Behaviors Reports* 9:100149, 2019. Giovenco, DP, Spillane, TE, & Merizier, JM, "Neighborhood Differences in Alternative Tobacco Product Availability and Advertising in New York City: Implications for Health Disparities," *Nicotine & Tobacco Research* 21(7):896-902, 2019; Kong, Amanda, et al., "Neighborhood Disparities in the Availability, Advertising, Promotion, and Youth Appeal of Little Cigars and Cigarillos, United States, 2015", Nicotine & Tobacco Research Vol. 22, Issue 12, December 2020.

[36] Park-Lee E, et al. "Tobacco Product Use Among Middle and High School Students — United States, 2022." *MMWR* 71(45):1429–1435, November 11, 2022, https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7145a1-H.pdf.

[37] Robertson, L, et al., "Point-of-sale tobacco promotion and youth smoking: a meta-analysis," *Tobacco Control*, published online January 4, 2016. Payntner, J & Edwards, R, "The impact of tobacco promotion at the point of sale: A systematic review," *Nicotine & Tobacco Research* 11(1), 2009*.* Henriksen, L, et al., "A longitudinal study of exposure to retail cigarette advertising and smoking initiation," *Pediatrics* 126:232-238, 2010. Henriksen, L, et al., "Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools?" *Preventive Medicine* 47(2):210-4, 2008.

[38] Henriksen, L, et al., "Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools?" *Preventive Medicine* 47(2):210-4, 2008. Leatherdale, S, et. al., "Tobacco retailer density surrounding schools and cigarette access behaviors among underage smoking students," *Annals of Behavioral Medicine* 33(1):105-111, 2007; McCarthy, WJ, et al., "Density of tobacco retailers near schools: effects on tobacco use among students," *American Journal of Public Health* 99(11), 2009; Pokorny, S, et al., "The relation of retail tobacco availability to initiation and continued smoking," *Journal of Clinical Child and Adolescent Psychology* 32:193-204, 2003.

[39] Slater, SJ, et al., "The Impact of Retail Cigarette Marketing Practices on Youth Smoking Uptake," *Archives of Pediatrics and Adolescent Medicine* 161:440-445, May 2007.

[40] Babb, S, et al., "Quitting Smoking Among Adults — United States, 2000–2015," *MMWR* 65:1457-1464, 2017, https://www.cdc.gov/mmwr/volumes/65/wr/pdfs/mm6552a1.pdf.

[41] Wakefield, M, et al., "The effect of retail cigarette pack displays on impulse purchase," *Addiction* 103:322-328, 2008. See, also, Wakefield, M & Germain, D, "Adult smokers' use of point-of-sale displays to select cigarette brands," *Australia New Zealand Journal of Public Health* 30(5):483-4, 2006. Siahpush, M, et al., "Point-of-Sale Cigarette Marketing, Urge to Buy Cigarettes, and Impulse Purchases of Cigarettes: Results From a Population-Based Study," *Nicotine & Tobacco Research* 18(5):1357-1362, 2016.

[42] Feighery, E, et al., "Cigarette advertising and promotional strategies in retail outlets: results of a statewide survey in California," *Tobacco Control* 10L:184-188, 2001 [citing *The 1999 annual report of the promotion industry, a PROMO magazine special report,* Overland Park, 1999; and Point of Purchase Advertising Institute, *The point-of-purchase advertising industry fact book*, Englewood, New Jersey, 1992].

[43] Zhu, S-H, et al., "Evolution of Electronic Cigarette Brands from 2013-2014 to 2016-2017: Analysis of Brand Websites," *Journal of Medical Internet Research* 20(3), published online March 12, 2018.
[44] CDC Foundation & Information Resources, Inc., "Monitoring U.S. E-Cigarette Sales: National Trends," https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth. Data from Information Resources, Inc. (IRI), which includes e-cigarette sales data from convenience stores, gas stations and other retail store chains. Sales from the internet and tobacco-specialty stores, including vape shops, are not included.
[45] Delnevo, CD, et al., "Changes in the mass-merchandise cigar market since the Tobacco Control Act," *Tobacco Regulatory Science,* 3(2 Suppl 1):S8-S16, 2017.
[46] Delnevo, CD, et al. "Cigar Sales in Convenience Stores in the US, 2009-2020," *JAMA* 326(23):2429-2432.
[47] SAMHSA's public online data analysis system (PDAS). National Survey on Drug Use and Health, 2016, https://pdas.samhsa.gov/#/survey/NSDUH-2016-DS0001?column=CATAG2&results_received=true&row=CGR30BR2&weight=ANALWT_C.
[48] Villanti, A, et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, 25(Suppl 2):ii14-ii20, 2016.
[49] FTC, *Cigarette Report for 2020*, 2021, https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2020-smokeless-tobacco-report-2020/p114508fy20cigarettereport.pdf [data for top 4 manufacturers only].
[50] Center for Public Health Systems Science. Point-of-Sale Report to the Nation: Realizing the Power of States and Communities to Change the Tobacco Retail and Policy Landscape. St. Louis, MO: Center for Public Health Systems Science at the Brown School at Washington University in St. Louis and the National Cancer Institute, State and Community Tobacco Control Research Initiative, 2016.
[51] Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.
[52] Cooper, M, et al., "E-Cigarette Use Among Middle and High School Students—United States, 2022," *MMWR*, 71(40):1283-1285, October 7, 2022, https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf.
[53] Cooper, M, et al., "E-Cigarette Use Among Middle and High School Students—United States, 2022," *MMWR*, 71(40):1283-1285, October 7, 2022, https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf.
[54] FDA, "Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance," March 13, 2019, https://www.fda.gov/media/121384/download.
[55] Gentzke, A, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—National Youth Tobacco Survey, United States, 2021," *MMWR* 71(5):1-29, March 11, 2022, https://www.cdc.gov/mmwr/volumes/71/ss/pdfs/ss7105a1-H.pdf.
[56] Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.
[57] Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.
[58] FDA, *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes,* 2013.
[59] Tobacco Institute, *Convenience Store Industry: Coalition Activity Plan*, September 2, 1987, Bates No. TIDN0003519/3524. Tobacco Institute, *Convenience Stores Issue and Strategy Discussion*, June 8, 1984, Bates No. TI07671173/1246. Tobacco Institute, *Cigarette Excise Tax Plan*, July 11, 1984, Bates No. 517006223/6275.
[60] The National Association of Tobacco Outlets website no longer shows its manufacturing members, as of December 16, 2022. As documented at http://www.natocentral.org/about on August 10, 2016, manufacturing manufacturers included: 22nd Century, Altria, RJ Reynolds, Santa Fe Natural Tobacco Company, ITG Brands, JT International, Liggett Vector, Drew Estate, General Cigar Company, Swedish Match North America, Swisher International, American Snuff Company, Logic Electronic Cigarettes, NJOY.
[61] NATO's list of Board of Directors is no longer available on the NATO website, as of December 16, 2022. An older list was accessed from http://natocentral.org/about/board-of-directors on August 10, 2016.
[62] Vonder Haar, M, "State and Local Legislators Keep Tobacco in Their Crosshairs," *CSP Daily News*, February 8, 2016, https://www.cspdailynews.com/csp-magazine/state-local-legislators-keep-tobacco-their-crosshairs.
[63] NATO Staff, accessed December 16, 2022, from http://www.natocentral.org/about/staff.
[64] California Office of the Attorney General, Referendum Challenging a 2020 Law Prohibiting Retail Sale of Certain Flavored Tobacco Products, Initiative 20-00003, August 31, 2022, https://www.oag.ca.gov/system/files/initiatives/pdfs/20-0003%20%28Tobacco%20Products%20%29.pdf.
[65] Volz, M, "How Big Tobacco stopped a smoking tax in 'Marlboro Country,'" *Associated Press*, May 19, 2017, https://apnews.com/article/76b4f9ec456b4e78849facbb3f77679f.
[66] California Secretary of State, Campaign Finance: Campaign Finance: California Citizens Against Special Interests and Wasteful Taxes, No on Prop. 56, http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1389484&session=2015&view=late1, accessed November 11, 2016.
[67] NATO, "California Retail Members: Oppose Proposition 56," October 13, 2016, http://www.natocentral.org/news/39.
[68] Yes on 56: Save Lives California Supporters, http://www.yeson56.org/our-coalition/, accessed November 29, 2016.
[69] North Dakota Petroleum Marketers Association, accessed August 25, 2016, at http://www.ndpetroleum.org/about-us/members.
[70] North Dakota Secretary of State, Campaign Finance: North Dakotans Against the 400% Tax Increase, https://vip.sos.nd.gov/cf/search/cfsearch.aspx?name=North+Dakotans+Against+the+400%25+Tax+Increase&sc=s2&yr=2016, accessed November 11, 2016.
[71] North Dakota Petroleum Marketers Association, NDPMA News, Summer 2016, accessed August 25, 2016 at http://www.ndpetroleum.org/news/10/summer-2016-ndpma-newsletter.aspx.

[72] Colorado Secretary of State, Campaign Finance: No on 72 – No Blank Checks in the Constitution, http://tracer.sos.colorado.gov/PublicSite/SearchPages/CommitteeDetail.aspx?OrgID=31591, accessed November 11, 2016.
[73] HHS, *Smoking Cessation. A Report of the Surgeon General*. Atlanta, GA: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2020, https://www.cdc.gov/tobacco/sgr/2020-smoking-cessation/index.html.
[74] See Campaign for Tobacco-Free Kids factsheet, *Flavored Tobacco Sales Restrictions: Promising Evidence for Reducing Youth Access and Tobacco Use*, https://www.tobaccofreekids.org/assets/factsheets/0409.pdf.
[75] Institute for Global Tobacco Control, *State of the Evidence: Flavored Tobacco Product Bans or Restrictions*, January 2020, https://www.globaltobaccocontrol.org/en/resources/policies-banning-or-restricting-flavors-tobacco-products.
[76] Chaloupka, FJ, *Tobacco Tax Increases Remain Most Effective Policy for Reducing Tobacco Use*, A Tobacconomics Research Brief, Chicago, IL: Tobacconomics, Health Policy Center, Institute for Health Research and Policy, University of Illinois at Chicago, 2017, https://tobacconomics.org/files/research/415/effectiveness-of-tobacco-taxes_brief.pdf. HHS, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*, Atlanta, GA: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health 2012, https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf. HHS, *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General,* Atlanta, GA: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014, https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf_NBK179276.pdf.
[77] Golden, SD, et al., "Beyond excise taxes: a systematic review of literature on non-tax policy approaches to raising tobacco product prices," *Tobacco Control*, published online September 21, 2015.
[78] Ackerman, A, et al., "Reducing the density and number of tobacco retailers: policy solutions and legal issues," *Nicotine & Tobacco Research*, published online April 28, 2016. Ribisl, KM, et al., "Reducing disparities in tobacco retailer density by banning tobacco product sales near schools," *Nicotine & Tobacco Research*, published online August 26, 2016.
[79] ChangeLab Solutions, *Tobacco Retail Licensing: An Effective Tool for Public Health*, https://www.changelabsolutions.org/sites/default/files/TobaccoRetailerLicensing-AnEffectiveToolforPublicHealth_FINAL_20180630_0.pdf.
[80] Tauras, JA & Chaloupka, FJ, *The Economic Effects of Cigarette Sales and Flavor Bans on Tobacco Retail Businesses*, Tobacconomics, https://www.tobacconomics.org/research/the-economic-effects-of-cigarette-sales-and-flavor-bans-on-tobacco-retail-businesses/, 2023.
[81] Tauras, JA & Chaloupka, FJ, *The Economic Effects of Cigarette Sales and Flavor Bans on Tobacco Retail Businesses*, Tobacconomics, https://www.tobacconomics.org/research/the-economic-effects-of-cigarette-sales-and-flavor-bans-on-tobacco-retail-businesses/, 2023.
[82] Ribisl, KM, Evans, WN, & Feighery, EC, "Falling cigarette consumption in the U.S. and the impact upon tobacco retailer employment," in Bearman, P, Neckerman, K, & Wright, L, eds. *Social and Economic Consequences of Tobacco Control Policy*, New York: Columbia University Press, 2011.
[83] Warner, K, et al., "Employment implications of declining tobacco product sales for the regional economies of the United States," *Journal of the American Medical Association (JAMA)* 275(16):1241-6, April 24, 1996. Warner, K, "Implications of a nicotine-free society," *Journal of Substance Abuse* 1(3):359-68, 1989. Warner, K & Fulton, G, "The economic implications of tobacco product sales in a non-tobacco state," *JAMA* 271(10):771-6, March 9, 1994. Golden, SD, et al., "Trends in the Number and Type of Tobacco Product Retailers, United States, 2000-2017," *Nicotine & Tobacco Research* 24(1):77-84, 2022. Huang, J & Chaloupka, FJ, "The Economic Impact of State Cigarette Taxes and Smoke-free Air Policies on Convenience Stores," *Tobacco Control* 22(2):91-6, 2013. Ribisl, KM, Evans, WN, & Feighery, EC, "Falling cigarette consumption in the U.S. and the impact upon tobacco retailer employment," in Bearman, P, Neckerman, K, & Wright, L, eds. *Social and Economic Consequences of Tobacco Control Policy*, New York: Columbia University Press, 2011.
[84] Huang, J & Chaloupka, FJ, "The Economic Impact of State Cigarette Taxes and Smoke-free Air Policies on Convenience Stores," *Tobacco Control* 22(2):91-6, March 2013.
[85] Institute for Global Tobacco Control, *State of the Evidence: Flavored Tobacco Product Bans or Restrictions*, January 2020, https://www.globaltobaccocontrol.org/en/resources/policies-banning-or-restricting-flavors-tobacco-products.
[86] Campaign for Tobacco-Free Kids factsheet, *Immediate Smoker Savings from Quitting in Each State*, http://www.tobaccofreekids.org/research/factsheets/pdf/0337.pdf.
[87] Tauras, JA & Chaloupka, FJ, *The Economic Effects of Cigarette Sales and Flavor Bans on Tobacco Retail Businesses*, Tobacconomics, 2023, https://www.tobacconomics.org/research/the-economic-effects-of-cigarette-sales-and-flavor-bans-on-tobacco-retail-businesses/.
[88] Pape, P, "Smoke Shop," *NACS Magazine*, December 2022, https://www.nacsmagazine.com/issues/december-2022/smoke-shop.
[89] Pape, P, "Smoke Shop," *NACS Magazine*, December 2022, https://www.nacsmagazine.com/issues/december-2022/smoke-shop.
[90] Gustafson, I, "The 2022 Foodservice Report," *CStore Decisions*, February 14, 2022, https://cstoredecisions.com/2022/02/14/the-2022-foodservice-report/.
[91] Massachusetts Department of Health, Comments in Docket No. FDA-2021-N-1349 (87 Fed. Reg. 26454, May 4, 2022) Tobacco Product Standard for Menthol in Cigarettes, at 13. https://www.regulations.gov/comment/FDA-2021-N-1349-175763.
[92] Tauras, JA & Chaloupka, FJ, *The Economic Effects of Cigarette Sales and Flavor Bans on Tobacco Retail Businesses*, Tobacconomics, 2023, https://www.tobacconomics.org/research/the-economic-effects-of-cigarette-sales-and-flavor-bans-on-tobacco-retail-businesses/. Kingsley M., et al., "Impact of Massachusetts' Statewide Sales Restriction on Flavored and Menthol Tobacco Products on Tobacco Sales in Massachusetts and Surrounding States, June 2020," *Am J Public Health* 112(8):1147-1150, 2022. Asare, S, et al., "Spatial Analysis of Changes in Cigarette Sales in Massachusetts and Bordering States Following the Massachusetts Menthol Flavor Ban," *JAMA Network Open* 5(9):e2232103, 2022. Ali, FRM, et al., "Impact of Massachusetts law prohibiting flavored tobacco products sales on cross-border cigarette sales." *PLoS ONE* 17(9):e0274022 2022.