M I N U T E S

Meeting of the
Scotts Valley City Council

Date: May 18, 2022
Time: 6:00 PM

CONTACT INFORMATION	MEETING LOCATION	POSTING
City of Scotts Valley 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5600	Zoom Video Conference	The agenda was posted at City Hall and on the Internet at www.scottsvalley.org.

CALL TO ORDER 6:00 PM

The City Council meeting was called to order at 6:02 PM.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

ELECTED OFFICIALS PRESENT:	CITY STAFF MEMBERS PRESENT:
Donna Lind, Mayor Jim Reed, Vice Mayor Jack Dilles, Council Member Randy Johnson, Council Member Derek Timm, Council Member	Mali LaGoe, City Manager Kirsten Powell, City Attorney Steve Walpole, Chief of Police Taylor Bateman, Community Development Director Casey Estorga, Administrative Services Director Chris Lamm, Public Works Director/City Engineer Cathie Simonovich, City Clerk

SPECIAL SET MATTER(S)

Mayor Lind presented a Mayor's Proclamation recognizing the week of May 15-21, 2022, as National Public Works Week.

COMMITTEE REPORTS

CM Dilles along will Vice Mayor Reed, attended a presentation of the housing element for both Scotts Valley and San Lorenzo Valley. CM Dilles presented the current and new regional housing needs allocation (RHNA) numbers. The new housing numbers will be a challenge and he has been talking to the Community Development Director regarding this issue.

CM Dilles attended a meeting of the Area Agency on Aging Advisory Council. The Meals on Wheels program, which has its office and commercial kitchen in Live Oak, has been issued a 6-month notice to vacate by the Live Oak School District. This will significantly impact the seniors throughout the County who receive these meals. Meals on Wheels is currently looking for a new location.

CM Timm attended the Association of Monterey Bay Area Governments (AMBAG) meeting where they discussed the water supply issues in Monterey County. They wrote a joint letter on behalf of the entire Board requesting that the water districts in Monterey County lift their cease-and-desist orders that are keeping Monterey from moving forward with meeting their RHNA (Regional Housing Needs Allocation) cycle numbers.

CM Timm attended the Town Center subcommittee meeting. They are still waiting on the cleanup costs and once they understand these costs, they will be able to move forward. They also discussed the process for selecting the right consultants for this project.

CM Johnson attended the Town Center subcommittee meeting and agreed with CM Timm's synopsis of the meeting.

Mayor Lind attended the City Leaders' Summit with City Manager LaGoe. They met with Senator Laird and discussed CalCities' funding priorities including funds that are owed for the unfunded mandates, funding for housing and economic development and funding for organic waste recycling programs. The summit was a good opportunity to meet with legislators and other elected officials who are facing some of the same challenges.

Mayor Lind attended a Santa Cruz Metropolitan Transit District (Metro) meeting where they discussed finances, Key Performance Indicators (KPI), ridership challenges, unfunded pensions, and more.

Mayor Lind attended the Youth Action Network (YAN) popup event today. She thanked the city staff who attended this event, and she thanked City Manager LaGoe and Captain Dean for leading the tours of City Hall and the Police Department.

Mayor Lind commended the Scotts Valley Rotary for their student appreciation scholarship awards event. The student speeches were inspiring.

CITY MANAGER REPORT

1. **CalCities Conference**: City Manager LaGoe attended this conference with Mayor Lind, and it was a great opportunity to get to know CalCities, to hear about the support they offer, to attend educational sessions, and to spend time with legislators.

2. **Sergeant Swearing in Ceremony:** Sergeant Chris Galli was sworn in yesterday in a nice outdoor ceremony that was well-attended.

3. **Youth Action Network Popup Event:** The City supported this event which was held today. The event included plenty of resources for students such as career opportunities and mental health resources. Attendees were able to play games, spend time with their peers, and enjoy snacks.

4. **Independence Day Celebration:** Please check the City's website for the information relating to the Independence Day celebration to be held on July 3rd. On the website you can find out more information about being a sponsor, and you can purchase tickets to the event which includes a fireworks show.

5. **Encore Project:** The Encore townhouse project on Scotts Valley Drive is starting so they are beginning to cut down some of the trees. Please feel free to reach out if you have any questions. Mayor Lind added that two trees will be planted for every one tree that is removed.

4\. **Scotts Valley High School Senior Banners:** The banners celebrating the Class of 2022 students are scheduled to be hung this Friday. The City has partnered with the Parent Club at the high school to make this happen.

5\. **Next Council Meeting:** The proposed budget presentation, a flag policy, and the annual police report from Chief Walpole will be coming to the next Council meeting on June 1, 2022.

PUBLIC COMMENT TIME

No one came forward.

ALTERATIONS TO CONSENT AGENDA

M/S: Dilles/Timm
To approve the Consent Agenda.
Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)

CONSENT AGENDA

A. Approve City Council minutes of 05-04-2022

B. Approve check registers dated 05-06-2022, 05-09-2022, and 05-13-2022

C. Second reading and adoption of Ordinance No. 200, Scotts Valley Police Department Lexipol Policy #706 – Military Equipment Use

D. Approve agreement between the City of Capitola and the City of Scotts Valley for sharing of Chief Building Official services

E. Amend Agreement with OpenGov to add Enterprise Resource Planning (ERP) software

F. Approve purchase order with Peterson/CAT for an emergency generator

G. Approve final map for the Encore condominium project at Final Map and Set Aside Agreement

H. Approve Caltrans Electric Maintenance Agreement

I. Approve Recreation Division Manager salary schedule

ALTERATIONS TO REGULAR AGENDA

M/S: Dilles/Timm
To approve the Regular Agenda.
Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)

REGULAR AGENDA

1. Consider Five-Year Capital Improvement Project and Capital Purchase Plan for FY 2022-23 to FY 2026-27

   Administrative Services Director Estorga presented the staff report, obtained feedback from Council, and responded to questions from Council.

2. First Reading of Ordinance No.188.1 which amends the Scotts Valley Municipal Code Regulations regarding smoking and tobacco products

   Captain Rutherford presented the staff report and responded to questions from Council.

   In addition to the letters that were included with the staff report, three letters of support and one letter of opposition were received and are included as part of the minutes. Public comments in support of the ordinance were received from Rachel Kippen, Co-Chair of the Santa Cruz Tobacco Education Coalition and a tobacco educator working in high schools throughout the County; Margo Sidener, CEO of Breathe California of the Bay Area, Golden Gate, and Central Coast; Andrea Solano, Project Director for the Tobacco Education and Prevention Program at the Santa Cruz County Health Services Agency.

M/S: Timm/Dilles

To introduce and waive first reading of Ordinance 188.1, an ordinance of the City Council of the City of Scotts Valley amending chapter 5.22 of title 5 of the Scotts Valley Municipal code requiring tobacco retailer licenses and amending chapters 8.20 and 8.25 of the Scotts Valley Municipal Code to regulate the sale of tobacco products.
Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)

3. Future Council agenda items

CM Timm requested an agenda item regarding flying the Pride flag during the month of June be placed on the June 1, 2022, agenda.

CM Reed requested an agenda item to discuss the process for recommending future Council agenda items.

CA Powell announced the City Council will be meeting in closed session pursuant to Government Code Section 54956.9(b) to confer with legal counsel regarding potential litigation (1 case).

ADJOURNMENT

The meeting adjourned at 7:29 PM.

Approved: DocuSigned by: Donna Lind
AB62A4DD878C47C...
Donna Lind, Mayor

Attest: DocuSigned by: Cathie Simonovich
00BDB2B26C07422...
Cathie Simonovich, City Clerk

Santa Cruz County
TOBACCO EDUCATION COALITION

Chairpersons

Rachel Kippen
Monica Nicholas

American Cancer Society
American Heart Association
American Lung Association
Assembly Member Mark Stone
Cabrillo College
Capitola Police Department
Central California Alliance for Health
Community Prevention Partners
Downtown Streets Team
Friday Night Live
Pajaro Valley Health Trust
Pajaro Valley Prevention and Student Assistance, Inc.
Salud Para La Gente
Salud y Cariño
Santa Cruz City Police Department
Santa Cruz County Health Services Agency
Santa Cruz County Office of Education
Santa Cruz County Sheriff's Office
Save Our Shores
United Way of Santa Cruz County
UCSC Student Health Outreach
Watsonville Public Works Department

May 13, 2022

Scotts Valley City Council
One Civic Center Drive
Scotts Valley, CA 95066

Dear Mayor Lind, Vice Mayor Reed, and Council Members Dilles, Johnson, and Timm:

Gummy Bear, Cotton Candy, Pink Lemonade, and Strawberry Bubblegum -- the list of candy-flavored tobacco products goes on and on! Flavored tobacco is as deadly and addictive as regular tobacco, but tastes and smells like treats for children. Big Tobacco is out to hook the youth of the community in so many ways, and flavored tobacco is currently one of those ways. Candy-like, fruity flavors, including the minty flavors of menthol, mask the harshness of tobacco, making it easier for youth to start smoking and start a lifetime of addiction. Please put an end to the sale of flavored tobacco products in Scotts Valley.

California has been facing a crisis of teen tobacco use. As a member of the Santa Cruz County Tobacco Education Coalition, I hope we as adults can help prevent a new generation of youth from being hooked on tobacco. The use of tobacco and nicotine products has skyrocketed in recent years, including little cigars, cigarillos, chewing tobacco, and electronic cigarettes or vapes.

Four out of every five current teen smokers started with a flavored tobacco product -- kids come for the flavors but get trapped by the nicotine, which harms the developing brain and primes children for a lifetime of addiction to nicotine as well as other substances.

I encourage the City of Scotts Valley to continue to protect youth health and well-being, by stopping the sale of flavored tobacco products.

Sincerely,

Randy Uang
Member, Santa Cruz County Tobacco Education Coalition

P.O. Box 962 ◆ 1070 Emeline Avenue ◆ Santa Cruz, CA 95061
(831) 454-4141 ◆ FAX (831) 454-5048

County of Santa Cruz

HEALTH SERVICES AGENCY

POST OFFICE BOX 962, 1400 EMELINE AVENUE SANTA CRUZ, CA 95061-0962

(831) 359-8450 TDD: (831) 454-4748

May 17, 2022

Dear Mayor Lind and Scotts Valley City Council members:

On behalf of Santa Cruz County Friday Night Live Youth Council (FNL Youth Council) I would like to encourage the City of Scotts Valley to review the evidence that shows the benefits to both youth and the community by regulating the sale of flavored tobacco products in the City of Scotts Valley. Friday Night Live builds partnerships for positive and healthy youth development which engage youth as active leaders and resources in their communities. Friday Night Live is a program that has a long history of youth and adults working together to help youth make healthy decisions, feel supported and prepared for leadership, and to help our community by preventing alcohol, drug, and tobacco use. Friday Night Live members are from middle schools and high schools across the county.

This year the FNL Youth Council has taken a specific interest in tobacco health and have dedicated our time to understanding the public health impacts and the value of quality policy to protect the health and wellbeing of youth. The policy you are considering has been an effective mechanism in reducing youth access to flavored products. Tobacco products such as e-cigarettes are strategically marketed to youth with kid-friendly flavors like cotton candy, gummy bears, watermelon, Kool-aid, and Doritos. Studies show that most of the youth who use, start vaping start with a flavored product. Not only do these flavors clearly target youth, but the colorful, candy wrapper-like packaging appeal to youth as well. These products are easily available and are often priced lower than regular tobacco products. These are "starter" products for the tobacco industry that establish smoking habits in youth and can lead to a lifetime of addiction and illness. 80% of youth who have ever used tobacco started with a flavored product!

In the past few years, we have seen a drop in cigarette/traditional tobacco use by youth. But, youth vaping utilizing e-cigarettes and vaping devices to ingest flavored tobacco products is an everyday occurrence. Flavored products are easier to get and easier to use than traditional products. In our own schools we have even seen students vaping in class, in the halls, and in bathrooms. Often, we hear people say that "it's just flavor; there's nothing bad in it" or that "it isn't smoking", but we know that this isn't true. Flavored tobacco products are just as dangerous, if not more dangerous, because the flavors appeal to youth and cover up what is really being inhaled.

To help keep youth in our communities healthy and to prevent a huge spike in tobacco use and related diseases (like heart disease, cancer, stroke, and asthma} in our generation, we encourage you to use the data to make an informed decision to regulate the sale and availability of flavored tobacco products in Scotts Valley. It's a step that several communities across the state and our county have already taken. It's also a step that would help develop what we as youth want in our community- wellbeing, rather than a lifetime of addiction and issues for our friends, classmates, and families.

This City Council has shown its commitment to creating a community where young people can thrive. We ask you to continue prioritizing and protecting youth in our community as you decide on this important health issue.

Thank you for your leadership!

DocuSigned by:
issa bunch
98E792BEB19846B...
Issa Bunch
Friday Night Live Youth Council Representative

DocuSigned by:
FB0F85F5D09347B...
Chase Jacques-Maynes
Friday Night Live Youth Council Representative

Breathe California of the Bay Area, Golden Gate, and Central Coast

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BREATHE CALIFORNIA
of the Bay Area, Golden Gate, and Central Coast

May 17, 2022

The Honorable Mayor Donna Lind, Vice Mayor Jim Reed,
and Council Members Jack Dilles, Randy Johnson, and Derek Timm
City Council
1 Civic Center Drive
Scotts Valley, CA 95066

Sent by e-mail: dlindslind@earthlink.net; jimreedSV@gmail.com; jdilles@scottsvalley.org; rlj12@comcast.net; dtimm@scottsvalley.org; and cc. City Clerk csimonovich@scottsvalley.org

RE: ORDINANCE NO. 188.1, CHAPTER 5.22, 8.20 AND 8.25

Dear Mayor, Vice Mayor, and Council Members:

Breathe California of the Bay Area, Golden Gate, and Central Coast applauds your consideration of an improved ordinance to ban sales of flavored tobacco. I am writing to urge the Council to adopt these proposed amendments regulating tobacco retailers to better protect Scotts Valley youth from the lure of flavored tobacco.

As your introduction to the proposed ordinance implies, vaping in youth is epidemic, rising in the last 2 years by 218% in middle schoolers and 135% in high schoolers; and 96% of kids who vape use flavors. Those staggering figures alone justify the immediate implementation of restriction in sales of flavored tobacco products. Every day that you delay, local teens are trying these dangerous products and getting hooked, some into a lifetime of addiction.

Breathe California, founded in San Jose in 1911, is dedicated to working to prevent initiation to tobacco use. This has become more and more difficult due to the availability of flavored tobacco and vaping products. They are the product of choice by teens who smoke, are very difficult for parents and school personnel to detect, and are readily available in areas where they are not regulated.

I have reviewed the proposed ordinance and commend you on your comprehensive regulations, including appropriate enforcement and fines.

However, the detailed definitions section led me to expect some items, such as tobacco retailer restrictions in youth-sensitive areas and pharmacies, that did not appear later in the actual ordinance language itself. Is it your intent to follow up with other waves of the amendments that will include these provisions? (Or was the posted ordinance version incomplete?)

Additional Recommendation: Please improve Section 8.20.040C of Chapter 8.20 of Title 8 of your municipal code (Section 9 of the ordinance) to better protect Scotts Valley residents from the dangers of secondhand smoke. In reviewing the ordinance, I was surprised to see that most of the restrictions on smoking in public areas contain the possibility of "smoking permitted" or "designated sections." Due to the drifting of smoke outdoors, especially in small areas like outdoor dining, having areas where smoking is allowed nullifies the impact of the ordinance. Protections are further weakened due to the lack of description of when and where these smoking permitted sections may be established. Finally, any regulation under 100% nonsmoking will make such sections of the ordinance harder to enforce.

Since the US Surgeon General declared in 2006 that there was no safe level of secondhand smoke, which had already been declared a toxic contaminant and human carcinogen, governments have acted to ban smoking in more outdoor areas. This has generally been done with little involvement of enforcement personnel, relying instead on adequate signage, education, and reminders.

Children, seniors, and populations with health and social inequity are the most exposed to secondhand smoke, especially in multi-unit housing. Please strengthen your smoke-free laws to protect these groups that are already overburdened with health disparities.

Our agency is here for further comment or to assist the Council in its goal to protect public health, including to help you in implementing the proposed ordinance. Please reach out to me personally if we may be of assistance.

Healthfully,

Margo Sidener

Margo Sidener, MS, CHES
Chief Executive Officer
margo@lungsrus.org

CALIFORNIA FUELS & CONVENIENCE ALLIANCE

California Fuels and Convenience Alliance

2520 Venture Oaks Way, Suite 100

Sacramento, CA 95833

916.646.5999

Scotts Valley City Council
1 Civic Center Drive
Scotts Valley, CA 95066

Re: Agenda Item #2- Flavored Tobacco Ban
To: Mayor Donna Lind
Vice Mayor Jim Reed
Councilmember Jack Dilles
Councilmember Randy Johnson
Councilmember Derek Timm

The California Fuels and Convenience Alliance (CFCA) represents about 300 members, including nearly 90% of all the independent petroleum marketers in the state and more than one half of the state's 12,000 convenience retailers. Our members are small, family- and minority-owned businesses that provide services to nearly every family in California. Additionally, CFCA members fuel local governments, law enforcement, city and county fire departments, ambulances/emergency vehicles, school district bus fleets, construction firms, marinas, public and private transit companies, hospital emergency generators, trucking fleets, independent fuel retailers (small chains and mom-and-pop gas stations) and California agriculture, among many others. CFCA appreciates the opportunity to provide comment on this proposed ordinance.

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

The California Fuels and Convenience Alliance strongly opposes the proposed ordinance banning all flavored tobacco and e-cigarette products. FDA regulations approve of the lawful sale of menthol tobacco products by convenience stores to sell age-restricted products.

Identification Requirement and Online Sales

Convenience stores and other brick-and-mortar locations are perfectly situated to adhere to federal, state, and local laws by checking a physical identification card and following the guidelines created and followed by the industry, such as the WeCard program. WeCard is a non-profit organization that provides training and materials such as age-of-purchase calendars that make it simple for an employee to ensure the purchaser is of legal age. They also have an e-cigarette specific webpage and materials.[1] WeCard ensures the correct materials and standards are being used in those locations and provides an invaluable service to small businesses that sell age-restricted products.

Although our members have continued to comply with these laws, little has been done to crack down on "fly by night" online storefronts and the increase in social sources. Social media has become a common link between these online stores and youth, either run by someone who will illegally ship products or other youths selling directly to classmates. Banning the sale of all tobacco products will shift sales from law-abiding retailers in a regulated environment to this illicit market.

[1] http://www.wecard.org/e-cig-and-vapor-central

We encourage the City Council to consider mandating ID checks for all sales of age-restricted products, instead of banning an entire product category.

Economic Impact

Many proponents of tobacco control measures, claim that their proposals would not negatively affect tobacco retailer's revenue. Not only do these groups have no data to support these claims, but available data from other cities that enacted similar proposals show losses in sales revenue, wages, and local tax revenue. For example, Proposition E in San Francisco led to an annual direct loss of $17.6 million in sales, $2.2 million in wages, and $2.06 million in local tax revenue. The proposition also resulted in the loss of approximately 81 jobs in the city from 2019-2020, a number that has likely grown due to the COVID-19 pandemic. If retailers are forced to stop selling hundreds of tobacco products, then customers will simply drive to another store in a neighboring city or purchase their preferred products on-line. The additional loss of sales would translate into lost jobs and likely store closures in Scotts Valley.

Conclusion

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

Please contact Ari Berlfein, CFCA's Policy Analyst, by email or phone with any questions or comments, ari@cfca.energy and (916) 646-5999

Economic Impact of the Ban on Flavored Tobacco Products in San Francisco

Prepared for the
California Fuels & Convenience Alliance

By

John Dunham & Associates
New York

January 9, 2020

Economic Impact of the Ban on Flavored Tobacco Products in San Francisco

Executive Summary

Following the passage of Proposition E in June of 2018, all retailers selling tobacco products in San Francisco were required to remove flavored products, including flavored cigars, flavored vapor liquid (e-cigarette liquid), and menthol cigarettes, from their shelves by the start of 2019. Now, with 2019 coming to a close, it is possible to measure the impact this regulation has had on the City of San Francisco, the greater Bay Area, and the State of California.

The impact of this regulation is of particular interest to the convenience store industry. Due to their already thin margins, convenience stores and gas stations are particularly harmed by this ban, as many rely on tobacco sales to maintain their profitability.[1] In addition, these stores are disproportionately harmed as many adult consumers who may make purchases in addition to tobacco, chose to do so outside of San Francisco, where they can purchase their preferred tobacco products.

Overall, the direct loss to San Francisco's economy as a result of the ban is more than $17.6 million in sales, $2.2 million in wages, and $2.06 million in local tax revenue annually. Convenience stores have lost approximately 81 jobs in the city as a result of the ban.

Results

Following the passage of Proposition E in June of 2018, all tobacco retailers in San Francisco were required to remove flavored products, including flavored cigars, flavored vapor liquid (e-cigarette liquid), and menthol cigarettes, from their shelves by the start of 2019.

This ban has cost jobs in San Francisco's retail community. Based on retail scan data, retailers in San Francisco have lost almost $17.7 million in tobacco sales. Some, though not all, of these sales simply shifted to retailers outside of San Francisco. For example, the change in sales for retailers in San Mateo County implies that over a quarter of menthol cigarette consumers and 10 percent of flavored cigar smokers purchased their products across the city limit, where flavored products remain legal in most incorporated communities.

Table 1
Sales, Employment, and Wages Impact of Flavored Tobacco Ban on San Francisco

	Sales	Jobs	Wages
San Francisco	-$17,695,000	(81)	-$2,263,000
Convenience Stores	-$5,654,000	(46)	-$1,120,000
Gas Stations	-$4,302,000	(35)	-$1,143,000
Other	-$7,739,000	*	*
San Mateo County	$3,541,000	*	*
Convenience Stores	$1,054,000	*	*
Gas Stations	$842,000	*	*
Other	$1,645,000	*	*
Total	-$14,154,000	(81)	-$2,263,000

* While there would be an impact in terms of jobs and wages, the results of the model were not statistically significant

[1] See for example: Gleeson Patrick and Jayne Thompson, *What Is the Average Gross Revenue of a Convenience Store?* Houston Cornicle, online updated on April 2, 2019, at: https://smallbusiness.chron.com/average-gross-revenue-convenience-store-35712.html

Lost sales generally mean lost jobs for retailers. Employment in retail is linearly related to sales volumes, so one should expect to see jobs move along with sales.[2] This has been the case in San Francisco, where tobacco retailers have seen a loss of over 80 jobs and nearly $2.3 million in wages for workers. Interestingly, the effects in nearby San Mateo county have been much smaller, and there is no statistically significant increase in job growth.

This suggests that shoppers in San Francisco not only purchased their flavored tobacco products outside of the city following the ban, but have also shifted other purchases outside of the city, forcing serious downsizing by retailers in the City by the Bay.

Table 2
Business Tax Impact of Flavored Tobacco Ban on San Francisco

	Income	Payroll	Gross Reciepts	Total
Convenience Stores	-$16,800	-$4,300	-$7,600	-$28,700
Gas Stations	-$17,100	-$4,300	-$5,800	-$27,200
Other	*	*	-$10,400	-$10,400
Total	-$33,900	-$8,600	-$23,800	-$66,300

* While there would be an impact in terms of jobs and wages, the results of the model were not statistically significant

Due to the loss of employment, the city collects less in income taxes and payroll expense tax. Additionally, the loss of flavored tobacco sales has reduced the revenue collected from San Francisco's gross receipts tax. Although this number seems small, it likely underestimates the loss of revenue by a significant margin, particularly if consumers shift other purchases away from San Francisco and its relatively high taxes.

A number of taxes are applied to tobacco products before they reach the customer, including at the state, federal, and county level. These taxes vary across products, including unit excise taxes, wholesale or retail value taxes, and sales taxes. In addition to the local sales tax applied throughout California, San Francisco levies an additional $0.85 tax per pack of cigarettes, called the cigarette litter abatement fee.

Table 3
Taxes Applied to Tobacco Products in San Francisco and San Mateo County

Levy (Product, unit)	Amount
Federal Excise Tax (Cigarettes, pack)	$1.01
Federal Excise Tax (Snuff, oz)	$0.094
Federal Excise Tax (Chewing, oz)	$0.031
Federal Excise Tax (Cigars)	52.75% / $0.4026
California Excise Tax (Cigarettes, pack)	$2.87
California (Other Tobacco Products)	59.27%
Cigarette Litter Abatement Fee (Cigarettes, pack)	$0.85
California Sales Tax	6.00%
San Francisco County Sales Tax	2.50%
San Mateo County Sales Tax	3.25%

Because the ban has eliminated the taxable purchase of flavored products in San Francisco, it has also eliminated any revenue collected from their sale. While some of the taxes collected by California are instead collected from purchases in surrounding areas, overall revenue for the State has declined, and taxes specific to San Francisco, such as the Litter Abatement Fee, have fallen dramatically.

[2] DeFranco, Laurence J., William Lilley III and John R. Dunham, *The Case of the Transient Taxpayer: How Tax-Driven Price Differentials for Commodity Goods Can Create Improbable Markets*, Business Economics, July 1998.

Table 4
Taxes Collected on Tobacco Products in San Francisco and Nearby Counties

Levy Name	Change ($)
Federal Excise	-$2,288,000
State Excise	-$5,440,000
Cigarette Litter Abatement Fee	-$1,559,000
State Sales Tax	-$849,000
San Francisco Sales Tax	-$442,000
Other Bay Area Sales Tax	$115,000
Total Federal Tax	-$2,288,000
Total State Tax	-$6,289,000
Total San Francisco Tax	-$2,001,000
Total Other Bay Area Tax	$115,000
Total	-$10,463,000

Overall, consumption tax revenue has fallen by over $2.0 million in San Francisco and about $6.3 million in California, while the offsetting rise in revenue collected by nearby counties is only $115,000.

Adding all of the taxes together brings the total cost to San Francisco's government to $2.1 million annually.

Methodology:

Two primary data sources were used in deducing the impact of San Francisco's ban on flavored tobacco products, the first being the Quarterly Census of Employment and Wages, a publication produced by the Bureau of Labor Statistics tracking 95 percent of all jobs in the United States, and the second being proprietary scanner data tracking shipments of tobacco products to San Francisco and surrounding counties.[3] For this analysis, measurements from both these sources date from January 2017, and capture monthly information concerning employment and sales respectively.

To compute the effect of the ban on employment, several relevant industries were selected, including convenience stores, gas stations, tobacco stores, and liquor stores, and then their monthly employment statistics in each Bay Area county were pulled from the QCEW database. [4] These numbers were then regressed against time, the respective industry employment numbers for the state of California, seasonal adjustment factors, and an added dummy variable corresponding to the start of the flavor ban. Ultimately, these models demonstrated a statistically significant impact ($p < .001$) on employment for both convenience stores and gas stations in San Francisco, although no statistically significant impacts were found in surrounding counties.

Table 5
Outputs for Regression on QCEW Data

Convenience Store Employees

Variable Name	Coefficient	P-Value	Significance
(Intercept)	(96.52)	0.67	Not signficant
Date	-	0.25	Not signficant
CA Convenience Employees	0.01	0.00	99%
Flavor Ban	(45.84)	0.00	99%
January	4.47	0.52	Not signficant
February	2.81	0.65	Not signficant
March	(3.43)	0.54	Not signficant
April	(0.50)	0.94	Not signficant
May	2.02	0.72	Not signficant
June	(6.62)	0.20	Not signficant
July	(19.51)	0.00	99%
August	(20.66)	0.00	99%
September	(10.49)	0.07	93%
October	2.02	0.71	Not signficant
November	(0.52)	0.92	Not signficant
Model F Statistic:	35.02	R^2:	0.9703
Model Significance:	99%	Adj R^2:	0.9426

Gas Station Convenience Store Employees

Variable Name	Coefficient	P-Value	Significance
(Intercept)	398.80	0.08	90%
Date	-	0.29	Not signficant
CA Gas Employees	0.02	0.04	95%
Flavor Ban	(34.88)	0.00	99%
January	(8.74)	0.37	Not signficant
February	(11.11)	0.22	Not signficant
March	(4.57)	0.60	Not signficant
April	(2.30)	0.79	Not signficant
May	4.21	0.63	Not signficant
June	(2.18)	0.81	Not signficant
July	4.54	0.69	Not signficant
August	1.00	0.94	Not signficant
September	(7.05)	0.54	Not signficant
October	7.41	0.45	Not signficant
November	(1.87)	0.84	Not signficant
Model F Statistic:	10.59	R^2:	0.9703
Model Significance:	99%	Adj R^2:	0.9426

To compute the effect of the ban on sales of tobacco products, scanner data for each tobacco product in each county was regressed against time, seasonal adjustment factors, and a dummy variable to measure the effect of the ban. Additionally, the information was further broken down and regressed to measure the effect on convenience stores, as the previous regressions conducted on employment data had indicated they were the most severely impacted industry.

While the employment model did not reveal a statistically significant impact on employment in counties outside of San Francisco, the regressions performed on scan data demonstrated a statistically significant impact on menthol cigarette sales ($p < .05$) and cigars ($p < .01$) in San Mateo County, demonstrating the shift in sales due to consumers circumventing the ban.

[3] Proprietary data source capturing retail data for tobacco related products.

[4] *Quarterly Census of Employment and Wages*, US Department of Labor, Bureau of Labor Statistics, at: https://www.bls.gov/cew/

Table 6
Outputs for Regression on Scan Data

San Francisco Menthol Cigarette Sales

Variable Name	Coefficient	P-Value	Significance
(Intercept)	2,198,048.00	0.00	99%
Date	(113.94)	0.01	99%
Seasonality	55,297.06	0.00	99%
Flavor Ban	(152,844.50)	0.00	99%
Model F Statistic:	61.87	R^2:	0.8609
Model Significance:	99%	Adj R^2:	0.8470

San Francisco Vape Sales

Variable Name	Coefficient	P-Value	Significance
(Intercept)	(1,070,640.00)	0.00	99%
Date	63.36	0.01	99%
Seasonality	12,865.09	0.00	99%
Flavor Ban	(15,086.72)	0.00	99%
Model F Statistic:	17.47	R^2:	0.6360
Model Significance:	99%	Adj R^2:	0.5996

San Francisco Smokeless Tobacco Sales

Variable Name	Coefficient	P-Value	Significance
(Intercept)	177,947.50	0.09	91%
Date	(7.82)	0.18	81%
Seasonality	10,357.37	0.00	99%
Flavor Ban	(15,245.82)	0.00	99%
Model F Statistic:	31.9	R^2:	0.7613
Model Significance:	99%	Adj R^2:	0.7374

San Francisco Cigar Sales

Variable Name	Coefficient	P-Value	Significance
(Intercept)	1,163,394.00	0.39	Not signficant
Date	(36.69)	0.63	Not signficant
Seasonality	143,332.70	0.00	99%
Flavor Ban	(165,908.00)	0.00	99%
Model F Statistic:	20.59	R^2:	0.6731
Model Significance:	99%	Adj R^2:	0.6404

San Mateo Menthol Cigarette Sales

Variable Name	Coefficient	P-Value	Significance
(Intercept)	(66,488.58)	0.89	Not signficant
Date	16.95	0.52	Not signficant
Seasonality	78,072.47	-	100%
Flavor Ban	38,191.08	0.03	96%
Model F Statistic:	25.68	R^2:	0.7197
Model Significance:	99%	Adj R^2:	0.6917

San Mateo Cigar Sales

Variable Name	Coefficient	P-Value	Significance
(Intercept)	(255,592.90)	0.16	84%
Date	18.95	0.07	93%
Seasonality	21,222.35	0.00	99%
Flavor Ban	(16,536.15)	0.02	98%
Model F Statistic:	12.73	R^2:	0.5601
Model Significance:	99%	Adj R^2:	0.5161

Taxes were calculated by multiplying sales and employment data by tax rates made publicly available by the San Francisco Office of the Treasurer and Tax Collector.[5]

[5] See: *Taxes & Fees*, Treasurer & Tax Collector, City and County of San Francisco, at: https://sftreasurer.org/business/taxes-fees

Economic Impact of the Ban on Menthol Cigarettes in Los Angeles

Prepared for the
California Fuels & Convenience Alliance

CALIFORNIA FUELS & CONVENIENCE ALLIANCE

By

John Dunham & Associates
New York

June 24, 2020

Economic Impact of the Ban on Menthol Cigarettes in Los Angeles

Executive Summary

The City of Los Angeles already has one of the worst retail environments for cigarettes and other tobacco products in the country. The per pack tax on cigarettes is already $5.30 (including MSA payments) which is about 44.9 percent of the current average estimated retail price of $11.80.[1] (Table 1) While not the highest in the nation, cigarette taxes in California are 88 percent above the average, and the taxable sales per adult are just one-quarter of the nationwide average.[2]

While the unincorporated areas of Los Angeles County have banned the sale of menthol cigarettes, such a ban in the much more populous city of Los Angeles will have dramatic economic consequences, particularly as businesses try to recover from the devastation surrounding the government-imposed economic shutdown in response to the COVID-19 virus.

The impact of this regulation is of particular interest to the convenience store industry. Due to their already thin margins, convenience stores and gas stations are particularly harmed by this ban, as many rely on tobacco sales to maintain their profitability.[3] In addition, these stores are disproportionately harmed as many adult consumers who may make purchases in addition to tobacco, chose to do so outside of Los Angeles, where they can purchase their preferred tobacco products.

Overall, the direct loss to the economy of Los Angeles as a result of the ban would be almost $96.6 million in sales, and $4.6 million in local cigarette tax revenue annually. Convenience stores alone would lose approximately 254 jobs in the city as a result of the ban.

In addition to this, based on a model of tobacco demand, and the 2019 impact analysis of the menthol segment, over half (866) of the roughly 1,605 people in the city whose livelihoods depend on the production, distribution and sale of menthol cigarettes would see their jobs disappear, along with $50.8 million in local wages. The economic loss to Los Angeles would be over $137.4 million. (Table 3)

One the tax losses from the reduced economic activity are accounted for, Los Angeles would experience a reduction of nearly $7.6 million in tax and fee revenues as a result of this proposed ban.

Results:

The County of Los Angeles recently banned the sale of menthol cigarettes in its unincorporated areas. Since the ban only applied to sparsely populated rural parts of the county, the effects were not substantial. However, were the city of Los Angeles to follow suit and ban menthol cigarettes, a product that has roughly 40 percent of the market share, the economic effects could be substantial.

Los Angeles already has one of the worst retail environments for cigarettes and other tobacco products in the country. The per pack tax on cigarettes is already $5.30 (including MSA payments) which is about

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1 Based on data from the Economic Impact of Menthol Cigarettes: 2019, Prepared by John Dunham & Associates, for Reynolds American Inc.

2 Nationwide sales based on *The Tax Burden on Tobacco* Volume 54, Orzechowski and Walker, 2019. Adult population (21+) from the US Department of Commerce, Bureau of the Census, American Community Survey.

	Packs	Adult Population (21+)	Packs Per Adult
United States	11,111,479,311	240,352,655	46.23
Los Angeles	35,714,273	3,022,096	11.82

3 See for example: Gleeson Patrick and Jayne Thompson, *What Is the Average Gross Revenue of a Convenience Store?* Houston Cornicle, online updated on April 2, 2019, at: https://smallbusiness.chron.com/average-gross-revenue-convenience-store-35712.html

44.9 percent of the current average estimated retail price of $11.80.[4] (Table 1) While not the highest in the nation, cigarette taxes in California are 88 percent above the average, and the taxable sales per adult are just one-quarter of the nationwide average.[5]

Table 1
Cigarette Taxes and Fees in Los Angeles

Levy	Amount Per Pack
Federal Excise Tax	$1.01
CA Excise Tax	$2.87
Total Tax	$3.88
Master Settlement Agreement	$1.42
Total	$5.30

Were Los Angeles to ban the sale of menthol cigarettes, not only would local retailers and distributors be hurt, it would further exasperate the problem of smuggled cigarettes and cross border sales. In addition, Los Angeles would lose upwards of $4.6 million in cigarette tax revenues. Table 2 below shows the estimated tax revenue change for Los Angeles were the ban to go into effect.

Table 2
Sales and Excise Tax Impact of A Menthol Cigarette Ban in Los Angeles

	Before	After	Change
LA Sales Tax	$9,481,355	$7,308,487	($2,172,868)
LA MSA Allocation	$10,615,000	$8,182,331	($2,432,669)
Total Cigarette Tax	$20,096,355	$15,490,818	($4,605,537)

The economic impact would be far larger. Today, roughly 1,600 people in Los Angeles rely on the production, distribution and sale of menthol cigarettes for their livelihood.[6] Were the ban to go into effect, about 866 of these people (or 54.0 percent) would see their jobs disappear, along with $50.8 million in local wages. The economic loss to Los Angeles would be over $137.4 million. (Table 3 on the following page.)

These lost jobs and wages will also lead to tax revenue reductions. When stores close, or people lose their jobs, they also reduce tax revenues that Los Angeles collects from property, income, and sales taxes, fees, and other sources. It is estimated that the economic losses in the city will result in $5.4 million in revenue reductions, of which 98.6 percent will come from reduced business taxes and fees. Table 4 outlines these losses by revenue type.

4 Based on data from the Economic Impact of Menthol Cigarettes: 2019, Prepared by John Dunham & Associates, for Reynolds American Inc.

5 Nationwide sales based on *The Tax Burden on Tobacco* Volume 54, Orzechowski and Walker, 2019. Adult population (21+) from the US Department of Commerce, Bureau of the Census, American Community Survey.

	Packs	Adult Population (21+)	Packs Per Adult
United States	11,111,479,311	240,352,655	46.23
Los Angeles	35,714,273	3,022,096	11.82

6 Based on data from *The Menthol Industry Economic Impact Study*, Prepared for Reynolds American, Inc., by John Dunham & Associates, May 1, 2019

Table 3
Economic Impact of A Menthol Cigarette Ban in Los Angeles

	Jobs	Wages	Economic Output
Direct	(518)	$ (28,996,500)	$ (71,434,222)
Manufacturing	-	$ -	$ -
Wholesaling	(156)	$ (13,054,965)	$ (39,140,489)
Retailing	(363)	$ (15,941,534)	$ (32,293,733)
Supplier	(139)	$ (10,125,979)	$ (31,861,746)
Induced	(209)	$ (11,676,755)	$ (34,109,931)
Total	(866)	$ (50,799,233)	$ (137,405,898)

Overall, a ban on the sale of menthol cigarettes in Los Angeles, will result in a reduction of over $7.6 million in tax and fee revenues.[7] (Table 4)

Table 4
Business and Personal Tax Revenues Lost Due to A Menthol Cigarette Ban in Los Angeles

	Personal	Business	Total
Property Taxes	$ 19,924	$ 5,156,335	$ 5,176,259
Income Taxes	$ -	$ 11,711	$ 11,711
Sales Taxes	$ -	$ 96,876	$ 96,876
Other Taxes	$ 27,190	$ 80,744	$ 107,934
Fines/Fees/Licenses	$ 30,849	$ 19,932	$ 50,781
Total	$ 77,963	$ 5,365,597	$ 5,443,560

The estimates in the model are robust. A similar ban was enacted in San Francisco in 2018 on all flavored tobacco products, including menthol cigarettes, flavored cigars, and vapor products. A year after this ban went into effect, tobacco sales in that city fell by 28.3 percent, an even higher loss than the 22.9 percent estimated reduction in this analysis.[8]

Table 5
Total Revenues Lost Due to A Menthol Cigarette Ban in Los Angeles

Revenue Type	Revenue Loss
LA Cigarette Sales Tax	$ (2,172,868)
Personal Taxes	$ (77,963)
Business Taxes	$ (5,365,597)
Total	$ (7,616,428)

The results from San Francisco showed a slight increase in unflavored cigarette sales following the ban of flavored tobacco, but only offsetting lost menthol sales by approximately 1.6 percent. Applying this to Los Angeles by adding together the 14.1 million lost sales of menthol cigarettes and the offsetting sales as some consumers switched to unflavored cigarettes, leads to a change in overall cigarette sales of $109 million. Using breaks established by the San Francisco study, the market was segmented into convenience

7 Based on *Revenue Outlook: Supplement to the 2020-21 Proposed Budget*, City of Los Angeles, Administrative Officer, April 2020, at: http://cao.lacity.org/budget20-21/2020-21Revenue_Outlook.pdf and *2020-21 Governor's Budget, Schedule 8, Comparative Statement Of Revenue* at: http://www.ebudget.ca.gov/2020-21/pdf/BudgetSummary/BS_SCH8.pdf

8 *Economic Impact of the Ban on Flavored Tobacco Products in San Francisco*, Prepared for the California Fuels & Convenience Alliance by John Dunham & Associates, New York, January 9, 2020

stores, gas stations with convenience stores, and other retail outlets. These results are shown in Table 6 on the following page.

The San Francisco study also demonstrated that a loss of a million dollars in retail sales translated to approximately 2.4 jobs lost in the convenience store sector and 1.8 jobs in the gas station sector, with no statistically observable impact on other retailers of tobacco products. The net impact on employment was calculated by multiplying those sales changes by those numbers, arriving at a total of 466 jobs lost in Los Angeles. This compares with the 363 lost retail jobs presented in Table 3.

Table 6
Estimated Impact of Menthol Cigarette Ban on Retail Sales, Jobs, and Wages Based on San Francisco

	Sales	Jobs	Wages
Los Angeles	-$109,187,000	(466)	-$11,993,000
Convenience Stores	-$34,888,000	(265)	-$6,353,000
Gas Stations	-$26,545,000	(201)	-$5,640,000
Other	-$47,753,000	*	*

Methodology

This analysis is based on the Menthol Industry Economic Impact Study for 2019. This model incorporates a geographic distribution model that allocates all menthol cigarette production, distribution and retailing jobs across the country based on either individual facility geographic coordinates, or facility zip code.[9]

Overall, a total of 14,940 jobs in California depend on the sale of menthol cigarettes. Of these, 1,605, or 10.7 percent are located in Los Angeles.

This economic impact analysis was developed by JDA based on data provided by Reynolds American Inc. (RAI), Infogroup, The Tax Burden on Tobacco 2018, the Food and Drug Administration, Centers for Disease Control and Prevention (CDC), and Federal and state governments. The analysis utilizes the IMPLAN model in order to quantify the economic impact of the menthol cigarette industry on the economy of the United States, as well as individual states, congressional districts, and state legislative districts.[10] The model adopts an accounting framework through which the relationships between different inputs and outputs across industries and sectors are computed. It is based on the national income accounts generated by the US Department of Commerce, Bureau of Economic Analysis (BEA).[11]

The menthol share of sales in California is 28.2 percent of total cigarette sales, based on data provided by RAI. LA's share of menthol sales is 39.5 percent.

Every economic impact analysis begins with a description of the industry being examined. In the case of the menthol industry it is defined as the three components of the United States' menthol cigarette industry. This will incorporate firms in the following economic sectors:

9 Based on data from *The Menthol Industry Economic Impact Study*, Prepared for Reynolds American, Inc., by John Dunham & Associates, May 1, 2019

10 The model uses 2016 input/output accounts.

11 The IMPLAN model is based on a series of national input-output accounts known as RIMS II. These data are developed and maintained by the U.S. Department of Commerce, Bureau of Economic Analysis as a policy and economic decision analysis tool.

- Manufacturers: Menthol cigarette manufacturing plants, warehouses, offices.
- Wholesalers: Includes firms involved in the distribution and storage of menthol cigarettes.
- Retailers: Includes firms involved in the sale of menthol cigarettes. This sector includes retail establishments (e.g. grocery stores, convenience stores, gas stations, menthol stores, etc.)

The IMPLAN model is designed to run based on the input of specific direct economic factors. It generates estimates of the other direct impacts, tax impacts and indirect and induced impacts based on these entries. In the case of the menthol model, direct employment in the menthol cigarette industry is a starting point for the analysis. Direct employment is based on data provided to John Dunham & Associates by Infogroup, RAI, and the Food and Drug Administration as of January 2017. Infogroup data are recognized nationally as a premier source of micro industry data. Infogroup is the leading provider of business and consumer data for the top search engines and leading in-car navigation systems in North America. Infogroup gathers data from a variety of sources, by sourcing, refining, matching, appending, filtering, and delivering the best quality data. Infogroup verifies its data at the rate of almost 100,000 phone calls per day to ensure absolute accuracy.

Once the initial direct employment figures have been established, they are entered into a model linked to the IMPLAN database. The IMPLAN data are used to generate estimates of direct wages and output. Wages are derived from data from the U.S. Department of Labor's ES-202 reports that are used by IMPLAN to provide annual average wage and salary establishment counts, employment counts and payrolls at the county level. Since this data only covers payroll employees, it is modified to add information on independent workers, agricultural employees, construction workers, and certain government employees. Data are then adjusted to account for counties where non-disclosure rules apply. Wage data include not only cash wages, but health and life insurance payments, retirement payments and other non-cash compensation. It includes all income paid to workers and proprietors/partners by employers.

Total output is the value of production by industry in a given state. It is estimated by IMPLAN from sources similar to those used by the BEA in its RIMS II series. Where no Census or government surveys are available, IMPLAN uses models such as the Bureau of Labor Statistics' growth model to estimate the missing output.

The model also includes information on income received by the Federal, state and local governments, and produces estimates for the following taxes at the Federal level: Corporate income, payroll, personal income, estate and gift, excise taxes, customs duties, and fines, fees, etc. State and local tax revenues include estimates of: Corporate profits, property, sales, severance, estate and gift and personal income taxes; licenses and fees and certain payroll taxes.

While IMPLAN is used to calculate the state level impacts, Infogroup data provide the basis for Los Angeles level estimates. Publicly available data at the county and local level is limited by disclosure restrictions, especially for smaller sectors of the economy. This model therefore uses actual physical location data provided by Infogroup in order to allocate jobs – and the resulting economic activity – by physical address or when that is not available, zip code. For zip codes contained in a single congressional district, jobs are allocated based on the total sector jobs in each zip. For zip codes that are broken by congressional districts, allocations are based on the percentage of total jobs physically located in each segment of the zip. Physical locations are based on either actual address of the facility, or the zip code of the facility, with facilities placed randomly throughout the zip code area.

<u>Demand Model</u>

Once the base economic impact of the menthol cigarette industry is developed, the effects of the proposed ban are calculated using a standard demand model. When Los Angeles bans the sale of menthol cigarettes, adults who prefer these products will react in one of four ways. They could:

1) Stop smoking cigarettes or switch to another tobacco product;
2) Switch from smoking menthol cigarettes to tobacco flavored cigarettes;
3) Continue to smoke menthol cigarettes but purchase them from other parts of California;
4) Continue to smoke menthol cigarettes but purchase them from other states and jurisdictions, or over the black market.

In the case of this analysis, two of these factors matter. Since no menthol cigarettes will be legally sold in Los Angeles, the fact that consumers are switching to the black market or purchase their tobacco products outside of the city does not impact either the revenue or economic impact projections. The bottom line is that 100 percent of the taxable menthol cigarette sales will disappear.

If adult smokers decide to continue to smoke menthol cigarettes and purchase them in California, there will be a small countervailing benefit to the rest of the state's economy, which is calculated in this analysis.

Finally, adult smokers could switch to non-menthol cigarettes, and this would mitigate the lost sales in Los Angeles.

In order to calculate the effect of the ban on cigarette sales in Los Angeles, it is essential to know how consumers would react – both in terms of the percent of purchases outside of the city but in California, but also in terms of what percent would switch to other cigarette products. These percentages are called elasticities by economists. Cigarette elasticities have been studied in depth, but most academic research has focused on the effects of taxes on demand, or on the substitution effects of vapor products.

One comprehensive study on the menthol cigarette market was conducted by Compass Lexecon for Lorillard Tobacco Company in 2011.[12] This study provides a series of estimates on all the different elasticities required for this model.

According to the Compass Lexecon analysis, the cross-elasticity of demand between menthol and non-menthol cigarettes ranges from 0.28 to 0.42. This means that a 100 percent reduction in the sale of menthol cigarettes (as would happen under the proposed ban) would lead to an increase of non-menthol cigarettes equal to between 28 and 42 percent of the initial menthol product demand. For this analysis of the proposed ban the most conservative estimate – 0.42 – was used, meaning that the analysis assumes the least impact to the Los Angeles economy from the proposed ban.

In addition, the Compass Lexicon report provided a series of additional elasticities related to quitting and black-market sales. Since any non-reported sale of cigarettes to a consumer in Los Angeles from any other source would technically be a black-market sale under the methodology used in the analysis, then the difference between 1.0 and the sum of the switching, quitting would equal the and black-market elasticity. Some of these sales would go to California retailers. Currently, according to the Tax

12 *Estimating Consequences of a Ban on the Legal Sale of Menthol Cigarettes*, prepared by Compass Lexecon for Lorillard Tobacco Company, January 19, 2011. On-line at: https://www.thecre.com/ccsf/wp-content/uploads/2011/03/compass_1_19_2011.pdf According to its website, Compass Lexecon is *one of the world's leading economic consulting firms*.

Foundation, the black-market sales in California are already equal to 28.3 percent of the market.[13] Taking the inverse of this (71.7 percent) would equal the legal sales. Assuming that the black-market rate stays constant, then the shift from Los Angeles to other parts of California sales would be 0.28 multiplied by 0.717, or 0.201. This means that 20 percent of lost menthol sales would transfer to other parts of California.

With these substitution percentages, the effect of the ban on both Los Angeles and California sales can be calculated. (See Table 7)

Table 7
State and City Impacts Resulting from A Menthol Cigarette Ban in Los Angeles

	Direct		Supplier		Induced		Total	
	LA	CA	LA	CA	LA	CA	LA	CA
Jobs	(518)	179	(139)	76	(209)	146	(866)	401
Wages	$ (28,996,500)	$ 9,531,079	$ (10,125,979)	$ 6,197,553	$ (11,676,755)	$ 9,237,233	$ (50,799,233)	$ 24,965,865
Economic Output	$ (71,434,222)	$ 23,279,499	$ (31,861,746)	$ 26,799,974	$ (34,109,931)	$ 28,332,316	$ (137,405,898)	$ 78,411,789

As the table shows, 518 jobs directly related to the sale of menthol cigarettes will be lost in Los Angeles, offset by 179 jobs gained in other parts of California, and 57.1 percent of the overall economic loss to LA would be made up for by economic gains in the state economy. These effects are due to adult smokers purchasing their menthol cigarettes in California, outside of Los Angeles.

Cigarette Sales and Tax Revenues

Cigarette tax revenues are driven by both the volume of cigarettes sold in a particular jurisdiction as well as the price. Actual sales volumes in Los Angeles were provided by the California Fuels & Convenience Alliance.

The average retail price for a pack of cigarettes (less sales taxes) in Los Angeles is calculated to be $11.80. This price estimate is calculated based on the retail output (or gross margin) from the economic impact model. Dividing gross output by the retail margin of 0.2399 provides an estimate of the price of cigarettes prior to taxes.[14] The final price of $11.80 per pack, is calculated by adding in Federal and state excise taxes, as well as the MSA payment.

Table 8
State and City Impacts Resulting from A Menthol Cigarette Ban in Los Angeles

	Existing	After Ban
Total Packs	35,714,273	27,529,534
Total Value	$ 421,393,564	$ 324,821,641
Menthol Packs	14,111,618	-
Menthol Value	$ 166,503,316	$ -
Non-Menthol Packs	21,602,655	27,529,534
Non-Menthol Value	$ 254,890,248	$ 324,821,641

Based on the price of $11.80 per pack, a total of $421.4 million worth of menthol cigarettes are currently

13 Drenkard, Scott, *Cigarette Taxes and Cigarette Smuggling by State, 2015*, FISCAL FACT No. 565, The Tax Foundation, November 6, 2017. On-line at: https://files.taxfoundation.org/20171106130335/Tax-Foundation-FF565.pdf

14 See: *Margins After Redefinitions: 2007 Detail*, Industry Economic Accounts Directorate, Bureau of Economic Analysis (BEA), U.S. Department of Commerce.

sold on an annual basis in Los Angeles. With a city sales tax of 2.5 percent, this generates a total of nearly $9.5 million in sales tax revenues.

If the sale of menthol cigarettes were banned Los Angeles, the entire $421.4 million worth of sales would be lost. Based on the elasticities the lost menthol sales would be offset by gains in other cigarette sales of 5.9 million packs, or about $69.9 million. (Table 8)

San Francisco Methodology

Two primary data sources were used in deducing the impact of San Francisco's ban on flavored tobacco products, the Quarterly Census of Employment and Wages, a publication produced by the Bureau of Labor Statistics tracking 95 percent of all jobs in the United States, and proprietary scanner data tracking shipments of tobacco products to San Francisco and surrounding counties.[15] For this analysis, measurements from both these sources date from January 2017, and capture monthly information concerning employment and sales respectively.

To compute the effect of the ban on employment, several relevant industries were selected, including convenience stores, gas stations, tobacco stores, and liquor stores, and then their monthly employment statistics in each Bay Area county were pulled from the QCEW database.[16] These numbers were then regressed against time, the respective industry employment numbers for the state of California, seasonal adjustment factors, and an added dummy variable corresponding to the start of the flavor ban. Ultimately, these models demonstrated a statistically significant impact ($p < .001$) on employment for both convenience stores and gas stations in San Francisco, although no statistically significant impacts were found in surrounding counties.

Table 9
Outputs for Regression on QCEW Data

Convenience Store Employees

Variable Name	Coefficient	P-Value	Significance
(Intercept)	(96.52)	0.67	Not signficant
Date	-	0.25	Not signficant
CA Convenience Employees	0.01	0.00	99%
Flavor Ban	(45.84)	0.00	99%
January	4.47	0.52	Not signficant
February	2.81	0.65	Not signficant
March	(3.43)	0.54	Not signficant
April	(0.50)	0.94	Not signficant
May	2.02	0.72	Not signficant
June	(6.62)	0.20	Not signficant
July	(19.51)	0.00	99%
August	(20.66)	0.00	99%
September	(10.49)	0.07	93%
October	2.02	0.71	Not signficant
November	(0.52)	0.92	Not signficant
Model F Statistic:	35.02	R^2:	0.9703
Model Significance:	99%	Adj R^2:	0.9426

Gas Station Convenience Store Employees

Variable Name	Coefficient	P-Value	Significance
(Intercept)	398.80	0.08	90%
Date	-	0.29	Not signficant
CA Gas Employees	0.02	0.04	95%
Flavor Ban	(34.88)	0.00	99%
January	(8.74)	0.37	Not signficant
February	(11.11)	0.22	Not signficant
March	(4.57)	0.60	Not signficant
April	(2.30)	0.79	Not signficant
May	4.21	0.63	Not signficant
June	(2.18)	0.81	Not signficant
July	4.54	0.69	Not signficant
August	1.00	0.94	Not signficant
September	(7.05)	0.54	Not signficant
October	7.41	0.45	Not signficant
November	(1.87)	0.84	Not signficant
Model F Statistic:	10.59	R^2:	0.9703
Model Significance:	99%	Adj R^2:	0.9426

To compute the effect of the ban on sales of tobacco products, scanner data for each tobacco product in each county was regressed against time, seasonal adjustment factors, and a dummy variable to measure the effect of the ban. Additionally, the information was further broken down and regressed to measure the effect on convenience stores, as the previous regressions conducted on employment data had indicated they were the most severely impacted industry.

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15 Proprietary data source capturing retail data for tobacco related products.
16 *Quarterly Census of Employment and Wages*, US Department of Labor, Bureau of Labor Statistics, at: https://www.bls.gov/cew/