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Law and Policy Partnership to End the Commercial Tobacco Epidemic

ENDGAME POLICY PLATFORM

Purpose and Vision

LAW AND POLICY PARTNERSHIP TO END THE COMMERCIAL TOBACCO EPIDEMIC

The endgame policy initiative seeks to eradicate the tobacco industry's influence and harm in California. All Californians deserve the freedom to live healthy lives, lower healthcare costs, smoke-free communities, tobacco-free schools, and an environment free of the tobacco industry's toxic waste. The next generation of Californians can, and should, be the first to grow up without the tobacco industry poisoning its childhood. This will be accomplished by building a statewide movement that prepares and transitions communities, especially those consisting of populations that have been disproportionately targeted by the tobacco industry, to end the commercial tobacco epidemic[1], to protect public health, to protect the environment, and to eliminate tobacco-related health disparities for all Californians. **In this document, we use the term "tobacco" to refer to the products manufactured, marketed, distributed, and sold by the tobacco industry and its subsidiaries. These products are distinct from the sacred tobacco and products used by Indigenous communities, and California's efforts to end the tobacco epidemic do not intend to infringe on traditional tobacco use by tribes.**

There is no acceptable level of tobacco industry-caused morbidity and mortality. While there has been significant progress in reducing the disease and death toll from the tobacco industry's products, tobacco remains the nation's leading cause of preventable disease, disability, and death.[2] The tobacco industry's creation of new products, such as e-cigarettes has overwhelmed the market and led to an epidemic of youth nicotine addiction. These highly addictive products have proven serious negative health effects,[3] including the potential for long-term illnesses like cancer and heart disease.[4] Inclusion of all commercial

tobacco products is an integral element of endgame policies in order to eliminate the death and disability caused by the tobacco industry.

This Endgame Policy Platform was developed by the California Commercial Tobacco Endgame Advisory Council (Endgame Council), which is comprised of leaders from populations disproportionately affected by tobacco, researchers, public health officials, and legal experts. The Endgame Council has worked to identify and develop a comprehensive strategy to eliminate the structural, political, and social dynamics that sustain the commercial tobacco epidemic.

What is the Endgame?

> *Initiatives designed to end the commercial tobacco epidemic by permanently changing the structural, political, and social dynamics that sustain it.*
>
> — Adapted from: McDaniel PA, Smith EA, Malone RE. The tobacco endgame: a qualitative review and synthesis. Tob Control. 2016 Sep;25(5):594-604.

Endgame Policy Platform

This Endgame Policy Platform identifies those policy and systems changes that California's Endgame Advisory Council believes are critical to achieve the goal of the endgame policy initiative: ending the tobacco epidemic in California. The policy platform is intended to serve as a guide to assist California communities that are ready to move forward to accomplish this ambitious, necessary, and long-overdue goal.

Endgame Policy Rationale

Ending the tobacco epidemic requires an unwavering focus on the source of this epidemic — the tobacco industry—by designing and implementing evidence-based and equity-focused endgame policies. A useful definition of who we are talking about is articulated by STOP, a global tobacco industry watchdog:

The tobacco industry is the supply chain of growing, making, marketing and selling tobacco products. It also includes organizations funding and promoting misleading science, lobbying and performing so-called corporate social responsibility activities to support the tobacco industry's continued deceptions.

Commercial tobacco product addiction is created and sustained by the tobacco industry's aggressive, predatory practices include designing, manufacturing, and selling deadly products through marketing efforts that specifically target certain populations. Although important, it is not enough to focus on educating youth on the dangers of tobacco products, or to provide support for those the tobacco industry has addicted. It is not even enough to regulate or influence the individual behavior of addicted tobacco users, such as through smokefree ordinances or increased taxation of tobacco products. Tobacco products kill half of consumers when used as intended, totaling more than 8 million people worldwide every year – including 1.2 million deaths caused by secondhand smoke exposure.[5] To end the tobacco epidemic, tobacco product sales must be eliminated.

Federal, Tribal, state, and local governments have more than a mere right to prohibit tobacco sales; they have an obligation to protect their populations against human rights abuses. Under the United Nations Guiding Principles on Business and Human Rights (UNGPs, often referred to as the Ruggie Principles) "Protect, Respect and Remedy" framework,[6] which the U.S. endorsed in 2010, governments have an obligation to step in when a third party, such as a corporation, violates recognized human rights. As the Danish Institute for Human Rights concluded in its assessment of Philip Morris International under the UNGPs, the tobacco industry violates human rights every day: "Tobacco is deeply harmful to human health, and there can be no doubt that the production and marketing of tobacco is irreconcilable with the human right to health. For the tobacco industry, the UNGPs therefore require the cessation of the production and marketing of tobacco."[7] This policy platform is intended to guide the work of state and local governments that do not have the authority to regulate the production of commercial tobacco products. Therefore, while this policy platform does not directly address production, it seems likely that minimizing the market for commercial tobacco products will have an upstream effect on production. As the tobacco industry has no intention of voluntarily shutting down, it is the duty of governments to step in to protect the public.

There has been remarkable progress in passing tobacco control policies over the past several decades. The current tobacco regulatory landscape includes policies that were once thought impossible. Many communities are now protected from the tobacco industry by a wide range of policies, including comprehensive smoke-free policies, tobacco retailer licensing, flavored tobacco sales restrictions that include menthol, coupon redemption restrictions, minimum price laws, tobacco retailer location and density restrictions, and restrictions on tobacco sales

in pharmacies, to name just a few. In addition, state and local activity has led to the adoption of a federal minimum legal sales age of 21. Still, more work remains to be done to fully protect communities from the preventable death and disease that is caused by this industry. Ending the commercial tobacco epidemic will require reorientation of the tobacco control strategic environment toward bold restrictions of tobacco sales, including the elimination of commercial tobacco product sales.[8]

Within this policy platform, terms such as "community" and "priority population" are used to ensure that we are focused on those populations that have been most directly targeted by the tobacco industry and, therefore, suffer the greatest burden from tobacco use and tobacco-related diseases. However, it is also important to keep in mind that these populations are not homogeneous and that social, health, economic, environmental, and educational inequities affect each of these groups differently. Awareness of this intersectionality leads to a better understanding of the diversity within communities and allows for the development of more tailored policies to address each community's needs. For example, African Americans living in a rural community may face different, or additional, challenges than those faced by African Americans living in an urban environment. At the same time, African Americans living in a rural community may face certain similar challenges as other disadvantaged groups living in the same community. It is essential that we develop policies that reach all Californians in our efforts to eliminate the harms caused by the tobacco industry.

Background

The tobacco industry, which now includes e-cigarette manufacturers, has been using the same overall strategy since the 1950s, combatting scientific facts and manipulating people into addiction to make a profit. The industry's tactics include lobbying, instilling fear, uncertainty, and doubt by astroturfing and greenwashing, manipulating personal responsibility, and funding research to undermine the undeniable scientific fact that smoking causes cancer and many other health harms. In spite of several big tobacco companies being adjudicated as racketeers in federal court because of their collective and coordinated denial, deceit, and targeted marketing of deadly, addictive products,[9] the tobacco industry's influence has not waned, as evidenced by the following:

- The tobacco industry spends an estimated $446.7 million annually to market tobacco products to California residents;[10]
- In the United States, the tobacco industry spends $21.3 million *every day* on marketing.[11] This adds up to almost $8 billion on marketing each year;[12]

- In 2021, the tobacco industry spent $31 million on lobbying at the federal level to weaken public health and tobacco control policies;[13]
- Though tobacco companies espouse harm reduction, e-cigarettes are highly addictive and cause harmful health effects that are different from, and often in addition to, combustible cigarettes;[14]
- Commercial tobacco use costs California communities $49 million every day;[15]
- Smoking costs $21 for every $1 of cigarette tax revenue generated;[16] and
- The tobacco industry aggressively marketed its products during the COVID-19 pandemic by engaging in pandemic-themed sales promotions, such as offering free masks with purchases. As a result, cigarette sales went up for the first time in twenty years during the pandemic.[17]

The Centers for Disease Control and Prevention reports that approximately 480,000 people die in the United States (U.S.) each year from the diseases caused by the tobacco industry's products, including exposure to secondhand smoke, making tobacco use the nation's leading cause of preventable death.[18] In California, 110 people die each day from the tobacco industry's products,[19, 20] and tobacco products are the number one cause of preventable death in the state. Additionally, for every one Californian's death from tobacco products, 30 more people suffer from a disease caused by the tobacco industry.[21]

- Sales of cigarettes, the single deadliest consumer product in history,[22] remain ubiquitous with 26 tobacco retailers for every Starbucks and 31 tobacco retailers for every McDonalds;[23]
- The tobacco industry addicts children, calling them "replacement smokers," removing their personal freedom and rights before they even have the right to vote. Ninety percent of people who smoke daily started before they turned 18;[24]
- Smoking can cause disease in nearly every organ in the body and is responsible for 70% of lung cancer deaths, 12% of ischemic heart disease deaths, and 69% of all cases of chronic obstructive pulmonary disease in the California;[25, 26, 27, 28]
- Tobacco is responsible for more than one in seven deaths in California, more than from AIDS, influenza, and diabetes combined;[29]
- Heart disease, which is linked to tobacco use, is the most common cause of death in California, followed by cancer;[30]

- Lung cancer is the most common type of cancer death in California[31] for which cigarette smoking is the number one risk factor;[32]
- Each year, smoking costs California $13.29 billion in health care expenses, $3.58 billion in Medicaid costs, and $10.35 billion in productivity losses;[33] and
- Approximately two-thirds of people who smoke want to quit and wish that they had never started smoking.[34]

In 2018, the United States Surgeon General declared a youth vaping epidemic.[35] In addition, smoking *and* vaping harm the lungs, potentially putting Californians who smoke or vape at greater risk for severe symptoms of COVID-19.[36, 37, 38, 39, 40] This industry-created crisis continues to be an urgent and relevant public health issue, as evidenced by the following:[41]

- Kids who use e-cigarettes are three times more likely to become daily cigarette smokers later in life.[42]
- Research has shown that, similar to cigarettes, e-liquids and aerosols contain many cancer-causing heavy metals, some of which have been linked to respiratory diseases, including lung cancer.[43, 44, 45]
- Chemicals like formaldehyde and acetaldehyde are cancer-causing substances often found in -cigarettes.[46]
- E-cigarettes can increase the risk of heart damage and lung inflammation.[47, 48] In addition, e-cigarettes contain acrolein which can cause chronic obstructive pulmonary disease (COPD) and may lead to asthma and lung cancer.[49]
- In California, e-cigarette sales to minors violations are significantly higher in tobacco and vape shops than any other type of retailer, with 44.7% selling to underage buyers.[50]
- According to the national 2021 Monitoring the Future Survey, nearly half of 8th grade students (44%), over half (55%) of 10th grade students, and nearly three-quarters (72%) of 12th grade students said it would be easy to get vaping devices. [51]

The tobacco industry aggressively targets certain communities and, as a result, those populations have much higher tobacco use rates and higher rates of tobacco-related death and disease than the general population, creating significant barriers to health equity, and perpetuating structural racism. The tobacco industry's concerted efforts to target intentionally marginalized populations, including communities of color, is evidenced by the following:

- American Indians (15.8%), African Americans (16.1%), and LGBTQ+ groups (14.1%) report higher rates of smoking than the state as a whole (10.9%); [52,53]
- Among the American Indian population in California, the adult tobacco use rate is the third highest after Other Race/Multiracial and African American/Black (15.8%, 17.2% and 16.1%, respectively).[54] The youth tobacco use rate among the American Indian population in California is also the third highest after Native Hawaiian/Pacific Islander and White (13.9%, 14.6%, and 14.3% respectively).[55]
- The cigarette smoking rate among California Latinos is 9.8%, or 1.1 million tobacco users, making it the second largest demographic group of adult tobacco users;[56]
- Menthol cigarettes disproportionately harm the health of African Americans and LGBTQ+ groups;[57]
- Californians with the lowest levels of educational attainment and annual household income have the highest smoking prevalence.[58]
- 72% of people who smoke reside in lower-income communities which is concerning because of the higher density of tobacco retailers in such communities and the tobacco industry's aggressive targeting, price promotion, discounting, and couponing practices at stores in these neighborhoods.[59]
- Tobacco kills more Black Americans annually than AIDS, drug or alcohol abuse, car accidents, and murders combined.[60]
- There is more tobacco advertising and there are more stores that sell tobacco in low-income neighborhoods. [61, 62]
- For decades, the tobacco industry has exploited Black social justice issues and contributed to prominent Black civil rights organizations in order to leverage their community leaders to oppose tobacco sales restrictions.[63]
- The tobacco industry mischaracterizes commercial tobacco control policies and leverages relationships with Black-led organizations to build support for their erroneous framing that tobacco bans lead to criminalization and police enforcement, which is especially dangerous to the Black community,[64] even though tobacco products are one of the leading causes of death to members of the Black community.[65]
- The tobacco industry has financially supported primary and secondary schools, colleges and universities, and even created scholarship programs for Latino communities to create

the illusion that they're supporting the future of the community,[66] even though lung cancer is the leading cause of cancer deaths among Latino men and second leading cause of death in Latina women in California.[67]

- The tobacco industry aggressively sells flavored cigars and cigarillos at significantly lower prices in predominantly Latino neighborhoods to addict new customers.[68]
- The tobacco industry appropriates Native American culture in order to sell their products for profit. They also abused the traditional and cultural significance of tobacco in the Native American community to justify commercial tobacco sales.[69]
- The tobacco industry sells its products at a lower price in Pacific Islander communities than in other Asian communities.[70]
- The tobacco industry funded research that falsely claimed people with mental illness can use their products to relieve symptoms caused by their mental health conditions.[71] They have even handed out free cigarettes in psychiatric facilities.[72]
- Smokers with serious mental illness have an increased risk of dying from cancer, lung disease, and cardiovascular disease[73] and account for more than 200,000 of the 520,000 tobacco-related deaths each year.[74]
- Adults living in rural areas of California use tobacco products at a much higher rate than the state as a whole.[75]
- The tobacco industry aggressively markets cigarettes and smokeless tobacco products, like chewing tobacco, in rural areas, taking advantage of weaker tobacco retail licensing laws in rural communities.[76] This targeted marketing has contributed to increased smokeless tobacco use rates among high school males in rural areas, exceeding the national average.[77]
- Because of industry targeting, rural counties have some of the highest smoking rates in California,[78] and rural residents in the U.S. start smoking at an earlier age.[79]
- Tobacco companies were among the first to "support" LGBTQ+ communities, but they were never allies. They publicly "supported" the LGBTQ+ community by advertising in LGBTQ+ publications and sponsoring community and pride events. However, they used marketing strategies to exploit any feelings of isolation and despair the LGBTQ+ community experienced by promoting smoking as a way to bond with one another and to relieve stress.[80]

- The tobacco industry is not an LGBTQ+ ally as evidenced by its development of a marketing plan targeting the LGBTQ+ community in San Francisco called "Project SCUM."[81]
- Tobacco-sponsored events often include spectator sports and activities popular with families, such as rodeos, fairs, festivals, and racing – thus exposing children to heavy amounts of tobacco company logos.

The tobacco industry's products don't just impact those who use them or are at risk for using them. Even people who don't use tobacco products carry extreme risk from exposure to secondhand smoke, aerosol, and toxic tobacco waste, as evidenced by the following:

Effects of Secondhand Smoke and Aerosol

- Every year, secondhand smoke causes over 400 lung cancer deaths and over 3,600 cardiac deaths in California.[82]
- Children who breathe secondhand smoke are at increased risk for a range of dangerous health issues, including bronchitis and pneumonia, middle-ear infections, chronic respiratory symptoms, and asthma.[83,84]
- It's estimated that secondhand smoke is responsible for between 150,000 and 300,000 lower respiratory tract infections in infants and children under 18 months in the US.[85]
- Secondhand smoke causes about 31,000 episodes of asthma attacks in children in California each year.[86] It also causes more between 1,200-2,200 cases of low birth weights in newborns and over 4,700 cases of premature births each year in California.[87, 88]
- Like cigarette smoke, e-cigarette aerosol also produces ultrafine particles, which settle into the lungs when inhaled by people using it or near it.[89]

Environmental Justice

- Roughly 12 billion cigarettes are sold in California each year, 90% of which are filtered.[90]
- Each year, about 4.5 trillion cigarettes are discarded worldwide.[91]
- Cigarette filters are consistently the number one most common type of litter found during beach and waterway cleanups in California.[92]
- In the city of Los Angeles alone, estimates indicate that the city incurs $19 million a year in cigarette butt clean-up costs, and public agencies statewide incur costs of approximately $41 million a year.[93]

- According to the California Highway Patrol, roughly a third of all littering citations in 2019 involved lit cigarettes—which are particularly dangerous in wildfire-prone California.[94]
- Cigarette butt toxicity is well-documented in wildlife[95] and microplastics have been found in sea life commonly consumed by humans.[96]
- Discarded cigarette butts are toxic waste that can break down into more than 15,000 microplastic strands in water and leach dangerous chemicals into our water, soil, and wildlife.[97, 98]
- Break Free from Plastic, an environmental organization, named Philip Morris Inc., the manufacturer of Marlboro products, as one of the top ten global plastic polluters.[99]
- The tobacco industry contributes to the deforestation of the planet[100] by chopping down approximately 600 million trees each year.[101]
- E-cigarette waste is especially harmful because it's made up of three forms of waste: plastic waste, hazardous waste, and electronic waste.[102]
- E-cigarette devices, components, and e-liquid containers are often made of nonbiodegradable plastic that can't be recycled and take years to decompose.[103] Similar to cigarette butts, these plastics house toxic chemicals could that leach out into the environment.[104]
- E-cigarette devices contain circuit boards, which contain plastics and heavy metals.[105] They also use lithium-ion batteries, which pose dangers when improperly thrown away in trash receptacles where they can create fires in waste facilities if they are damaged or exposed to high heat.[106]

The Tobacco Endgame is a Social Justice Issue

Eliminating the tobacco industry's influence is a social justice issue. The tobacco industry has preyed upon communities of color, Tribal nations, LGBTQ+ communities, people with disabilities or mental health conditions, those who have served in the armed forces, those experiencing low-socioeconomic or limited educational achievement, and people who live in rural communities through a variety of mechanisms, including pervasive and culturally appropriative advertising, event sponsorship, and industry-supportive public policies.[107] The tobacco industry has maintained an unavoidable community presence which includes an oversupply of tobacco retailers, widespread advertising, and cheap tobacco products. In addition, in these targeted communities, the tobacco industry has intensified its marketing of

specific products, like menthol cigarettes, that are easier to initiate and more difficult to quit.[108] In addition, the tobacco industry has infiltrated media and social leadership organizations that are aligned with the same targeted populations, especially within the African American communities.[109, 110]

Systemic discrimination and prejudice towards targeted populations within the United States has resulted in systemic oppression and poorer health outcomes for these communities in all facets of life, including population health indicators. Tobacco use is a perfect illustration of the complicated structural elements that have directly led to such disparate health outcomes. As long as money can be made from addicting the most structurally disenfranchised communities, the tobacco industry will continue to develop new products to accomplish its goals with no account for the devastating magnitude of lives lost. Endgame policies are a necessary step to reduce health disparities by eliminating the sale of products that causes such a disproportionate level of death and disability for targeted populations.

The Tobacco Endgame is an Equity Issue

Eliminating the tobacco industry's influence is an equity issue. To achieve better health for all, policy development must encompass principles of equity with a focus on reducing health disparities, especially in those communities that have borne a disproportionate burden due to predatory targeting by the tobacco industry. This includes:

- Working toward health equity to ensure that all tobacco policies are developed and implemented in partnership with the communities most affected by the tobacco epidemic. This will require special emphasis on:
    - Developing partnerships with Tribal governments to support their efforts to decrease commercial tobacco use; and
    - Understanding the unique role that the tobacco industry has played in exacerbating health disparities, especially through targeted marketing of menthol cigarettes to the African American and LGBTQ+ communities, its culturally appropriative use of Native American symbols to advertise tobacco products, its targeting and predation of people experiencing mental and/or behavioral health challenges, Asian, Pacific Island and Latino Californians, and lower-income California communities, and its marketing of smokeless tobacco products in rural California communities.
- Engaging thoughtfully with all stakeholders that have missions aligned, related to, or potentially impacted by our tobacco endgame goals, including working with non-traditional

partner organizations that advocate for issues like social justice, human rights, workers' rights, housing for all, environmental protections, and community safety.

- Ensuring intersectional approaches to engagement and policy adoption with populations that experience systemic discrimination due to sexual orientation and identity, gender and gender identity, race, economic status, immigration status, religion, national origin, and ability, among other aspects of one's identity, and that perspectives from this engagement must shape this work.
- Increasing compliance with commercial tobacco laws while deemphasizing punishment of tobacco users. Focusing enforcement efforts on the tobacco industry and retailers rather than the consumers they target and addict. This requires the elimination of penalties for the purchase, use, or possession of tobacco products, evictions in smokefree rental housing, and criminal enforcement of policies that restrict smoking in public spaces.
- Supporting system changes within environments or spaces where smokefree policies exist or should exist (e.g. behavioral health treatment centers, K-12 schools, college, university, and trade school campuses), including referrals to culturally and age-appropriate tobacco treatment programs and resources.
- Prioritizing endgame efforts in environments through which priority populations are disproportionately exposed to or harmed by the tobacco industry's products, such as multi-unit housing and workplaces still exempted from California's smokefree workplaces law, and in areas with high tobacco retailer density.
- Discouraging the use of the traditional criminal justice approaches, such as police, courts, and the prison system, and prioritizing other forms of more equitable enforcement methods to implement tobacco endgame policies while emphasizing referral to culturally and age-appropriate tobacco treatment programs and resources for people using tobacco products.
- Emphasizing that some people who use tobacco suffer from a series of health inequities compared to non-tobacco users. These include disparities in access to healthcare for their condition (tobacco dependence) compared to other conditions; lack of access to affordable healthcare due to policies allowing insurers to charge higher premiums; and lack of appropriate regulation, allowing the tobacco industry to reap profits from continued sale of cigarettes, a deadly, addictive, defective product in a manner that is not tolerated for any other consumer product. The result is that people who smoke cigarettes on average

suffer a loss of more than 10 years of life expectancy compared to people who do not smoke cigarettes.[111]

The Misuse of Harm Reduction

Harm reduction in the context of tobacco use involves the long-term maintenance of nicotine addiction, or "nicotine maintenance," and is a serious threat to the public health effort to reduce the morbidity and mortality caused by tobacco use. The tobacco industry will continue to do anything to keep the sales of their deadly products high – including using manipulation and lies. One of the tobacco industry's most appalling lies is that it cares about public health. It does this by manipulating public health terms, like harm reduction, for profits. It's an outrageous claim from the industry that produces approximately six trillion cigarettes each year, as well as countless other harmful tobacco products – all of which addict and kill consumers when used as intended.[112]

There is an inherent contradiction between strategies to motivate tobacco users to quit and strategies to motivate tobacco users to switch to a reduced harm nicotine product without ever quitting nicotine. Harm reduction is a diversion from much higher priority policies and programs and may draw away much needed political and financial support for approaches that have been shown to be effective. Many harm reductionists believe that as smoking prevalence falls, it's only the most addicted that continue to use tobacco products, however research shows that as prevalence falls, motivation to quit increases or is stable, making harm reduction an unnecessary intervention when there are already many evidenced-based tobacco quit interventions that help users quit fully.

- Faced with steadily declining cigarette sales, PMI and Altria are promoting "smoke-free" nicotine delivery systems designed to sustain nicotine addiction among their customers and to recruit new users. At the same time, they continue to aggressively market cigarettes and oppose public health policies to reduce smoking.[113]
- International evidence from five studies on quit intentions and attempts indicates that as smoking prevalence declines, the smoking population is either becoming more motivated to quit or remaining stable in its motivation.[114]
- The failure of "low-tar, low nicotine," and filtered cigarettes as "safer" are historical examples of this approach. Through marketing "low-tar" or "light" cigarettes to older smokers at risk at quitting, the industry contributed to the illusion that such cigarettes were safer; however, "light" cigarettes actually made it harder for addicted smokers to

quit. In addition, by using rhetoric aimed at convincing addicted smokers that they alone are responsible for their smoking, the industry contributes to self-blame, a documented barrier to cessation.[115]

- As reported by the *New York Times*, JUUL/Altria (formerly Phillip Morris Companies) paid for open access to selected industry-friendly studies to comprise the entire May/June 2021 issue of the *American Journal of Health Behavior*.[116] All of the studies published in the issue were written by researchers either employed by Juul Labs Inc. or funded by the company. The *New York Times* reported that three members of the journal's editorial board resigned over the arrangement.

The following policies are all focused on moving communities toward ending the commercial tobacco epidemic in California.

Endgame policies

1. End the sale of all commercial tobacco products.
2. Nicotine- free generation policy. This prohibits the sale of tobacco products to individuals who were born after a fixed date (e.g., January 1, 2000), thus continuously increasing the minimum legal sales age.

Endgame-focused policies

1. Product sales restrictions.
    (a) End the sale of all flavored commercial tobacco products.
    (b) End the sale of commercial tobacco products that produce environmental waste.
2. Retailer-focused sales restrictions intended to reduce the widespread sale of commercial tobacco products and the disproportionate concentration of tobacco retailers in economically disadvantaged neighborhoods.
    (a) Type of retailers that can sell tobacco products (e.g., no sales in pharmacies or liquor stores, sales only in only adult-only tobacco-only retailers).
    (b) Location of tobacco retailers (e.g., no sales near schools or other youth-oriented spaces or in smoke-free facilities).

(c) Reducing retailers generally (e.g., requiring minimum distance between tobacco retailers and restricting the number of retailers based on population).

(d) Reducing retailers with an equity lens (e.g., cap and winnow tobacco retail licenses until there is parity across neighborhoods defined by income/race or, ideally, by all categories identified in outcomes measure section).

(e) Prohibit internet sales of all commercial tobacco products.

3. Smokefree and commercial tobacco-free policies.

(a) Enact comprehensive smoke-free/commercial tobacco-free indoor and outdoor policies, including smoke-free housing, outdoor public space policies, in addition to closing loopholes in indoor workplace laws. As the U.S. Surgeon General's Report concluded, "[s]moke-free policies reduce smoking prevalence, reduce cigarette consumption, and increase smoking cessation."[117] Comprehensive smoke-free policies not only minimize exposure to secondhand and thirdhand smoke, but also lead to smoking cessation.

(b) Protect existing smoke-free laws from tobacco and cannabis industry efforts to weaken or circumvent them.

(c) Develop and implement equitable enforcement approaches for smoke-free and commercial tobacco-free policies.

4. Pricing policies.

(a) Raise prices for all commercial tobacco products.[118] The U.S. Surgeon General has concluded that "increasing the price of cigarettes reduces smoking prevalence, reduces cigarette consumption, and increases smoking cessation."[119] Raising prices on all commercial tobacco products will lead to a reduction in tobacco use, especially among priority populations like youth and people with lower incomes.[120] W While California localities are preempted from imposing taxes on tobacco products, they can still adopt measures to minimize the availability of cheap commercial tobacco products. It is also essential to address the practical effects of pricing strategies on lower income communities, such as integrating meaningful and culturally appropriate cessation policies. Tribal communities, in addition to raising commercial tobacco prices, can adopt tax increases to achieve this same goal.

5. Cessation support.

    (a) Provide comprehensive, barrier-free, and widely-promoted cessation services to facilitate the achievement of above population-level endgame strategies. This includes evidence-based, culturally appropriate, free, accessible, and tailored cessation promotion, screening, and services as a requirement of all policies.

6. Equity-focused policies.

    (a) Ensure that endgame policies are drafted with equity at the forefront to avoid unintended consequences such as inequitable application, implementation, and enforcement of policies; increased profiling or targeting of communities who are commonly targeted by the tobacco industry and law enforcement; and illicit sales activity in the wake of commercial tobacco sales elimination.

    (b) Enact policies that proactively encourage and support multicultural and racial acceptance and understanding.

    (c) Eliminate all purchase, use, and possession laws that penalize individuals targeted by the tobacco industry instead of focusing penalties on the industry itself.

7. Industry-focused policies.

    (a) Counter pro-tobacco influences, including political campaign contributions, legislative interference, and lawsuits, through strategies aimed at better understanding of the sources and effects of such influences, as well as better communication of such influences to the general public.

    (b) Change social norms by educating Californians about the tobacco industry's current and historical strategies of perpetuating their profits over Californians' lives, which results in massive human and environmental damage. This makes the idea of a California free of the tobacco industry's influence an inevitable necessity.

Long-term Goals and Objectives

California's Endgame Campaign has three overarching, **long-term** goals:

(1) **Make all California communities commercial tobacco-free:** Free from the sale of all tobacco products, which contribute to tobacco waste and exposure to secondhand and thirdhand smoke in all outdoor public areas, workplaces, and multi-unit housing.

(2) **End the tobacco use epidemic in California:** Prevent Californians from initiating commercial tobacco use and empower current users to quit.

(3) **Eliminate the tobacco industry's influence in California:** End California's role in financially sustaining the tobacco industry, remove the industry's ability to market to Californians, undo the tobacco industry's influence in past policy decisions and stop its further interference in California's laws.

Things to consider:

The Tobacco Industry's Connection to Cannabis

The decline in tobacco product use coupled with the rise of public opinion in favor of cannabis decriminalization has prompted the tobacco industry to look to incorporate cannabis into its business model.[121] As a result, co-use of tobacco and cannabis products is rapidly expanding.[122] The rise of cannabis legalization has the potential to undo the tobacco-free movement of the past 60 years by renormalizing smoking behaviors through dual use or co-use of tobacco and cannabis products.

Co-use is especially problematic among youth users.[123] The industry makes many tobacco and cannabis crossover vaping products, such as pods containing THC for use in a JUUL device, that facilitate co-use. There are additional methods of co-consumption of tobacco and cannabis, such as blunts or spliffs; "moking", which is smoking a mixture of cannabis and tobacco in a bong or waterpipe; or the "Silicon Valley spliff," which is simultaneously using a JUUL and a cannabis vape pen. Adolescents who vape and smoke nicotine are more than 40 times more likely to also vape and smoke cannabis.[124]

Efforts have been made to exempt cannabis from smoke-free laws despite language indicating that such exemptions are not allowed under California law.[125] Organizations identifying themselves as aligned with the cannabis industry routinely attend hearings on tobacco policies to attempt to prevent the passage of comprehensive smokefree laws. As both the tobacco and cannabis industries are adopting similar messaging, it is essential to consider the analogous regulatory structure for cannabis when developing tobacco policies to ensure that gaps do not exist between the two and to identify public health intersections, including both potential concerns and opportunities. Such a structure must:

- Ensure local smokefree laws are adopted and enforced utilizing the state's definition for smoking which includes all combusted, heated, and aerosolized products.[126]

- Ensure that sales restriction policies capture products that can be used for both cannabis and tobacco;
- Monitor jurisdictions that prohibit the retail sale of cannabis and work with such communities on efforts to enact companion to tobacco endgame policies; and
- Remain consistent with tobacco language and policies that are relevant to cannabis. As with tobacco, discourage policies that criminalize purchase, use, or possession of cannabis while licensing and limiting legal production, sales, and marketing infrastructures for cannabis. This approach aligns with public health best practices and prevents the erosion of social norms for smoking and other commercial tobacco use.

Critical Steps to Implement the Endgame Policy Platform

- Align intervention, public education campaigns, evaluation, training, and surveillance toward endgame goals and identify effective strategies to scale up for more widespread adoption and implementation of endgame-focused and endgame policies.
- Continuously synthesize the evidence to identify research needs, and modify strategies as needed.
- Develop model language for all policies to accomplish the goal of eliminating the sale of all commercial tobacco products.
- Prevent exemptions to model policies that may lead to or exacerbate existing social justice or health inequities within communities and populations.
- Identify feasibility considerations and create self-assessment resources to evaluate community readiness for endgame.
- Develop more effective tools for the enforcement of endgame policies.
- Ensure community stakeholder involvement at all stages of the policymaking, implementation, and enforcement process.

Educate, Empower, and Engage Local Communities

- Develop opportunities for equitable community engagement which includes culturally-tailored community education, training and technical assistance to empower advocates, and enable culturally-competent assessment to determine readiness for policy change.

- Prioritize health equity and social justice best practices in communities through partnerships with traditional and non-traditional stakeholders that support endgame goals and can best inform and lead on adoption, implementation, and enforcement practices by bringing diverse perspectives to the California endgame initiative.
- Assess community engagement by policy area, priority populations, and non-traditional stakeholders (e.g., tenants' rights, environmental, and human rights organizations). Policy development will require input from non-traditional partners to ensure that all policies prioritize the health equity and social justice needs of each community to ensure representative community participation and equitable policy solutions.
- Address the intersections between tobacco-related death and disease with other public health and social justice issues, such as historical, structural racism, and support intersectional policies that advance health equity.

Implementation

- Develop best practices for implementation of endgame policies which include:
  - Creating an implementation and enforcement plan and timeline in advance of policy consideration, debates, and adoption that thoughtfully consider equity issues in advance to ensure buy-in from community partners and enforcement entities.
  - Conducting educational outreach to disparately impacted communities, including tobacco retailers operating in such areas. Tailor education for different constituencies, including non-tobacco users, and disseminate it using multiple platforms and trusted messengers;
  - Developing programs to assist retailers to shift their business focus away from tobacco. This approach connects with Article 17 of the Framework Convention on Tobacco Control, which states that retailers should be provided support for viable alternatives to selling tobacco;
  - Developing resources to support and promote cessation to all populations;
  - Evaluating the impact of policy implementation and enforcement on tobacco initiation, use, cessation, exposure to retail marketing, and secondhand exposure to smoke and aerosol; and
  - Ensuring that enforcement prioritizes health equity and social justice.

- Monitor the impact of policies to ensure equitable reach across California's demographically and geographically-diverse communities and evaluate policy adoption to avoid unintended consequences that contribute to harassment, racism, or stigmatization toward people who use commercial tobacco products.
- Continue surveillance of tobacco initiation, use, cessation, exposure to retail marketing, and secondhand exposure to smoke and aerosol among all Californians and by priority population.

Preparation for Legal Challenges

Historically, the tobacco industry has been, and continues to be, litigious in protecting its profits by undermining effective public health policy. Therefore, it is likely that endgame policies will encounter litigation challenges. However, in California, there is no legal impediment to adopting local endgame policies, whether sales restrictions or commercial tobacco-free policies.[127] Furthermore, courts have consistently held that sales restrictions are not preempted by federal law.

To mitigate the stress and uncertainty for local jurisdictions, legal technical assistance is available for policy development and to help prepare for any type of legal challenge. This includes:

- Maintaining and updating legal analysis on the authority for each policy;
- Providing training on the development and implementation of comprehensive, equity-focused, evidence-based, and legally sound policies;
- Tracking and analyzing the implications of all related litigation; and
- Coordinating litigation support for municipalities defending endgame policies against tobacco industry litigation.

The End of the Game

The goal of this endgame policy platform is to provide the roadmap, evidence-base, and policy options to end the commercial tobacco epidemic in California. Eliminating the tobacco industry's influence, and ultimately the sale of their products, will save tens of thousands of lives in California, reduce unconscionable health disparities, end generational cycles of addiction, and become a model for the rest of the United States and other nations.

Endnotes

1 Traditional and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous communities and Tribes for centuries. Comparatively, commercial tobacco is manufactured for recreational use and profit, resulting in disease and death. For more information, visit the National Native Network website: http://www.keepitsacred.itcmi.org. When the word "tobacco" is used throughout this document, a commercial context is implied and intended.

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