Title
Retailer experiences with tobacco sales bans: lessons from two early adopter jurisdictions.

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ABSTRACT

Background: Beverly Hills and Manhattan Beach, California are the first two United States cities to prohibit the sale of tobacco products, passing ordinances that went into effect on January 1, 2021. We sought to learn about retailers' experiences with these laws 22 months after implementation.

Methods: Brief in-person interviews with owners or managers of businesses that formerly sold tobacco (n=22).

Results: Participant experiences varied by type of retailer. Managers at large chain stores reported no problems adapting to the law and little effect on overall sales. Many were largely indifferent to the sales bans. By contrast, most managers or owners of small, independent retailers reported losses of both revenue and customers, and expressed dissatisfaction with the laws. Small retailers in Beverly Hills objected particularly to exemptions that city made allowing hotels and cigar lounges to continue their sales, which they saw as undermining the health rationale for the law. The small geographic area covered by the policies was also a source of frustration and retailers reported that they had lost business to retailers in nearby cities. The most common advice small retailers had for other retailers was to organize to oppose any similar attempts in their cities. A few retailers were pleased with the law or its perceived effects, including a reduction in litter.

Conclusion: Planning for tobacco sales ban or retailer reduction policies should include considering impacts on small retailers. Adopting such policies

in as wide a geographic area as possible, and allowing no exemptions, may help reduce opposition.

WHAT IS ALREADY KNOWN ON THIS TOPIC

- Only one brief study has explored retailers' perceptions of the tobacco sales bans in Beverly Hills and Manhattan Beach, California. It was conducted in January 2021, the same month that the laws were implemented.
- We sought to understand retailers' perceptions of the policy 22 months post- implementation.

WHAT THIS STUDY ADDS

- Smaller retailers were more dissatisfied with the new laws than larger retailers, primarily due to perceived revenue losses.
- Small retailers objected to the limited area covered by the laws, which they felt facilitated customers going to nearby cities. In Beverly Hills, small retailers also objected to exemptions for certain businesses.

HOW THIS STUDY MIGHT AFFECT RESEARCH, PRACTICE OR POLICY

- Tobacco control advocates seeking to phase out sales in local jurisdictions should anticipate opposition from small retailers.
- To reduce opposition, jurisdictions should consider adopting tobacco sales bans without exemptions and covering a wide geographic area.

Despite dramatic reductions in tobacco use in California since 1988,[1] tobacco use continues to be the leading cause of preventable death in California (estimated at 40,000 people annually in 2009),[2] with many more disabled by tobacco-caused diseases.[3] Tobacco products remain both widely available and heavily promoted across the state, contributing to the disconnect often noted by members of the public between the public health emphasis on the products' deadliness and their ubiquitous availability.[4] Recently, the California Tobacco Control Program (CTCP) and several countries including New Zealand, have embraced a paradigm shift from tobacco "control" to tobacco "endgame" strategies.[5,6] A tobacco endgame strategy means moving beyond a focus on tobacco *control* (and its assumptions that commercial tobacco is here to stay and that regulating the time, place and manner of its use is the objective) toward a focus on a *future free of commercial tobacco.*[7]

Many California communities in the vanguard of endgame-oriented policies are focusing on retailer-based interventions, including instituting tobacco retail license density caps,[8] creating tobacco-free retailer zones near schools, and prohibiting tobacco sales in pharmacies;[9] some have also prohibited the sale of some or all tobacco products.[10,11] New Zealand has similarly proposed dramatically reducing the number of tobacco retailers.[6] Tobacco outlet density and proximity are associated with tobacco uptake and use among youth and adults[12-16] and with decreased smoking cessation;[12] thus, ending cigarette sales could reduce youth smoking initiation and continuing use. It could help people trying to quit smoking, by removing environmental cues associated with smoking and decreasing cigarette availability.[13,17-22] Ending sales could also reduce tobacco use disparities, which have been linked to the greater concentration of tobacco outlets in economically deprived neighborhoods and in areas with greater proportions of African Americans and Hispanics.[23-36] Moreover, ending cigarette sales could further denormalize the tobacco industry, potentially spurring additional reductions in cigarette uptake and use.[37] Doing so sends a strong message to the public that local government leaders are finally acting to protect public health by making policy consistent with messaging about the dangers of cigarette use.[38] Ending sales represents the most concrete way to end the perception that cigarettes are an ordinary consumer product, and that the tobacco industry is a normal industry.[39]

Beverly Hills and Manhattan Beach, California, two small cities located in Los Angeles County, CA (see box for details), are the first two United States cities to take this step; each passed ordinances ending tobacco sales that went into effect on January 1, 2021. Beverly Hills' ordinance exempted two types of retailers: three existing cigar lounges, defined as retailers that sold only cigars and provided an enclosed space in which patrons could smoke them, and current and future hotels, who were permitted to sell tobacco products to registered guests only through concierge services.[40] The city also allowed retailers to request one temporary financial hardship exemption that included a plan for how much time would be needed "to recoup any investment backed expectations, and a plan for phasing out the sale of [tobacco] products."[40] Manhattan Beach's ordinance had no exemptions by type of retailer, but did allow retailers to request a temporary financial hardship exemption that mirrored the language in Beverly Hills' ordinance.[41]

As other jurisdictions consider following in the footsteps of Beverly Hills and Manhattan Beach, retailers' experiences of these cities' tobacco sales bans may play a role in policymaker deliberations. One brief study of these cities' retailers, conducted in January 2021, reported on awareness of, compliance with, and support for the policy at the time it went into effect.[42] Among participating retailers (n=16), all were aware of the law and most found compliance easy; however, most opposed it. We sought to learn more about retailers' longer-term experiences with the law.

METHODS

Beverly Hills' ordinance was adopted in June 2019. We obtained through an online public records request from the city a list of all retailers that sold tobacco as of March 2019 (n=29). The list included 8 businesses exempted from the ordinance: 5 hotels that sold tobacco through a concierge service or a cigar lounge, and 3 stand-alone cigar lounges. It also contained 1 retailer whose hardship exemption was still in effect at the time we conducted interviews, and 1 duplicate entry. Among the remaining 19 retailers, 3 were closed (a gas station, a large chain pharmacy, and a hotel gift shop), leaving 16 Beverly Hills retailers (Figure).

Manhattan Beach's ordinance was adopted in February 2020. We obtained from city staff a list of all retailers that sold tobacco as of February 2020 (n=17). The list included 1 business that had subsequently closed (a small grocery store), leaving 16 retailers. 32 retailers were eligible from both cities (Figure). We planned to contact owners or managers who had worked at these businesses at least 1 month before the ordinances went into effect in January 2021, to ensure that the interviewee had experience with the transition from selling to not selling tobacco, the focus of many of our questions. The study was reviewed by UCSF's Institutional Review Board and determined to be exempt (IRB #22-37425). We agreed not to reveal in publications the names of anyone we interviewed, and prepared an information sheet with relevant information about the study and study procedures for interviewees. We did not offer incentives to participants.

PAM initially contacted several of the larger retailers by phone (n=6). After multiple phone calls, two store managers declined to participate and the remainder requested future call backs which seemed unlikely to result in a successful phone interview. We decided to focus instead on in-person interviews. Between October 24 and October 26, 2022, PAM and EAS approached 30 retailers in Beverly Hills and Manhattan Beach. Four were not eligible to participate. In one case, the owners had only recently acquired the business, and did not sell tobacco (a hotel gift shop); in another, the retailer (a pharmacy) had only previously sold vitamin vaping products (which nonetheless required a tobacco license). The remaining two businesses (a restaurant and a car wash) reported that they had never sold tobacco. Of the remaining 26 businesses, 4 refused to participate. One was a busy independent pharmacy, two were large gas station/convenience store chains whose managers said that corporate headquarters would not allow them to speak to researchers, and one was a smoke shop.

PAM and EAS, working together, interviewed 22 retailers (half owners and half managers) in person (11 in Beverly Hills and 11 in Manhattan Beach). Owners reported being in business between 3 and 38 years. Interviews took place at the business, with researchers and the interviewee standing in an aisle or near the front counter. We initially planned to tape record the interviews; however, interviewees preferred not to be recorded, so one researcher took notes while the other asked questions. The note-taker also recorded what products were for sale behind the counter, where tobacco products would typically be displayed. If a customer approached the front counter, the researchers stepped aside until the transaction was completed. We asked 9 questions (see supplemental file); time constraints resulted in inconsistent collection of demographic information (question 9), so we do not report that information here.

Interviews lasted 10-15 minutes. Immediately after the interview, the researchers reviewed the written notes together and added any missing elements. Notes contained a mixture of verbatim comments from interviewees (designated with quotation marks) and shorthand summaries of their responses; PAM and EAS transferred the handwritten notes to a Word document at the end of each day of interviews, fleshing out and clarifying the shorthand summaries as needed. All three authors analyzed these data by reviewing these summaries, searching for commonalities and differences in interviewees' responses. Our analytic approach was informed by qualitative description, a method which aims to produce "a comprehensive summary of an event in the everyday terms of those events" with minimal transformation or theorizing.[43]

RESULTS

Retailer types

Retailers ranged in size from a 2-person booth in a gas station to a full-service chain grocery store. Liquor stores, and independent and chain gas stations with attached convenience stores made up nearly half the sample (see Table). We categorized all of the chain stores as large retailers, and all of the other stores as small, independent retailers.

Perceived changes in business

When asked how their businesses were doing since the tobacco sales ban went into effect, many participants reported that business had declined, while others asserted that there had been no significant impact. Responses appeared to vary by type of retailer. Managers at most large chain outlets (supermarkets, pharmacies, some gas stations) had seen little change, stating, for example, that ending tobacco sales was "not an issue," or that there had been a "very smooth transition." Participants at smaller, independent stores (groceries, newsstands, liquor stores, and some gas stations) reported significant losses. The owner of a newsstand stated that he had formerly made $80,000-$100,000 annually from cigarette sales, while a liquor store owner said he had lost $80,000 annually “out of his pocket.” Participants mentioned several different types of revenue loss. There were lost sales from those purchasing only cigarettes, lost sales from those who continued to purchase non-tobacco items from the retailer, but did so less frequently, now that they had to shop elsewhere for cigarettes, and lost sales from those who changed their habits entirely and purchased both cigarettes and other items elsewhere. One participant mentioned that he had formerly purchased cigarettes from a distributor along with grocery items; because of his reduced total purchase, he now qualified for a smaller discount, making “everything more expensive.” Smaller retailers also tended to report more negative customer reactions to the tobacco sales bans than larger retailers, more often describing customers as angry, upset or unhappy.

Previous research has found that tobacco companies often contract with retailers to establish control over pricing and product display;[44,45] these contracts can be another source of revenue. However, most of the smaller retailers had not had such contracts; they had bought their tobacco products from distributors or from discount retailers, and simply stopped purchasing tobacco. The larger chain grocery stores and pharmacies in our sample may have had contracts, but the managers we spoke to were unfamiliar with the details.

Replacement products

Despite reporting losses, most participants said that they had not tried to find new or replacement products to sell. Larger stores had moved other items into locked cases previously used for tobacco. These items included batteries, over-the-counter medications, alcohol, lighters, and Nicorette, a nicotine replacement product. One store, in addition to alcohol, had moved laundry detergent pods and baby formula into those cases, which the manager described as “stuff people steal.” In three small stores, the cases that had held tobacco products were empty or being used for “temporary” storage, even though the tobacco sales bans had been in place for nearly two years.

Eight participants reported trying to find replacement products. For example, a gas station without an attached convenience store had added outdoor coolers and shelving for energy drinks, sodas, and snacks; a gas station with an attached convenience store had added stuffed toys; a convenience store had added new coffee machines and fresh-baked cookies; and a news stand had added imported European magazines. Two reported that some of the replacement items had proved popular, but all thought that selling cigarettes was more lucrative.

Both cities offered retailers free business development assistance that included advice regarding alternative products. In Manhattan Beach, two interviewees took advantage of this offer (a figure confirmed with city staff), but both were dissatisfied. The business consultant the city sent, a professor of business at a local community college, suggested selling fresh food, which they were not accustomed to; it had a short shelf life and, in some cases, needed refrigeration. Although both interviewees tried to sell the recommended items, they stopped when it became clear that these items were neither popular nor a good fit with their stores. Both stores were located on the same busy commercial street with many restaurants and other businesses at which food was a primary focus, suggesting that the alternative products faced too much nearby competition.

In Beverly Hills, one interviewee stated that the Chamber of Commerce had offered a consultation but that it was “too generic” to be helpful. At a liquor store, a participant reported that “the city” recommended that he sell peanuts, which he thought was “ridiculous” and meant that the city did not know much about retail. It is unclear if either of these interactions were connected to the city’s offer of free business development assistance to retailers; we were unable to clarify this issue with city staff.

Attitudes toward the tobacco sales ban

Exemptions in Beverly Hills for cigar lounges and hotels were a source of resentment for some participants. Several complained that the city was “picking and choosing” by allowing hotels and cigar lounges to continue to sell tobacco products. One asserted that cigar lounges had gotten their exemption only because they had good legal representation. Others criticized the city’s rationale that hotels were exempted because they catered to tourists, saying that their businesses did too. It was not clear if these participants understood that hotels were not selling to customers off the street; nonetheless, their feeling was that there was no logical reason for the exemption, with one participant noting that the exemptions made the city's claim to want to improve health less plausible.

Beverly Hills and Manhattan Beach are both small in area and surrounded by other municipalities (Los Angeles, West Hollywood, Redondo Beach, El Segundo). This means that in many cases, customers wanting to buy tobacco products need only go a few blocks or across the street to a store in an adjoining jurisdiction. Ten participants mentioned this; several thought it indicated that the policy was unlikely to improve health. Two suggested that the policy would be fairer if it covered a larger area, such as the county or state. "If you are going to ban sales," one retailer observed, "it doesn't make sense to do such a small area. Ban them in the whole county or the whole state so people can't just go two blocks away."

Several participants mentioned that Manhattan Beach was considering allowing marijuana sales, which caused resentment or confusion over the city's approach to health. For example, a grocery store owner suggested (angrily) that the difference between tobacco and marijuana policy was simply that the marijuana industry had a stronger lobby. Similarly, several Beverly Hills retailers complained that marijuana got less attention than tobacco. One liquor store owner suggested that if cities were concerned about health, marijuana would be a better target since users might harm others, as opposed to tobacco users who, he said, only harmed themselves.

When asked if they had advice for retailers in jurisdictions considering a tobacco sales ban, most respondents representing larger retailers had none. Some participants from smaller stores suggested that retailers should find other products to sell, although they said these would likely not be as lucrative as tobacco. For example, the manager of a gas station recommended getting “more candy, ice, alcohol – anything that will bring in profit. But it won’t be the same as cigarettes.” Several smaller retailers advised that other retailers should unite and block the legislation or sue the jurisdiction after the fact. One small retailer said she had tried without success to organize local retailers. She and one other retailer expressed surprise that the city had ultimately adopted the policy. Two mentioned that supporters of the sales ban had brought kids to testify at hearings and suggested that there was no way to counter their advocacy: “What can you say to kids?” Several retailers suggested that they should have been compensated for their lost sales through tax abatements or rent subsidies. One interviewee explained, “It would be a softer smack.” Financial incentives were the only thing that would get retailers to support a sales ban, another suggested. He also proposed an alternative to a sales ban: grandfathering in current tobacco retail license holders while prohibiting new licenses.

Participants were not asked about potential benefits of the policy. However, two participants mentioned unprompted that they liked that there was no longer smoking outside their store; one commented that it also meant fewer panhandlers and littering. A third store owner mentioned less littering in the city in general as a positive effect of the policy.

While most interviewees' attitudes towards the tobacco sales bans were either neutral or negative, two retailers had more positive things to say. One was an owner of an independent pharmacy in Beverly Hills who described the city as "wonderful"; she respected its tobacco-free "vision" and stated that "We shouldn't be selling tobacco anyway. We're a pharmacy." Nonetheless, she mentioned that she continued to sell tobacco at another pharmacy she owned in a nearby city. The second retailer was more critical of the city, expressing anger about financial losses. But perhaps because he had recovered financially somewhat by finding a popular and expensive replacement product -- imported magazines that fit with the newspapers and magazines he was already familiar with selling -- he stated that he was in favor of banning tobacco sales because "cigarettes have no redeeming value."

DISCUSSION

As other jurisdictions consider prohibiting tobacco sales, our study offers potential insights into how retailers may react to various elements of the policy. First, our study suggests that larger stores, such as chain grocery stores and chain drug stores may be relatively indifferent to the loss of tobacco sales. In Beverly Hills and Manhattan Beach, most managers of these larger stores had no complaints about the tobacco sales ban and reported that the transition was smooth. However, smaller retailers, such as liquor stores and independent markets and gas stations, may be more strongly opposed, anticipating the loss of revenue that participants in our study reported.

Our study also suggests that having a sales ban cover a larger (or more isolated) geographic area could make it more acceptable to local merchants. One of the reasons that small retailers in our study disliked the sales ban was that their shops were adjacent to localities that did not prohibit tobacco sales, which they felt resulted in a loss of customers to other nearby stores. This made the policy seem both unfair and pointless. Minimizing this unintended consequence would likely require several adjacent municipalities to coordinate their policymaking.

A tobacco sales ban without exemptions for particular types of businesses would also likely generate less resentment among retailers. Nearly every Beverly Hills retailer who raised objections to the tobacco sales ban pointed to the exemptions granted to hotels and cigar lounges. These exemptions undermined the health rationale for the law and created the perception that the city was “picking and choosing” which retailers would be harmed. Manhattan Beach included no exemptions by type of business, thus removing one source of retailer antagonism.

Jurisdictions considering a tobacco sales ban may seek to assist retailers with the transition. Our study suggests that business consultations with an expert advisor may not lead to the discovery of satisfactory alternative products to sell. Beverly Hills and Manhattan Beach retailers rarely took advantage of the offer of assistance, and none were happy with the outcome. This may have been due partly to the advice given: to sell fresh food in stores that were not accustomed to it. However, tobacco products may be hard to replace, as they have a set of characteristics that are difficult to find elsewhere: they are consistently profitable, compact, and light weight, have a steady (addicted) customer base and a long shelf life, and require no special equipment (such as refrigerators). Jurisdictions may also consider offering smaller retailers nominal financial assistance when tobacco sales end, as suggested by several participants. This should not be framed as compensation, as it risks creating a precedent of city responsibility for lost income. Alternatively, if legally permissible, license fees could be raised and the money generated used to help retailers transition to selling other products, possibly through a small grants program. An approach being explored in one California county is to pass minimum price legislation (with the price set at a high level), paired with a plan to end tobacco sales in 5-6 years, and encourage retailers to use the extra income generated during that time to better prepare for a tobacco-free future.[46]

In working with retailers, tobacco control advocates should acknowledge the tension between the macro and micro-level economic impact of tobacco sales bans. At the macro level, ending tobacco sales is unlikely to have much economic impact. Sales of cigarettes have been declining for decades, and people who stop purchasing tobacco spend that money on other products or services. However, at a micro level, advocates should acknowledge that some retailers will experience negative financial consequences, at least initially, and some (e.g., specialty tobacco shops) will have to move, go out of business, or completely change their product line once a sales ban is implemented.

Our findings are consistent with previous research exploring retailers' perspectives before retail reduction policy implementation. For example, independent tobacco retailers in Christchurch, New Zealand reported an unwillingness to end tobacco sales voluntarily, and expressed concern that their customers would simply shop elsewhere for both tobacco and other items.[47] A study drawing on a broader sample of New Zealand retailers found that retailers unwilling to voluntarily stop selling tobacco were amenable to following government requirements to do so.[48] However, retailers were also concerned that these rules be fair and apply to everyone; there was resistance to proposals to end sales in only some types of stores.[49] The exception to this may be prohibiting sales in pharmacies, in countries where such sales are permitted, as both pharmacists and the public think that tobacco sales are inappropriate there.[50,51]

Our study has limitations. By design, our interviews were brief, as we assumed that retailers would be busy. Multiple visits over time may have elicited additional information; however, time and budget constraints prevented this approach. While most of the retailers interviewed were well-positioned to answer our questions, some managers, particularly at the larger chains, lacked access to information about the financial impact of the tobacco sales ban. Thus, they had less information on which to base their assessment of the new laws, particularly when compared to smaller retailers.

We collected no actual sales data, so we have no way to verify retailers' statements regarding negative financial impacts. Some retailers in our study may have exaggerated their losses or attributed to the sales ban losses unrelated to it. Retailers in other jurisdictions where tobacco use rates are higher or lower, or with different demographics, might experience these policies differently. We were unable to determine whether the four businesses that closed did so because of the policy or for other unrelated reasons.

CONCLUSION

Retailers, particularly small, independent outlets, are unlikely to support policies that require them to stop selling tobacco products. This will pose a challenge to jurisdictions such as New Zealand which are attempting to reduce or eliminate tobacco retailers. Opposition may be reduced by adoption of comprehensive policies that minimize the perception that the jurisdiction is "picking and choosing" who gets to sell tobacco; application of policies to the widest possible geographic area; and one-time financial incentives. Tobacco control advocates, even in jurisdictions that are not yet discussing endgame policies, can help smooth the transition by starting conversations now with retailers about the need to prepare for a future free of tobacco sales.

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CONFLICT OF INTEREST

All three authors declare that they have no competing interests.

CONTRIBUTORSHIP STATEMENT

PAM, EAS, and REM conceptualized and designed the study, identified potential retailers, designed the interview guide, and analyzed the data. PAM and EAS collected the data, wrote the first draft of the paper, and edited all subsequent drafts. REM edited all drafts of the paper.

Table. Type of retailers in final sample

RETAILER TYPE	N
Chain grocery store	2
Independent grocery store	2
Chain gas station (all but one with an attached convenience store)	3
Independent gas station (with an attached convenience store)	3
Convenience store	1
Chain pharmacy	2
Independent pharmacy	1
Liquor store	4
Newsstand	2
Gift shop	2
TOTAL	**22**

Box. Selected characteristics of Beverly Hills and Manhattan Beach, CA

Beverly Hills
Population: 30,447 (2023)
Geographic area: 5.71 square miles (14.79 square km)
Surrounded by and contiguous with the city of Los Angeles and West Hollywood
2016 smoking prevalence: 5.7%[52]

Manhattan Beach
Population: 33,126 (2023)
Geographic area: 4 square miles (10.36 square km)
Surrounded by and contiguous with El Segundo, Hawthorne, Redondo Beach, and Hermosa Beach
2016 smoking prevalence: 3.0%[52]

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