

# Tobacco Retail Licensure: A Proven Tool To Reduce Youth Tobacco Use

## THE BILLS



Establish Tobacco  
Retail Licensing



Repeal Preemption



Tax All Tobacco  
Products & Raise  
Prices on Cigarettes



End Flavored  
Tobacco Sales



Repeal PUP Penalties

### The Problem:

Tobacco Retail Licensing (TRL) is an effective tobacco control measure that requires every store that sells tobacco products to have a license. Michigan is one of only 10 states that does not require retailers to obtain a license to sell tobacco, making effective enforcement almost impossible. TRL reduces youth initiation to nicotine and tobacco through improved compliance with the state's Tobacco 21 law and other important tobacco sales regulations.

### Proposed Policy Change (Senate Bills 651 and 652):

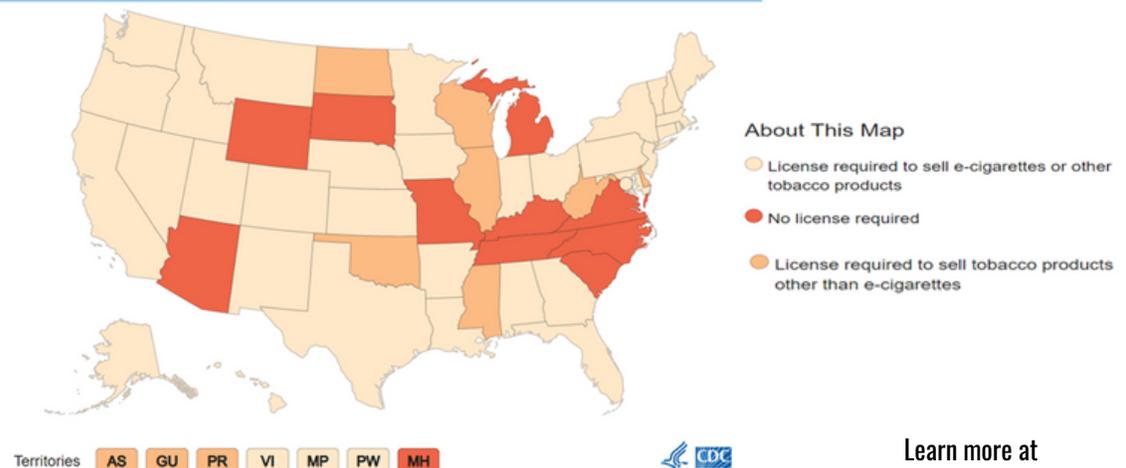
- Establishes a statewide Tobacco Retail Licensing (TRL) program housed within a designated state agency.
- Requires every establishment in Michigan that sells nicotine or tobacco products, including vaping products and component parts, to hold a license.
- Remote or mobile establishments are not eligible for licensure.
- Exempts products considered to be a cessation device by the U.S. Food and Drug Administration.
- Stipulates violations of the Act, which include civil fines starting at \$1,500 and not exceeding \$3,000 for subsequent violations, as well as license suspension or revocation.
- The agency overseeing the program will set the license fee.
- License fees will be deposited into the newly-created nicotine and tobacco regulation fund.
- The agency overseeing the program shall expend money only for the administration and enforcement of the program.
- Acceptable use of the fees includes covering the cost of compliance checks, which give officials the needed resources to reduce illegal sales to youth.
- The agency overseeing the program is required to conduct no less than two unannounced compliance checks per year at each establishment, including visual inspections and decoy checks.
- Establishments that fail the compliance check will be subject to one unannounced, follow-up compliance check.

### The Facts:

- 3 out of 4 kids are sold tobacco products despite being underage, according to the American Heart Association.
- The FDA has issued more "no tobacco sales orders" to Michigan retailers for violating laws prohibiting the sale of tobacco to kids than any other state in the country.

### How We Match Up: Michigan is one of only 10 states without TRL in place

Locations requiring retailers to have a license to sell tobacco products over the counter (In effect as of December 31, 2022 (n=58))



# Preemption: Standing in the Way of Local Tobacco Control

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### The Problem:

Michigan state law prohibits local governments from enacting policies that regulate the sale and licensure of tobacco and nicotine products. Local governments want to adopt tobacco control policies specific to the needs of their communities, including to protect youth. Several local governments across the state have passed resolutions calling for preemption to be repealed so they can strengthen rules in their communities to protect residents.

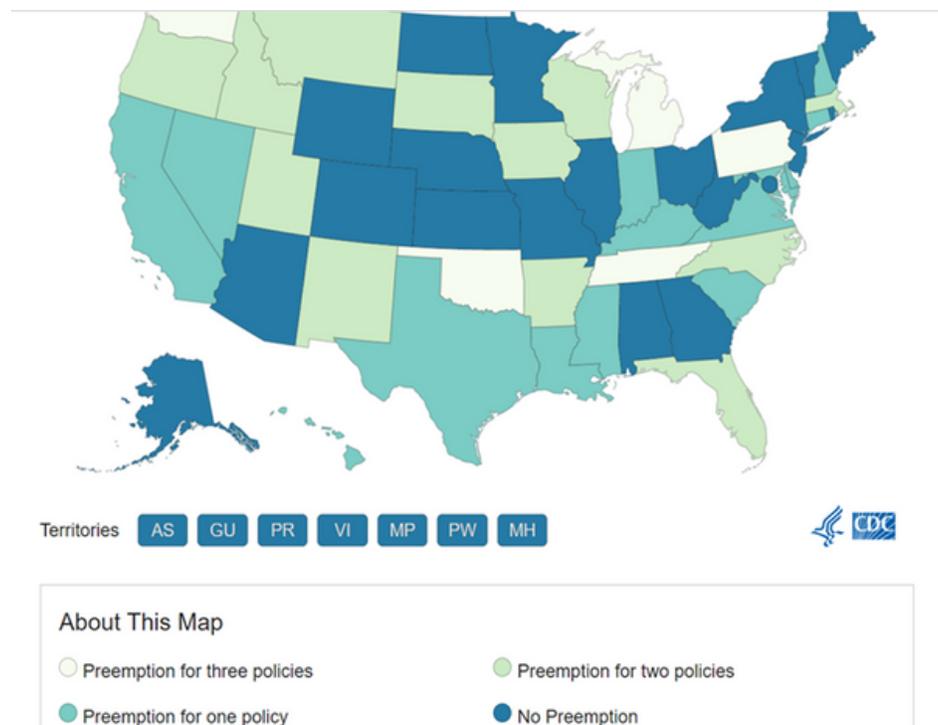
### Proposed Policy Change (Senate Bill 647)

- Repeals a provision in the Tobacco Products Tax Act that preempts a local unit of government from adopting ordinances and regulations pertaining to the sale or licensure of tobacco products.

### The Facts:

- Big Tobacco has used preemption to keep local communities from protecting kids' health.
- Removing preemption helps communities close the health equity gap, as Black smokers are more likely to die from tobacco-related diseases.
- Local action can demonstrate the need and effectiveness for future statewide legislation.

### How We Match Up: Michigan is 1 of 5 states with preemption in place on 3 policies



# Properly Tax All Tobacco Products and Dedicate Funds to Tobacco Prevention

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### The Problem:

Unlike cigarettes and other tobacco products, Michigan currently has no state tax on e-cigarettes or vaping products that contain nicotine and ranks 49th in state spending on tobacco prevention. Also, Michigan has not increased its tax on cigarettes in nearly 20 years. The U.S. Surgeon General has called raising prices on cigarettes “one of the most effective tobacco control interventions” because increasing the price is proven to reduce smoking, especially among kids.

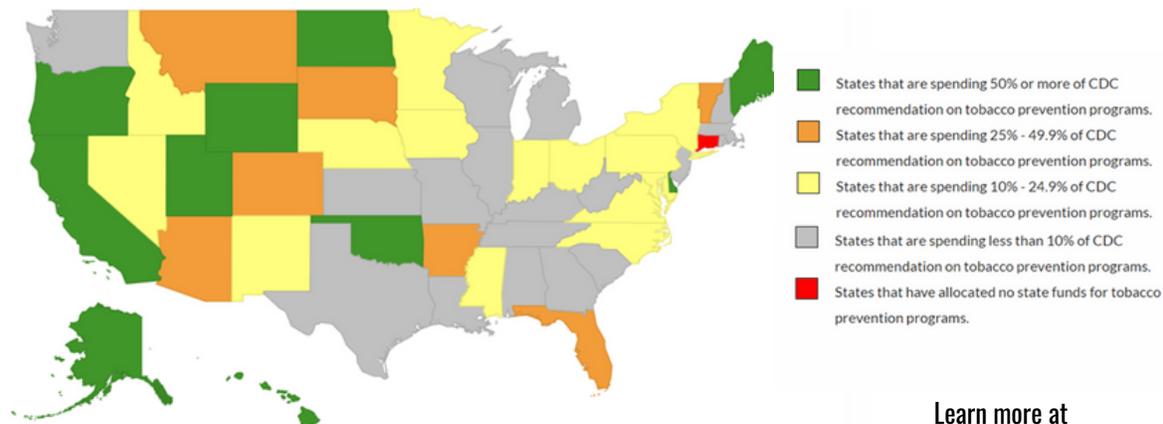
### Proposed Policy Change (Senate Bill 648):

- Establishes a new tax on e-cigarettes, including component parts or accessories sold as a single unit, at 57 percent of the wholesale price.
- Exempts drugs, devices or products that are authorized for sale and that have been deemed a tobacco cessation product by the FDA.
- Increases the tax on cigarettes by \$1.50 (the current tax is \$2.00 per pack).
- Increases the tax on other tobacco products (OTP) to 57 percent of the wholesale price to ensure parity with cigarette tax (currently, OTP is taxed at 32 percent).
- Revenue generated from the new e-cigarette tax will be dedicated to tobacco prevention and cessation programs (59 percent), tax enforcement (1 percent), and enforcement of the smoke-free air law (40 percent).
- New revenue from the increased tax on cigarettes must be dedicated to tobacco prevention and cessation efforts.

### The Facts:

- Projected Benefits from a Cigarette Tax Increase in Michigan:
  - 49,400 adults smokers would quit
  - 14,600 youth would never start smoking
  - 16,500 premature smoking deaths would be prevented

### How We Match Up: Michigan spends less than 10% of the CDC's recommendation



Learn more at  
[KeepMIKidsTobaccoFree.com](http://KeepMIKidsTobaccoFree.com)

# Flavors Hook Kids: End the Sale of Flavored Tobacco Products

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### The Problem:

Flavored tobacco targets teens with fruit and dessert flavors and is a huge driver of teen use of tobacco and nicotine products. In 2019, Michigan was one of eight states that issued emergency rules to temporarily end the sale of flavored e-cigarettes. Unfortunately, as a result of legal challenges, the order was blocked in Michigan and three other states.

Other states have gone on to legislatively end the sale of flavored tobacco products and several hundred local government units have passed restrictions around the sale as well. Legislation is needed now in Michigan to remove flavored tobacco products from the marketplace. Ending the sale of flavors will prevent addiction and improve the health of communities targeted by the tobacco industry – including youth, LGBTQ+ people, American Indians and Black Americans.

### Proposed Policy Change (Senate Bills 649 and 650):

- Prohibits the sale of a nicotine or tobacco product with a “characterizing flavor,” which includes flavored e-cigarettes and menthol-flavored cigarettes.
- “Characterizing flavor” is defined in the bill to mean either of the following:
  - A distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, that is imparted by a nicotine or tobacco product or a byproduct produced by a nicotine or tobacco product.
  - A cooling or numbing sensation that is imparted by a nicotine or tobacco product or a byproduct that is produced by a nicotine or tobacco product.
- Stipulates violations of the Act, which include civil fines starting at \$1,500 and not exceeding \$3,000 for subsequent violations, as well as license suspension or revocation.

### The Facts:

- 85% of youth e-cigarette users use flavored products.
- 14% of Michigan high school students use e-cigarettes
- 15,700 youth try cigarettes for the first time each year.
- Two-thirds of youth reported using these products because “they come in flavors they like.”
- Studies estimate banning menthol in the U.S. would lead 923,000 smokers to quit.



# Repeal Ineffective Purchase, Use, Possession Penalties Punishing our Youth

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### The Problem:

Michigan laws prohibiting and penalizing the possession, use, and purchase of tobacco products by minors — also known as PUP laws — are ineffective as deterrents to youth smoking and are often enforced inequitably. Currently, retailers are not held accountable for selling to minors. Instead under Michigan law, minors could be criminally charged for attempting to purchase, use, or possess tobacco products. Penalizing children is not an effective strategy for reducing youth smoking.

### Proposed Policy Change (Senate Bills 653 and 654):

- Repeals provisions in the Youth Tobacco Act that imposes civil and criminal penalties on minors for purchasing, using or possessing tobacco products.
- Complements the proposed tobacco retail licensure program, which places responsibility and accountability on the adult sellers of tobacco products.

### The Facts:

- PUP Penalties:
  - Unfairly penalize and stigmatize children.
  - Shift blame from Big Tobacco to kids.
  - Shift resources from holding retailers accountable to laws that penalize kids.

