

# Matrix of Local Ordinances Restricting Menthol Tobacco Products



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Menthol tobacco is disproportionately used by youth and by new smokers.<sup>1</sup> In fact, over half of smokers age 12-17 use menthol cigarettes, compared to less than one-third of older smokers.<sup>2</sup> Because menthol flavoring masks the harshness of tobacco, some new smokers find that these products are easier to use than non-flavored products. Menthol users also show greater signs of nicotine dependence and have a more difficult time quitting.<sup>3</sup>

Additionally, menthol tobacco poses a particularly significant health risk to communities of color and LGBT communities. In California, 70% of Black smokers and almost 50% of LGBT smokers use menthol products (compared with only 18% of White smokers and 28% of non-LGBT smokers, respectively).<sup>4</sup> The tobacco industry has a long history of aggressively targetting people of color and low-income, urban areas with menthol-based promotions and marketing.<sup>5</sup>

### Federal regulation of flavored tobacco

Although the FDA banned the sale of flavored cigarettes in 2009, menthol cigarettes were specifically excluded from the ban. Additionally, the FDA regulation does not extend to cigars, little cigars, other non-cigarette tobacco products, or electronic cigarettes.

### Local regulation of flavored tobacco

Several cities outside of California have passed ordinances banning flavored tobacco that go beyond federal regulation either by including non-cigarette products or by including menthol cigarettes in certain circumstances.

In each of these cases, federal courts have ruled that local communities are not preempted by federal regulation and that they may pursue regulations on flavored tobacco that go beyond those enacted at the federal level.<sup>6</sup>

Researchers have predicted that, if menthol cigarettes were banned, about 45% of Black smokers and over 60% of young adult smokers would prefer to quit smoking rather than switch to a different tobacco product.<sup>7,8</sup>

### Local regulation of flavored tobacco in CA

Californian communities are leading the fight against menthol tobacco by becoming some of the first in the nation to ban sales of menthol cigarettes at all retailers. Eleven communities in California have passed ordinances restricting the sale of flavored tobacco products, and six of those communities included prohibitions on menthol.

The following table provides details on each ordinance restricting the sale of menthol tobacco products. Information is provided on the types of products included, any exemptions written into the ordinance, and the timeline for when the ordinance goes into effect.

### Resources

The Center has additional resources on restricting flavored tobacco products and tobacco retailer licensing ordinances available at <http://center4tobaccopolicy.org>.

Local Ordinances Restricting Menthol Tobacco Products				
City/County	Date Passed	E-cigarettes included in menthol ban?	Other tobacco products (e.g., cigars, chew, snus) included in menthol ban?	Exemptions?
San Francisco	June 2017 (effective April 2018)	Yes	Yes	No
Los Gatos	May 2017 (effective January 2018)	Yes	Yes	Yes - Stores that primarily sell tobacco, generate 60% of gross revenues from tobacco, are adult-only, and do not sell food or alcohol for on-site consumption are exempt.
Santa Clara County	October 2016 (effective July 2017)	Yes	Yes	Yes - Stores that primarily sell tobacco, generate 60% of gross revenues from tobacco, are adult-only, and do not sell food or alcohol for on-site consumption are exempt.
Yolo County	October 2016 (effective May 2017)	Yes	Yes	No
West Hollywood	October 2016 (effective November 2016)	Yes	Yes	Yes - Only applies to retailers within 600 feet of youth oriented areas.
Berkeley	September 2015 (effective January 2017)	Yes	Yes	Yes - Only applies to retailers within 600 feet of schools.

<sup>1</sup>United States Food and Drug Administration. "Preliminary scientific evaluation of the possible health effects of menthol versus non-menthol cigarettes." 2013.

<sup>2</sup>Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," Tobacco Control 25 (Suppl2): ii14-ii20, 2016

<sup>3</sup>Fagan, P., et al., Nicotine dependence and quitting behaviors among menthol and non-menthol smokers with similar consumptive patterns. Addiction, 2010. 105(1): p. 55-74.

<sup>4</sup>Behavioral Risk Factor Surveillance System 2013-2015. Sacramento, CA: California Department of Public Health.

<sup>5</sup>Kreslake, J.M., et al., Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. American Journal of Public Health, 2008. 98(9): p. 1685

<sup>6</sup>ChangeLab Solutions. "Tobacco laws affecting California 2016." 2016.

<sup>7</sup>Pearson JL, Abrams DB, Niaura RS, Richardson A, Vallone DM. A ban on menthol cigarettes: impact on public opinion and smokers' intention to quit. Am J Public Health. 2012;102(11): e107-114.

<sup>8</sup>Wackowski OA, Manderski MT, Delnevo CD. Young Adults' Behavioral Intentions Surrounding a Potential Menthol Cigarette Ban. Nicotine Tob Res. 2014.