

Q&A

Tobacco Retailer Licensing (TRL) Fees

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Q: What can TRL fees pay for in my local jurisdiction?

A: TRL fees can cover the costs of tobacco retailer license issuance and renewal; tobacco control inspections, including youth decoy stings; ongoing maintenance of the TRL system; and enforcement, including processing citations and handling hearing requests or cases in court.

TRL fees vary by jurisdiction. Fees must be calculated based on the expected costs of administering and enforcing a TRL system in that specific city or county, and they must be based on a jurisdiction's reasonable administration and enforcement costs relating to TRL. Calculating an appropriate fee requires collaboration between individuals from all the local agencies involved in TRL administration and enforcement.

The Center for Tobacco Policy & Organizing maintains a [list](#) of California jurisdictions that have adopted a TRL ordinance. Also listed is each jurisdiction's specific TRL fee. While it may be helpful to learn about what other jurisdictions are doing, a local government should not use another jurisdiction's fee instead of calculating its own. A TRL fee in one city or county may not be an appropriate fee in another. And some jurisdictions may not have set their fees to completely cover the costs of TRL. ChangeLab Solutions' [online TRL Fee Calculator](#) and [budgeting checklist](#) can be useful resources for cities and counties that are interested in calculating a TRL fee.

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Law & policy innovation for the common good.

Budgeting for California's Tobacco Retailer License Fees

A Checklist for Tobacco Control Advocates

The effectiveness of any local California tobacco retailer license (TRL) ordinance depends largely on enforcement. The ability to fund implementation and enforcement is thus important for communities interested in adopting a TRL ordinance. ChangeLab Solutions has developed a TRL fee calculator to help cities and counties determine an appropriate fee that adequately supports the costs associated with implementing and enforcing a TRL system. This fee calculator is available at: [TRL Fee Calculator](#).

This checklist has been prepared to be used in conjunction with the TRL fee calculator though it can also be used separately as a reference without using the calculator. It is designed to help jurisdictions think through all the costs associated with a TRL ordinance, including staff and non-staff costs (the latter referred to as such as health/facilities, supplies, overhead, etc.). The list of items and budget items below is not meant to be exhaustive. Each jurisdiction may have different costs associated with implementation and enforcement.

Budget Line Item	Type of Cost	Comments
ESTABLISH, MAINTAIN, AND ADMINISTER TRL SYSTEM		
<input type="checkbox"/> Figure out system for issuing licenses	Staff	This may include the following: <ul style="list-style-type: none">Figuring out what department and which staff will be responsible for reaching out to the business community and which department and which staff will be responsible for issuing/renewing/maintaining licenses.Figuring out how to coordinate between departments and staff.Figuring out which division or subdivisions within a department is responsible for the above.
<input type="checkbox"/> Compile and maintain list of potential tobacco retailers	Staff	This may include the following: <ul style="list-style-type: none">Collaborating with the California Board of Equalization (BOE) to obtain a list of tobacco retailers.Checking the list from the BOE to see which establishments need a local TRL. This includes determining which establishments from the BOE list are within your jurisdiction and comparing the BOE list with your own local list of tobacco retailers.Conducting online searches (e.g., Google, Yelp) to complete a comprehensive search of potential tobacco retailers that require a local TRL.Determining what establishments fall under exceptions, if any.Running periodic reports or analyses on existing tobacco retailers.

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Q: Can a city or county charge tobacco retailers different fees depending on the type of establishment they own (e.g., tobacco specialty shops, tobacco retailers near youth-oriented areas, pharmacies)?

A: The fee that a tobacco retailer is assessed must bear a reasonable relationship to the retailer's burden on the TRL system. Assessing certain tobacco retailers a higher fee is appropriate only if the costs of including those retailers in a TRL system are higher than others. For example, some retailers, such as specialty tobacco shops and vape lounges, may require more inspections than others if they have lower compliance rates. Those retailers may impose more of a financial burden on the TRL system and therefore justify a higher fee.

Q: Can a city or county raise its TRL fee after it has been established?

A: Yes. A TRL fee can be raised so long as it covers only the jurisdiction's reasonable administration and enforcement costs relating to TRL. For example, a TRL fee can be raised if it does not cover current administration and enforcement costs or if the city or county expects increased costs due to reasonable changes in administration and enforcement (e.g., increased number of retailer inspections).



Q: Can a city or county add a litter abatement fee to TRL?

A: In 2009, the City of San Francisco established a cigarette litter abatement fee of \$0.20 per pack of cigarettes. This fee is imposed on consumers, and retailers are responsible for collecting the fee. Some jurisdictions have wondered whether a litter abatement fee can be included as part of a TRL fee.

Proposition 26, adopted in 2010, has made it hard for California localities to pursue litter abatement fees. Proposition 26 broadened the definition of “tax” to include “any levy, charge, or exaction of any kind imposed by a local government,” with seven listed exceptions.¹ The most applicable exception for TRL purposes is the third, which exempts “[a] charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.”² As a result of Proposition 26, it is likely that a jurisdiction seeking to include a litter abatement fee within its TRL fee would face a legal challenge on the grounds that the litter abatement fee is in fact a tax, which is more difficult for localities to enact. Further, state law preempts local taxation of tobacco products. Jurisdictions interested in learning more should [consult with ChangeLab Solutions](#).

To learn more, visit: www.changelabsolutions.org/tobacco-control.

ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

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1. Cal. Const., art. XIII C, § 1, subd. (e).
2. Cal. Const., art. XIII C, § 1, subd. (e)(3).