

Center for Tobacco Policy & Organizing
The American Lung Association in California

Justin Garrett, Policy Manager
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Center for Tobacco Policy & Organizing Polling History

2003 LA Voters: *Smoke Free Housing and*

2003 Stockton Voters: *Smoke Free Entryways*

2004 California Renters: *Smoke Free Housing Survey*

2005 California Owners/Managers: *Smoke Free Housing Survey*

2006 California Latino Renters: *Smoke Free Housing Survey*

2007 Calabasas Voters: *Comprehensive Smoke Free Outdoor Ordinance
and Smoke Free Housing*

2008 California Rural Voters: *Tobacco Retail Licensing/
Secondhand Smoke Restrictions and*

2008 California Voters: *Secondhand Smoke Policies*

2011 California Voters:
Policies in the Retail Environment





Tobacco Retailer Licensing

Survey of California Voters

About Policies in the Tobacco Retail Environment

Public Opinion Research Survey: April 2011

Background

The sale of tobacco products to minors is a problem in most cities and counties in California. Illegal sales by retailers contribute to the start of a lifelong addiction of many youth to tobacco. To combat this problem, many communities have passed a law that requires retailers to obtain a license to sell tobacco products. A local tobacco retailer licensing ordinance includes an annual fee to fund an enforcement program and provisions for suspending or revoking the license for violations. In addition, some communities are considering other policy options, such as restricting where and how tobacco products are sold, that can be "plugged-in" to the basic licensing ordinance to provide greater health protections for youth.

In April 2011, the Center for Tobacco Policy & Organizing commissioned a survey of 600 California voters to gauge the level of support for licensing ordinances and other policies in the tobacco retail environment. The survey was conducted by Goodwin Simon Strategic Research. A memo summarizing the results and other survey documents are available at www.Center4TobaccoPolicy.org/polling-retailer-policies.

Summary of Key Findings

Provisions of a Tobacco Retailer Licensing Ordinance

California voters understand the need for greater enforcement of laws against selling tobacco products to minors. They support a licensing ordinance and the different provisions of such a law:

- 45% feel that it is easy for minors to buy cigarettes at local retail stores
- 83% support requiring store owners to get a license to sell cigarettes and other tobacco products
- 80% favor a fee of a few hundred dollars a year that would be used to enforce the law against selling cigarettes to minors
- 88% agree that a store owner who repeatedly sells cigarettes to minors should have their license to sell tobacco products suspended

Policies to Restrict the Location of Tobacco Retailers

California voters support laws that limit where tobacco retailers can be located:

- 73% support a law prohibiting any business located within 1,000 feet of a school from selling tobacco products
- 57% feel that stores that are currently located within 1,000 feet of a school should not be allowed to continue to sell tobacco products if such a law was adopted
- 57% support requiring stores that sell tobacco products to be located at least 500 feet apart from one another

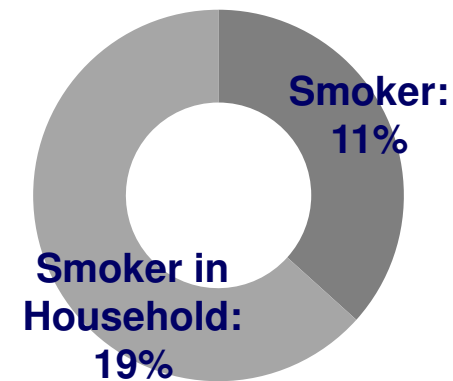
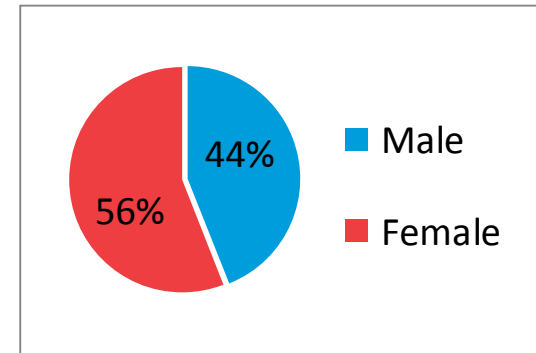
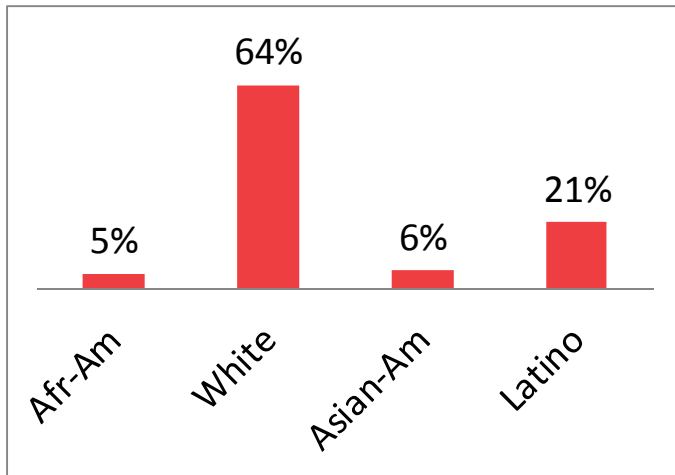
Policies to Restrict How Tobacco Products are Sold

California voters support laws that restrict the manner in which tobacco products are sold in the retail environment:

- 82% support requiring stores that sell tobacco products to post warning signs about the dangers of tobacco use
- 66% support a law prohibiting stores that sell meth pipes from also selling tobacco products
- 54% support prohibiting the sale of individual little cigars and cigarillos

2011 Survey of California Voters about Policies in the Tobacco Retail Environment

- 600 Statewide Interviews
- Survey of Registered Voters
- Conducted in English and Spanish





Tobacco Retailer Licensing

Matrix of Strong Local Tobacco Retailer Licensing Ordinances

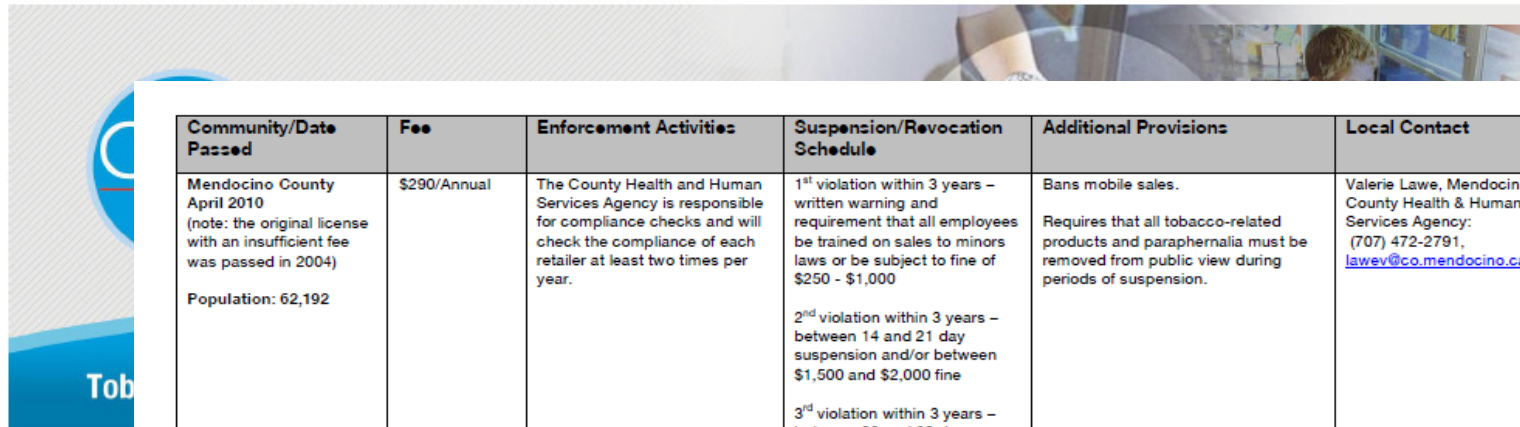
March 2011

In order to reduce illegal sales of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. This document highlights **86 ordinances** in which the fee and enforcement provisions are particularly noteworthy. Although more than one hundred communities throughout the state have passed tobacco retailer licenses, some of them do not contain provisions that would make them effective. A strong local tobacco licensing law is defined as one that includes the following four components:

- License that all retailers must obtain in order to sell tobacco products and that must be renewed annually.
- A fee set high enough to sufficiently fund an effective program including administration of the program and enforcement efforts. An enforcement plan, that includes compliance checks, should be clearly stated.
- Coordination of tobacco regulations so that a violation of any existing local, state or federal tobacco regulation violates the license.
- A financial deterrent through fines and penalties including the suspension and revocation of the license. Fines and penalties should be outlined in the ordinance.

The **86 communities** that have adopted these strong ordinances are detailed on the following pages in reverse chronological order from most recently passed and listed here in alphabetical order: Albany, Arroyo Grande, Baldwin Park, Banning, Beaumont, Berkeley, Beverly Hills, Burbank, Calabasas, California City, Calimesa, Canyon Lake, Carson, Cerritos, Coachella, Compton, Concord, Contra Costa County, Corona, Culver City, Davis, Delano, Desert Hot Springs, Eastvale, El Cajon, El Segundo, Elk Grove, Firebaugh, Gardena, Glendale, Goleta, Grass Valley, Grover Beach, Hawthorne, Hemet, Hollister, Inglewood, Kern County, La Canada Flintridge, Lake Elsinore, Lawndale, Lomita, Long Beach, Los Angeles (City), Los Angeles County, Menifee, McFarland, Mendocino County, Montebello, Monterey Park, Moreno Valley, Murrieta, Nevada City, Norco, Oakland, Pacifica, Pasadena, Perris, Rancho Cordova, Richmond, Riverside (City), Riverside County, Sacramento (City), Sacramento County, San Fernando, San Francisco, San Gabriel, San Jacinto, San Luis Obispo (City), San Luis Obispo County, Santa Ana, Santa Barbara (City), Santa Barbara County, Santa Clara County, Santa Monica, Sierra Madre, Solana Beach, South Pasadena, Tehachapi, Temecula, Union City, Vista, Wasco, Wildomar and Yolo County.

For each ordinance, the Matrix contains information about the population of the city or county, the license fee amount, enforcement details, the schedule of license suspensions/revocations, any additional provisions and local contact information.



Matrix March 20

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Community/Date Passed	Fee	Enforcement Activities	Suspension/Revocation Schedule	Additional Provisions	Local Contact
Mendocino County April 2010 (note: the original license with an insufficient fee was passed in 2004) Population: 62,192	\$290/Annual	The County Health and Human Services Agency is responsible for compliance checks and will check the compliance of each retailer at least two times per year.	1 st violation within 3 years – written warning and requirement that all employees be trained on sales to minors laws or be subject to fine of \$250 - \$1,000 2 nd violation within 3 years – between 14 and 21 day suspension and/or between \$1,500 and \$2,000 fine 3 rd violation within 3 years – between 30 and 60 day suspension and/or between \$3,000 and \$5,000 fine 4 th violation within 3 years – between 90 and 180 day suspension and/or between \$10,000 and \$20,000 fine 5 th violation within 3 years – license revoked for not less than one year	Bans mobile sales. Requires that all tobacco-related products and paraphernalia must be removed from public view during periods of suspension.	Valerie Lawe, Mendocino County Health & Human Services Agency: (707) 472-2791, lawev@co.mendocino.ca.us
City of San Gabriel March 2010 Population: 42,984	\$300/Annual	The Police Department is responsible for enforcement.	1 st violation within 5 years – 30 day suspension 2 nd violation within 5 years – 90 day suspension 3 rd violation within 5 years – license revoked	Requires that all tobacco products and tobacco-related advertising must be removed from public view during periods of suspension/revocation.	Christina Reyes, MPH, Chief, Tobacco Retailer Licensing Unit, Tobacco Control and Prevention Program, LA County Dept. of Public Health: (213) 351-7309 chrreyes@ph.lacounty.gov
Riverside County January 2010 (note: original ordinance adopted in September 2005) Population: 466,806 (in unincorporated areas)	\$350/Annual	The Riverside County Department of Environmental Health is responsible for the enforcement of the ordinance. The Department may check known compliers less than three times per year in order to increase visits to known offenders.	1 st violation within 5 years – 1 day revocation. 2 nd violation within 5 years – 30-day revocation. 3 rd violation within 5 years – 90-day revocation. 4 th violation within 5 years – 5 year revocation.	Bans mobile sales. Requires retailers to check the age of purchasers who reasonably appear underage. Requires that clerks are the minimum legal age to purchase tobacco products (currently 18). Requires that all tobacco-related products and advertising must be removed from public view during periods of suspension or revocation.	Dottie Ellis-Merki, Program Chief, Retail Tobacco Permitting Program, Riverside County Department of Environmental Health: (951) 358-5172 dellisme@rivocha.org

Three Waves of Policy to Restrict Youth Access to Tobacco

First Wave: 1990s



Second Wave: 2000s



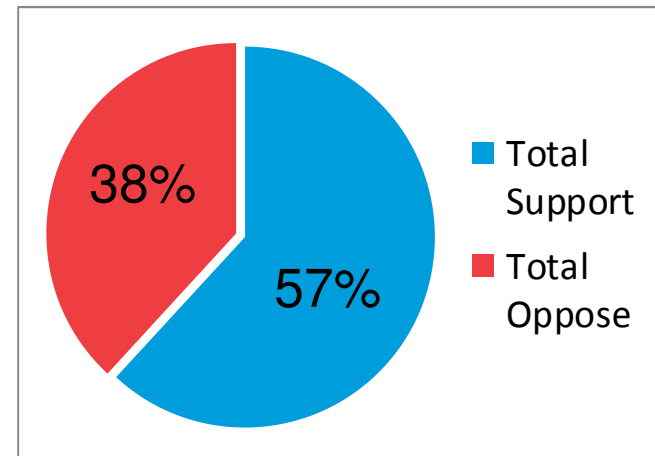
Third Wave: 2010s

now
make the most of now

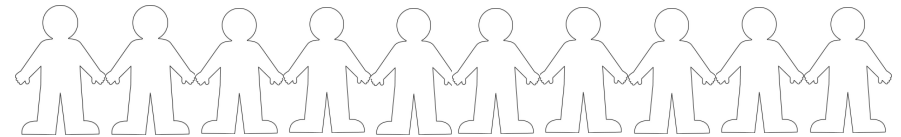
Support for Density Provision: Require Stores that Sell Tobacco Products to be at Least 500 Feet Apart



**Require Stores that Sell
Tobacco Products
to be at Least 500 Feet Apart**



Implementing a Density Plug-In in Your Campaign



For every 10 residents, there is one tobacco shop in the city of Smithville.



Density Policies in the Community



- Santa Clara County
- Union City
- Vallejo
- Saratoga
- La Mirada
- San Leandro

Tobacco Sales Near Schools



Prohibit tobacco sales within 1000 feet of schools?

Total Support— 73%

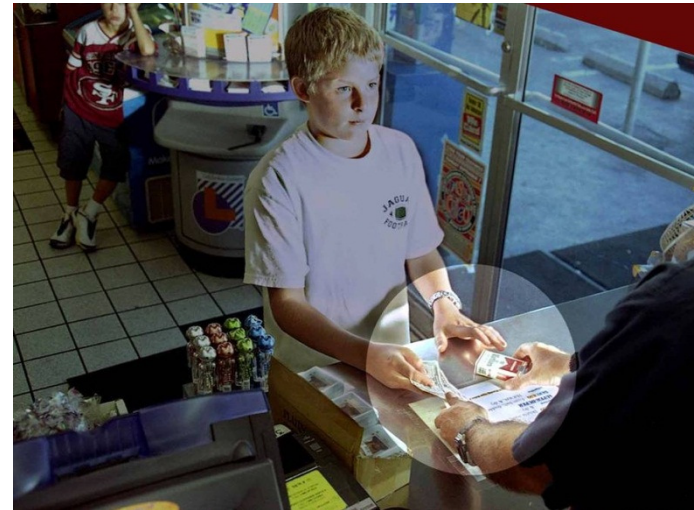
Total Oppose— 25%

What about tobacco retailers currently within 1000 feet of schools?

Be allowed to continue selling tobacco— 35%

No longer be allowed to sell tobacco— 57%

Sales Near Schools in Your Campaign





The Neighborhood Market Association and Local Ordinances Related to Tobacco Retailers

April 2011

In the past year, the Neighborhood Market Association (NMA) has become active throughout California in opposing local tobacco retailer licensing ordinances and ordinances that restrict tobacco retailers from being located within a certain distance of schools (conditional use permits, zoning ordinances, etc.). While organizations representing retailers have opposed similar efforts in the past, the NMA's actions show a more coordinated effort that includes organized opposition at the hearings and specific claims and arguments against strong local policies. This document contains background information on the NMA and the arguments they have made around the state. Additional resources on local ordinances related to tobacco retailers are available at www.center4tobaccopolicy.org/localpolicies-licensing.

What is the NMA?

The Neighborhood Market Association is a trade association that represents family and independently owned grocers and convenience stores and has more than 2,000 members, many of whom sell tobacco products. The organization is based in San Diego and was formerly called the California Independent Grocers & Convenience Stores. While the NMA represents retailers statewide, the organization has a strong San Diego focus. More than half of the members of the Board of Directors come from that region and the organization was first active in opposing local tobacco control policies in San Diego County.

Where has the NMA been active in opposing local policy efforts?

In just the past year, the NMA has opposed local tobacco retailer licensing ordinances or restrictions on sales near schools in Fresno, San Jose, Santa Clara County, Santa Cruz County and West Hollywood. In these municipalities, the NMA has sent letters to the elected officials, organized retailers, spoke at council and board hearings, asked for delays and submitted weak alternative ordinance language. The NMA has also attended tobacco control coalition meetings.

The NMA has opposed tobacco retailer licensing efforts in many jurisdictions in San Diego County since 2004. In 2004, the NMA sent letters to elected officials attempting to discredit the youth purchase survey results conducted by the tobacco control coalition and sent several letters threatening to file a lawsuit related to the use of these youth purchase survey results.

Is there a connection between the NMA and the tobacco industry?

Yes, the tobacco industry and Philip Morris USA in particular are connected to the NMA in several ways. A representative from Philip Morris USA previously served on the NMA's Board of Directors and Philip Morris USA provided \$10,000 in general support funds for the NMA in 2004. In addition, the political action committee for the NMA has taken money from the tobacco industry. The NMA committee received \$8,000 in contributions from Philip Morris USA during the 2009-2010 election cycle. Only two other companies (Viejas Enterprises and Crest Beverage Company) contributed more money than Philip Morris USA to the NMA committee during the 2009-2010 election. This committee also received

Sales Near Schools Policies in California



Through the TRL Policy

- Santa Clara County
- Santa Barbara County
- South Pasadena
- Riverbank
- Calabasas



Matrix of Local Ordinances Restricting Tobacco Retailers Within a Certain Distance of Schools April 2011

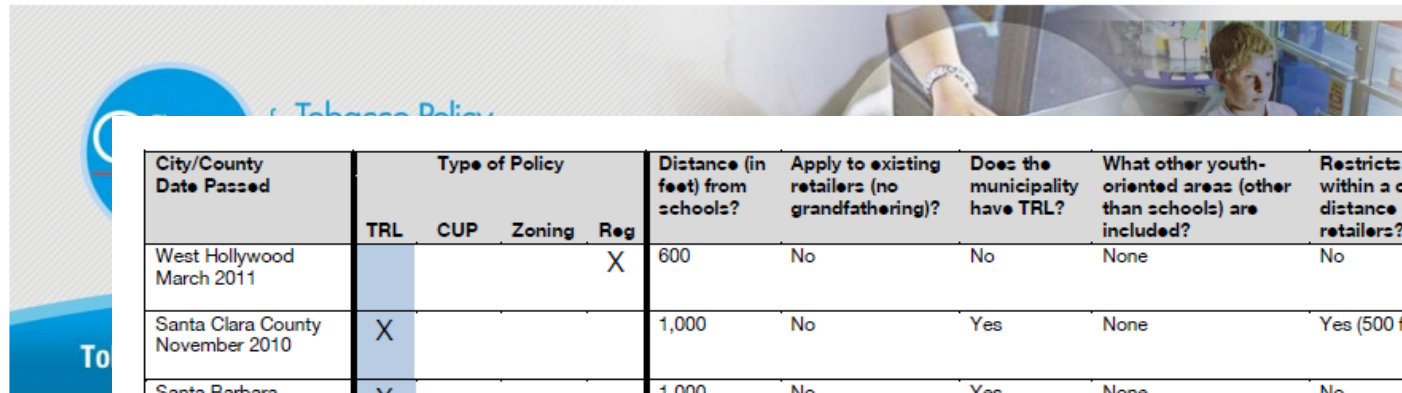
In order to prevent youth from getting addicted to tobacco products and to reduce illegal sales of tobacco products to minors, many cities and counties in California have restricted the location of tobacco retailers within a certain distance of schools. Studies have shown that the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased smoking rates (Henriksen L., Feighery E.C., et al) and that one-third of illegal tobacco sales take place within 1,000 feet of schools (Lipton, Robert, et.al.). An additional benefit of this policy is that it restricts some advertising of tobacco products within a certain distance of schools, because if retailers are not able to sell tobacco products, they also cannot display ads for those products that would mislead consumers.

This matrix lists 23 municipalities in California that have adopted an ordinance to restrict the location of tobacco retailers within a certain distance of schools (there are 24 total ordinances as West Hollywood is listed twice and has two separate ordinances). The cities and counties are listed in reverse chronological order from the most recently passed. To be included on this matrix, the ordinance must require all tobacco retailers or significant tobacco retailers to be located 500 feet or more away from schools. The definition of significant tobacco retailers varies by ordinance, such as any store that devotes more than 15 percent of its floor space to tobacco products or any store that generates more than 75 percent of its sales from tobacco products and tobacco paraphernalia. The strength of each of these 24 ordinances varies and the policy details that are included in this matrix help to highlight these differences.

Type of Ordinance

There are four different ways for local governments to restrict the location of tobacco retailers and the first section of the matrix includes an "X" to designate which type of policy each municipality has adopted. While each of these policy options can accomplish the goal of restricting tobacco retailers near schools, using the tobacco retailer licensing ordinance to do this is the best approach for dealing with current tobacco retailers located within the restricted area around a school and more efficient to enforce, and therefore it is recommended. For this reason, the tobacco retailer licensing column is shaded in blue to highlight these ordinances. Full explanations for each of the four policy types, along with the matrix abbreviation and information about how many municipalities have adopted that type of policy, are listed below.

1. **Tobacco Retailer Licensing Ordinance (TRL)** – this type of law requires all tobacco retailers to obtain a license in order to sell tobacco products in the municipality and a requirement can be added to the licensing ordinance that a retailer cannot obtain a license if they are located within a certain distance of schools. Because tobacco retailer licenses are only granted for a set period of time (one year) and must be renewed annually, it is more efficient to implement



Matrix April 2011

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City/County Date Passed	Type of Policy				Distance (in feet) from schools?	Apply to existing retailers (no grandfathering)?	Does the municipality have TRL?	What other youth- oriented areas (other than schools) are included?	Restricts retailers within a certain distance of other retailers?	Apply to every retailer who sells tobacco products?
	TRL	CUP	Zoning	Reg						
West Hollywood March 2011				X	600	No	No	None	No	
Santa Clara County November 2010	X				1,000	No	Yes	None	Yes (500 feet)	X
Santa Barbara County November 2010	X				1,000	No	Yes	None	No	X
South Pasadena November 2010	X				500	No (but there were no retailers within restricted area)	Yes	None	No	X
Riverbank July 2010	X				500	Yes	Yes	Playgrounds	No	X
Adelanto May 2010			X		1,000	No	No	Playground, church, public library or childcare facility	No	X
Calabasas April 2010	X				500	No (but there were no retailers within restricted area)	Yes	None	No	X
Union City January 2010		X			1,000	No	Yes	Park, playground, library, recreation center, religious institution, youth- oriented establishment	Yes (1,000 feet)	
Palmdale January 2010		X			500	No	Yes	Commercial daycare center, hospitals, parks, libraries, recreation centers	No	X
Vallejo December 2009		X			1,000	No	No	Church, public recreation area	Yes (1,000 feet)	
Windsor November 2009		X			600	No (but there were no retailers within restricted area)	No	Religious institutions, libraries and parks	No	

No Significant Tobacco Retailers



Family-Friendly Communities

Prohibit Tobacco Sales in Pharmacies



- San Francisco
- Richmond
- Boston
- Santa Clara County

Tobacco Free Pharmacy Campaigns

