Point-of-Sale Report to the Nation

Policy Activity 2012-2014

April
2015

SCTC
State and Community Tobacco Control Research

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Introduction

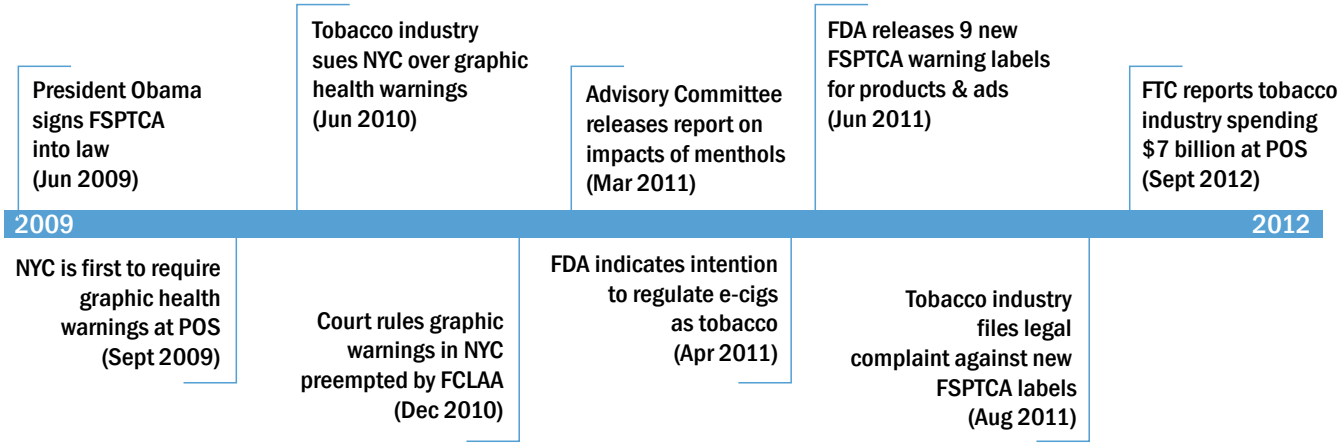
The point of sale (POS) has become the main venue for tobacco product marketing and promotion, as it was left largely unregulated after the Master Settlement Agreement. Tobacco companies now spend the majority of their marketing budget at the POS.[1] The POS refers to any location where tobacco products are advertised, displayed, or purchased. This includes not only the register, but also advertisements inside and outside of retail establishments.

Tobacco companies use the retail environment to attract and maintain customers by promoting their brands through advertising, product placement, and price promotions. These POS strategies increase impulse purchases, and normalize the presence of tobacco products in everyday life. Tobacco product exposure and price promotions at the POS encourage initiation and discourage cessation.[2-5]

Overcoming industry presence at the POS is recognized as a fifth core strategy of tobacco control programming, along with: (1) raising cigarette excise taxes, (2) establishing smoke-free policies, (3) encouraging cessation, and (4) launching hard-hitting countermarketing campaigns.[5,6] Many states and communities are considering new policies for the retail environment since the passage of the 2009 Family Smoking Prevention and Tobacco Control Act (FSPTCA).[5,7] The Act gave the Food and Drug Administration new regulatory authority to restrict aspects of tobacco advertising, marketing, and promotion. States and communities are also addressing tobacco-related disparities produced by higher tobacco retailer density and more marketing and price discounting in low-income communities.[8]

In 2012, we asked state tobacco control staff about POS policy activity and implementation. The results of those surveys were discussed in the POS Report to the Nation.[5] In this brief report we discuss results of the second wave of surveys completed in 2014, along with notable changes since 2012. Tobacco control partners, advocacy partners, and policymakers will find this report useful to track POS policy progress and consider new policies to combat tobacco initiation and use.

Figure 1. U.S. Tobacco Control Policy Highlights (2009-2012)



Policy Activity 2012-2014

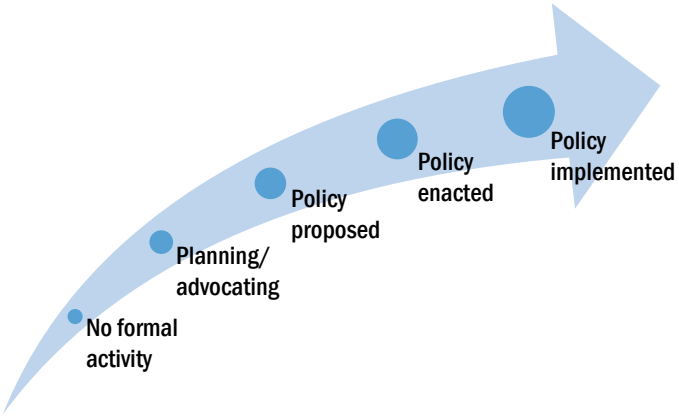
To assess overall POS policy activity and changes since 2012, state tobacco control staff were surveyed again in 2014. Respondents were asked about policy activity across seven POS policy domains:

- Licensing and Density;
- POS Advertising;
- Product Placement;
- Health Warnings;
- Non-tax Approaches;
- Other POS Policies; and
- E-cigarettes (new).

The increased use of electronic smoking devices since the 2012 surveys, along with questions raised by tobacco control staff during interviews led us to add questions in an additional policy domain regarding e-cigarettes. For the same reasons, we also added one question each to the Health Warnings and the 'Other' policy domains.

We asked about state-level POS policy activity and about staff's awareness of local community policy activity. We asked tobacco control representatives to report the stage of activity on a continuum, from no formal activity to policy implementation. For a list of the questions see the *Report to the Nation*.[5]

Figure 3. POS Policy Continuum

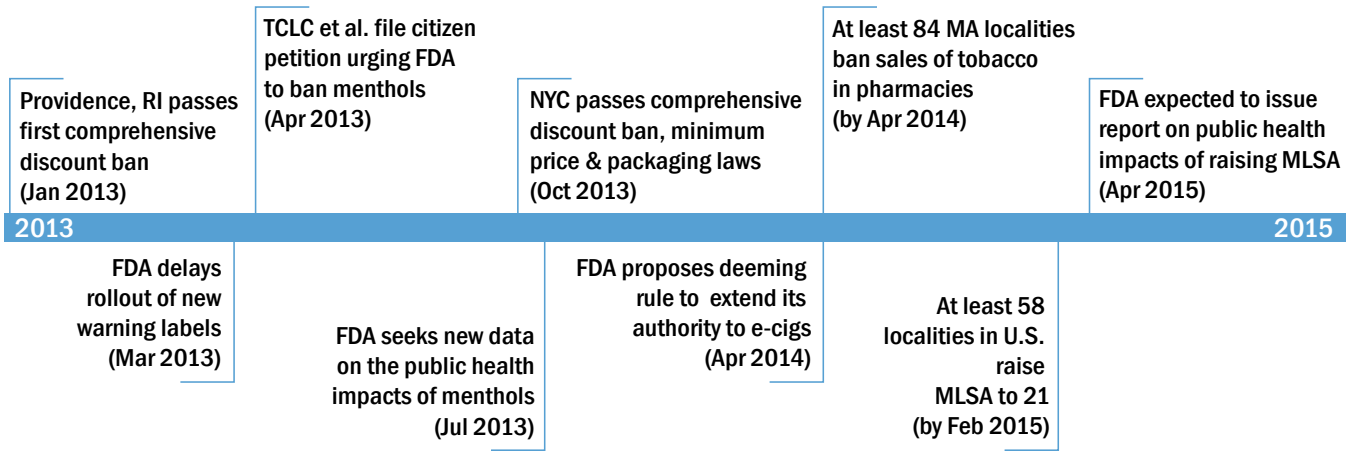


POS POLICY DOMAINS

What policy activity is happening at the state and local levels?

Tobacco control staff from 48 states agreed to participate in 2014. When comparing information reported in 2014 with that of 2012, we use data from the 46 states that participated in both years. While small changes should still be taken with caution due to differences in awareness and availability of information, for many of the policy domains marked increases suggest upticks in activity around the POS from 2012-2014.

Figure 2. U.S. Tobacco Control Policy Highlights (2013-2015)



Licensing and Density

Most states (78%) reported policy activity in the licensing and retailer density policy area for 2014. States are either involved in the planning stages or have already implemented policies that reduce or restrict the number, location, density, or type of tobacco retail outlets. Three states now have laws that establish minimum distance between retailers and places youth frequent, like parks and schools. Just as in 2012, 58% of states have licensing fees for tobacco retailers. In all, states active in this policy domain have increased by 11% since 2012.

Half (50%) of state tobacco control staff in 2014 reported an awareness about local communities that were active in licensing and retailer density policy development. Many cities and counties have implemented restrictions on tobacco retailer locations around parks and schools and more are now considering similar laws. The remainder of activity in this area includes policy planning to restrict the types of retailers that can sell tobacco (e.g., pharmacies), limiting the overall number of available licenses, and restricting retailers to certain zones. Up from 39% in 2012, this is the domain with the largest reported increase in local-level activity.

Non-tax Approaches

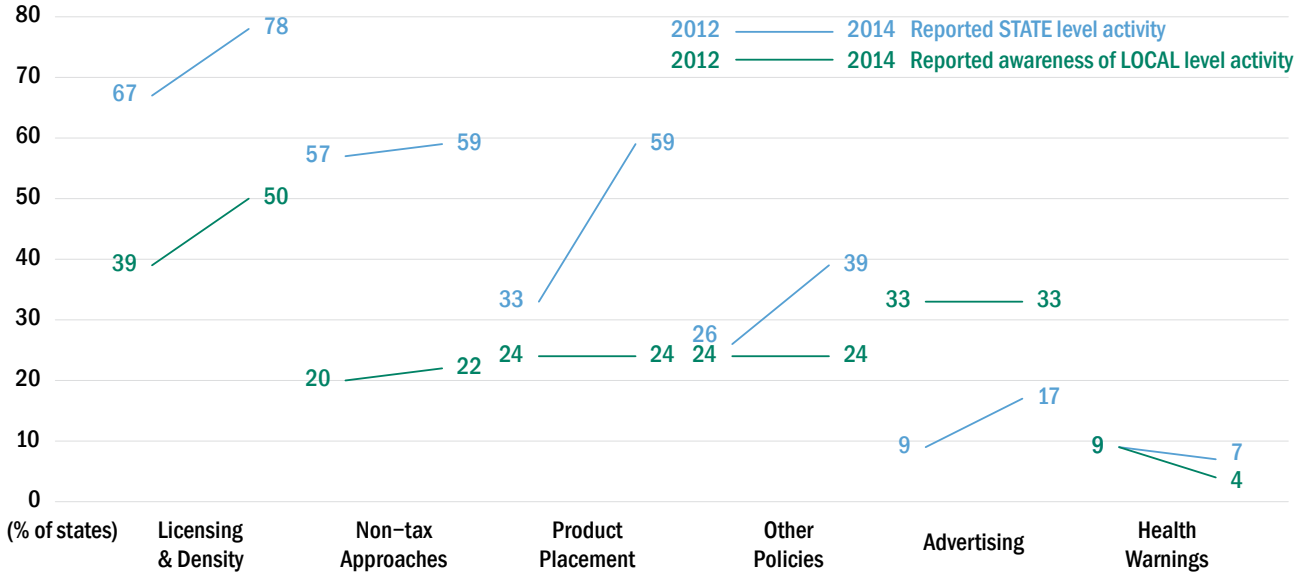
Over half of states (59%) reported policy activity or implementation of non-tax approaches for increasing prices at the POS. However, most of this activity refers to minimum price laws that were passed many years ago. Other activities include policy planning around tobacco product discounts, including restricting the distribution and/or redemption of coupons. Overall, there was little reported change in non-tax approaches since 2012.

State tobacco control representatives report that some local communities have implemented discount redemption bans that prevent retailers from selling tobacco products for less than the listed price. Notably, Providence, Rhode Island implemented the nation's first discount redemption ban in 2013, and New York City, New York followed in 2014. Both laws withstood federal court challenges.[9,10]

Product Placement

Most activity in the product placement policy area deals with restricting self-service for other tobacco products (OTPs). While the FSPTCA banned self-service for cigarettes and smokeless

Figure 4. Reported State- and Local-level* POS Policy Activity by Domain



*State tobacco control staff reported their awareness of POS policy activity occurring at the local level.

tobacco products in all states, it did not cover other tobacco products such as cigars.[7]

It seems that states are now taking responsibility for decreasing ease-of-access to all tobacco products. Twenty states now ban self-service displays and six more reported planning for similar policies in 2014. Because of this issue in particular, the product placement domain saw the largest reported increase in state-level policy activity between 2012 and 2014. In 2012, 33% of states reported activity, a number that almost doubled to 59% in 2014. In contrast to noticeable changes at the state level, reported awareness of local level policy activity for product placement did not change. About a quarter (24%) of state respondents reported awareness of local-level activity, just as in 2012.

'Other' POS Policies

Policies to ban flavors and to establish minimum packaging requirements for OTPs also saw some activity at the state level in 2014, with 39% of states reporting policy activity. While a few states are newly planning policies to ban flavors, a handful of others implemented minimum package requirements for cigars and cigarillos. Just 26% of states reported activity in 2012. In 2012 and 2014, state tobacco control staff in about one-quarter of states (24%) said that they were aware of localities that had planned (and/or passed) ordinances requiring minimum pack sizes and/or banning flavors for OTPs.

POS Advertising

For POS policies dealing with advertising, tobacco control staff from 17% of states reported that they were at least planning and raising awareness. Much activity was newly reported in 2014, as only 9% of states reported activity in 2012. Meanwhile, about one-third (33%) of state respondents reported awareness of local activity in both rounds of surveys. Most activity for localities and states centered on policy options to restrict ad placement either inside (e.g., near cash registers) or outside (e.g., covering windows or atop gas pumps) of retailers, and in locations near places frequented by youth.

Health Warnings

Little change was reported at the state or local levels for the health warnings policy domain. A small number of states that reported planning policies to require posting of health warnings at retailers in 2012 reported no activity in 2014. This may be due to the announcement from the U.S. Food and Drug Administration (FDA) in March of 2013 that it will develop and issue a new graphic warning rule.[11]

What policy activity with e-cigarettes and other new policy options occurred by 2014?

Additional Policy Domain: E-cigarettes

E-cigarettes and related products (e.g., replacement cartridges and nicotine liquid) have rapidly joined cigarettes and other tobacco products in prominent display at the point of sale. More respondents reported state-level policy activity related to e-cigarettes than any other policy area in 2014.

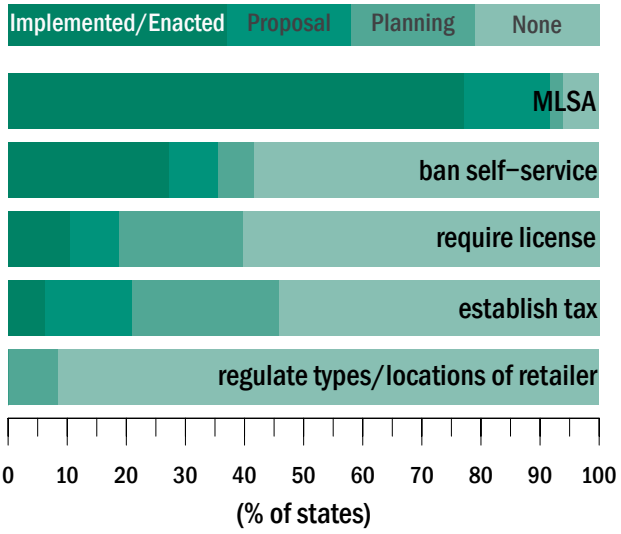
Representatives were asked questions about five specific policy areas regarding e-cigarettes:

- Regulating minimum legal sales age;
- Regulating the types (e.g., pharmacies)or locations (e.g., near schools) of retailers;
- Banning self-service displays;
- Establishing an e-cigarette excise tax; and
- Requiring licensing for e-cigarette vendors.

All but three states reported some policy activity focused on e-cigarettes in 2014. In three-quarters (77%) of the states, minimum legal sales age (MLSA) for e-cigarettes have been established. In most cases the MLSA for e-cigarettes matches existing tobacco control laws and requires that purchasers are at least 18 years old.

Many states are also addressing self-service for e-cigarette products, and of the 42% that have been planning policies banning self-service, 13

Figure 5. E-cigarette State-level Policy Activity 2014



states have managed to do so. Almost half of states (45%) have also been planning policies to establish an excise tax on e-cigarettes, and 40% are considering licensing. So far, five states have passed licensing laws and three have established taxes for e-cigarettes.

Over one-third (38%) of state tobacco control staff reported that local communities were engaged in policy activity around e-cigarettes. Most local-level activity has been focused on establishing an MLSA, banning self-service, and/or requiring licensing for e-cigarette retailers.

Additional Policy Options 2014: Posting of Quitline Information & Raising MLSA

In addition to the added e-cigarette policy domain, we added a question concerning policies requiring posting of quitline information (added to the Health Warnings domain) and another about policy activity to raise the MLSA for tobacco products (added to the 'Other' Policies domain). For comparability, we present data from these questions separately below; they are not included in the domain comparisons above.

In all, 35% of states have policy activity looking to raise the MLSA from the federally mandated 18 years of age. Four of those states have raised the MLSA to 19. In addition, 15% of states reported awareness of policy activity to raise MLSAs at the local level. For quitline information, 13% of states are considering policies that would require quitline signage, one state has succeeded in implementing a policy, and three states reported awareness of local-level policy planning.

How important are POS policies to state tobacco control programs?

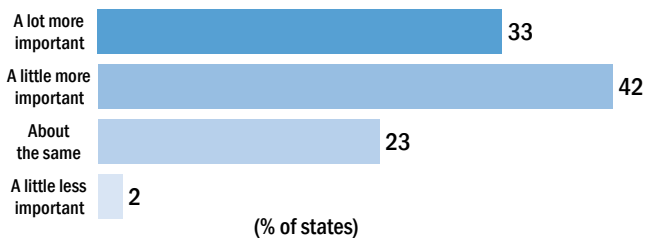
In 2012, we asked tobacco control staff whether POS policies had become more important since the 2009 passage of the FSPTCA. Then, 58% of respondents said that POS policies were a little or a lot more important than in previous years. In 2014, we followed up to ask if POS policies were more important than they were in 2012. This time, 75% of respondents said that the POS had become a more important policy area since 2012 (Figure 6). In addition, one-third (33%) of tobacco control program representatives reported that POS policies are a lot more important. No state representative reported that POS had become a lot less important.

POS POLICY SCORES

What are states' overall POS policy scores and how have they changed?

Starting in 2012, we computed a measure of overall policy activity for states called a POS Policy Activity Score. The scores include only planning and policymaking at the state level

Figure 6. 2014: Are POS policies more or less important than two years ago?



Tracking Vape Shops: A New and Growing Presence in Communities

One way to build support for POS policies is to educate the public and decision makers about characteristics of the local tobacco retail environment. For example, maps highlighting disparities in tobacco retail density can be effective tools for building support. One way to track the density of stores selling tobacco products is with tobacco retail licenses (TRLs). To better protect public health, state and local governments can add provisions to licensing requirements that control the number, location, density, and/or type of retailers allowed to sell tobacco.[12] Tobacco control partners can track retail density using TRL across communities and compare density with neighborhood variables such as household income level.[13]

Retail display of e-liquids

Many U.S. states have some kind of TRL, but only a few states reported that their licensing statutes had been updated to include e-cigarettes. Without licensing for e-cigarettes it is impossible to know the pervasiveness of these emerging products in communities. While TRL is the most effective way to track stores that are selling tobacco and vapor products it is not always feasible for communities to implement a licensing law due to political or legal barriers. Agencies and partners may be able to gather information about the number and type of retailers selling vapor products using:

- Tobacco Retail Licensing;
- General Business Licensing;
- Store Assessments or Audits;
- Yellow Pages; or
- Search engines.

Tobacco control partners in states and communities that have an existing TRL should work with legal professionals to understand the current law. If possible, amend existing TRLs to include retailers that sell vapor products and develop a process to indicate if stores sell tobacco, vapor products, or both. Without TRL, partners can use the methods listed above. While these are neither perfect nor comprehensive, they are relatively easy and a place to start in order to generate preliminary data. This data is useful to educate community members and decision makers, build awareness, and advance policy work.

and do not reflect state respondents awareness of any local-level policy activity. In light of the additional policy domain and questions included in 2014, we converted scores to percentages for each round of surveys so that comparisons can be made and trends identified. However, just as with the changes in activity for individual policy domains, small changes for individual states could be due to differences in awareness or reporting and should be interpreted with caution.

Like a percentage, the range of the POS score is zero to 100. A score of zero indicates that a state reports no policies implemented and no planning going on for POS policy work. A score of 100 would indicate that a state had successfully implemented all the POS policy options in our survey. Given that the POS is still a relatively new policy area for tobacco control staff, policymakers, and researchers, rising scores (now in the 20 – 30 range) are promising.

In 2014, the average POS policy score was 13.1. This almost doubled the 2012 average of 7.8. In addition, seven states reported no activity in 2012 and received scores of zero. For 2014 there are no zero scores, and POS policy activity is underway in all states. Three states had scores of 20 or above in 2012: Maryland (21), New York (23), and California had the highest score (25). In 2014 eight states scores are 20 or higher, and Vermont has the highest score of 31.

POS POLICY BARRIERS

Like in 2012, tobacco control staff identified the different types of barriers to planning and implementing POS policies at the state level. The same general types of barriers were reported in 2012 and 2014, but many states reported additional barriers in 2014. Taken together with rising POS scores, increased reporting of barriers suggests that the POS is gaining importance for tobacco control policy development across the U.S.

What types of barriers to POS policy are frequently reported?

Through assessment of responses in both 2012 and 2014, we developed 10 broad categories of barriers that respondents mentioned. These are summarized with examples in Table 1.

Figure 7. POS Policy Activity Scores 2012-2014

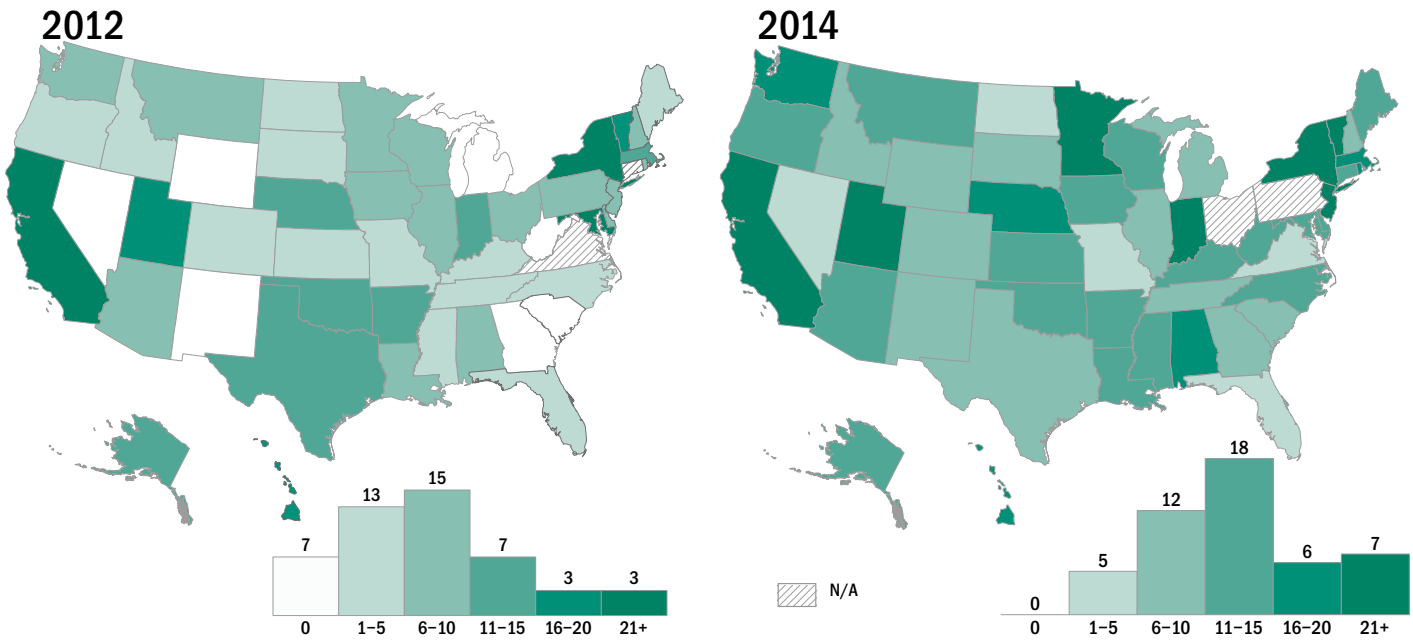


Figure 8 shows the percentages of states that reported barriers by type in 2012 and 2014. The largest increases are in red (respondents mentioned many different types of barriers so percentages will add to well over 100). While 41% of states reported a political will barrier to POS policy in 2012, nearly twice as many (78%) reported one in 2014. State tobacco control staff often reported that the policy environment was "business-friendly" or "anti-regulation" and that any policies at the POS would be seen as anti-business.

Compared to 2012, a much larger percentage of tobacco control staff mentioned state preemptions (24%) and/or a lack of evidence (22%) as barriers to POS policy in 2014. Representatives who cited a lack of evidence sometimes noted that overwhelming scientific data really helped to pass smoke-free policies, and similar evidence would be beneficial in the POS arena. (For more information on state preemptions see inset on pages 9-10).

The portion of states reporting tobacco industry interference remained relatively stable at about half in 2012 and 2014. Tobacco control staff reported industry lobbying and legal challenges, and industry involvement in writing definitions and other legislation for e-cigarettes. Over one-third of respondents reported problems with low awareness (41%), inadequate funding (39%), and/or low capacity (39%).

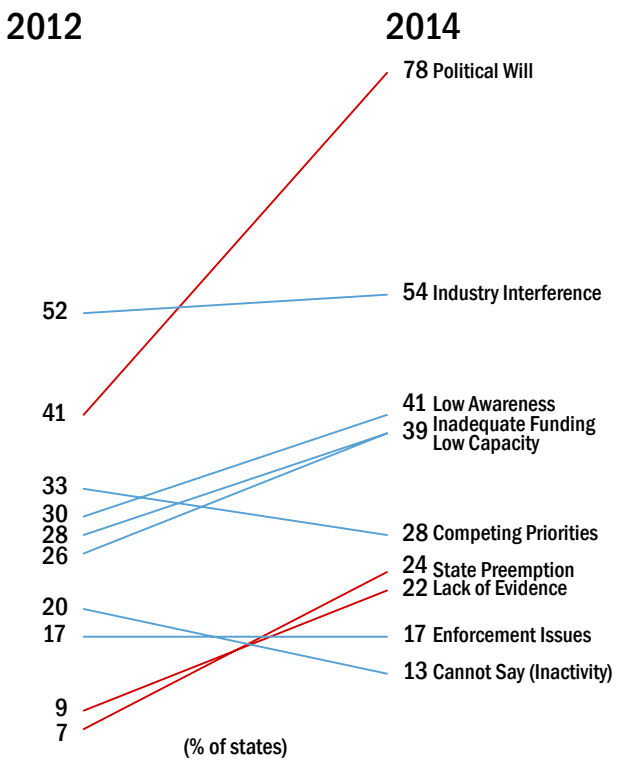
> "...the political climate right now is working with businesses to keep them in place and no one wants to rock the boat or make waves."

In both 2012 and 2014, the same percentage of states (17%) reported that issues specific to enforcement presented barriers to POS policy activity. Barriers to enforcement include existing policies that no one enforces or checks for compliance (e.g., licensing requirements, MLSA) and uncertainty about which agency would enforce policies once proposed and enacted.

Table 1. POS Policy Barrier Types Reported

Barrier Type	Description	Example
Political Will	Policymakers lack interest in POS policies, see POS policies as anti-business, rarely address tobacco or public health issues	"...it's not politically feasible to pass policies that seem like it's just more regulation."
Industry Interference	Tobacco industry often lobbies, either directly or through retailer organizations; threatens/files lawsuits; influences contents of laws	"...the tobacco industry monitors us pretty closely, and so they're always down at the legislature."
Low Awareness	Policymakers, public, or others have low awareness of the extent and impacts of tobacco at the POS; educational efforts needed	"I think we need to get educated on the ramifications... and about the whole topic."
Inadequate Funding	Funding for tobacco control (or for anything) is lacking, spent elsewhere, has recently been cut, etc.	"We're one of the lowest-funded programs per capita in the nation."
Low Capacity	Agencies lack capacity/authority/resources to build awareness, lead programs, or drive policy; internal or coordination issues	"The biggest barrier really is, has been in the past, is just maintaining staff."
Competing Priorities	Tobacco control priorities lie elsewhere, e.g., in cessation services or smoke-free laws	"So we've stayed pretty focused on the Clean Indoor Air Act...that [is] the primary focus."
State Preemption	State laws are difficult to change/strengthen and/or local laws are unlikely due to overarching preemptions concerning tobacco	"The law regulating e-cigarettes falls within the statutes that are preemptive."
Lack of Evidence	There is a lack of evidence of the impacts/effectiveness of POS policies at decreasing tobacco use rates	"We haven't had data yet to use with our legislators and say, this...is alarming."
Enforcement Issues	Laws in place but difficult to enforce or not enforced; there is uncertainty over who would enforce new POS laws	"Kids are still buying them...so it's passed, but I don't think it's really being enforced."
Cannot Say (Inactivity)	No barriers to POS activity to report since nothing is being done	"It's not something the state has worked on yet."

Figure 8. Reported Barriers to POS Policy Efforts



POS POLICY RESOURCES

Tobacco control representatives provided information about POS resources that they use, which have been helpful, and which resources are most needed. Like in 2012, many respondents in 2014 said that help from national tobacco control and public health organizations, as well as learning from successes in other states and communities, continue to be helpful.

> "There hasn't been a lot of concrete evidence to link restriction of Point of Sale to, say, tobacco prevalence or cessation. It's been very difficult to push policy that enforces these types of efforts."

> "...it's interesting that this e-cigarette legislation that passed was industry-written, and falls within the existing preemption. They haven't challenged it because they are writing it."

Which websites & guides are being used most frequently?

We also asked how frequently tobacco control staff used relevant websites and online guides and reports. We asked specifically about 10 online resources and gave opportunities for respondents to add any others that they use.

The five most frequently used online resources are pictured in Figure 9. Over half (52%) of states frequently use the Tobacco Control Legal Consortium's website along with its seven affiliates. The Point-of-Sale Webinars offered by the CDC are popular among state tobacco control staff, as almost half (46%) often use those.

About the same portion of states (44%) frequently use Counter Tobacco's website and/or the "Point-of-Sale Strategies: a Tobacco Control Guide" report available online from the Center for Public Health Systems Science at Washington University. Over a quarter of states frequently use the "Report to the Nation", that features results from our 2012 survey.

State-level Preemptions on Local-level Policy Activity

AWARENESS OF PREEMPTIONS

Preemption is a rule based on the Supremacy Clause of the U.S. Constitution[13-15] that creates a hierarchy for conflicting laws within a jurisdiction.[13] For instance, preemption exists when a law passed by a higher level of government restricts or prohibits a lower level of government from enacting or enforcing a stronger law.[13] Tobacco control staff should be aware of all state preemptions that could possibly preclude local laws in their state. Most preemptions can impact local policies that restrict four main tobacco control policy strategies, including:

- Smoke-free laws;
- Tobacco advertising restrictions;
- Youth access laws; and
- Licensing schemes.[16]

In both 2012 and 2014, state respondents reported confusion surrounding preemptive statutes and a general lack of awareness about preemptions. The CDC has tracked state preemption provisions that restrict the first three areas of tobacco control restrictions (i.e., smoke-free, advertising, and youth access) for years in its State Tobacco Activities Tracking Evaluation (STATE) system database.[16] As a result, preemptions in these areas seem somewhat more familiar for tobacco control staff than those for licensing. However, the STATE system recently included licensing preemptions in its database.[17]

UNDERSTANDING OF PREEMPTIONS

While some tobacco control staff are aware of all their state's preemptions, no two preemptions are exactly alike. Some are statutes from the legislature and others are found in judicial opinions that interpret the law (case law). This diversity, along with legal jargon and the mystery surrounding exactly what preemptions do, impede understanding and discourage activity for POS policies. Some tobacco control partners and staff report that they are preempted from all POS policy activity when in actuality they may only be preempted in one of the four domains. The addition of licensing preemptions into the STATE system database could increase access and understanding for tobacco control staff, partners, and researchers.

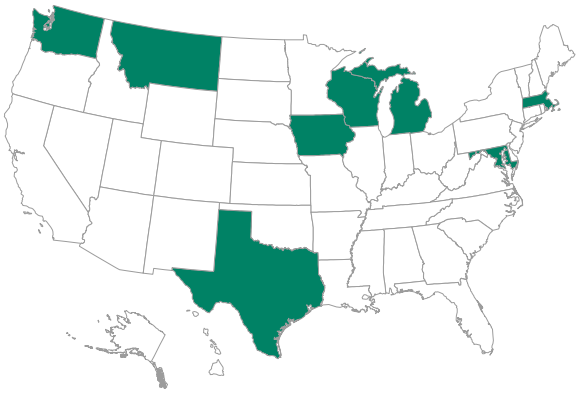
As of 2014, 30 states have one or more preemptions: 8 states preempt licensing; 12 states preempt smoke-free laws; 18 states preempt advertising laws; and 22 preempt youth-access laws for localities. Each category of preemptions has various subcategories (e.g., licensing preemptions can refer to all retailers or just vending machines in 18 and over establishments). Again, tobacco control staff should seek legal advice when addressing preemptive challenges. The next page shows states with preemptions with policy examples.

For more information about specific states' preemptions, statutes, and case laws, seek legal assistance and see CDC's Tobacco Use Data Tables.[17]

State-level Preemptions on Local-level Policy Activity

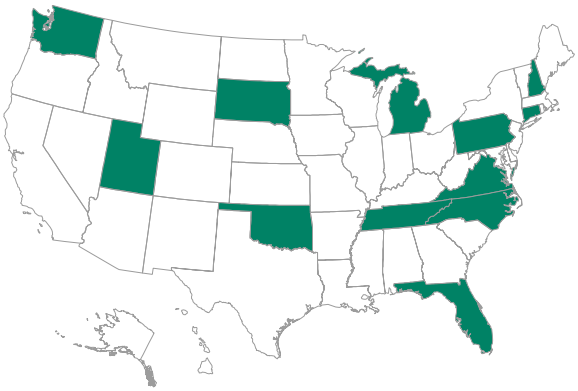
Licensing Preemptions 2014: 8

- some preempt all retail licensing or fees; others
- preempt licensing only self-service in certain establishments.



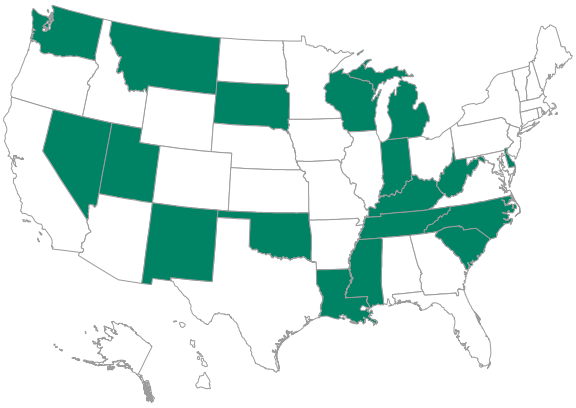
Smoke-free Preemptions 2014: 12

- some pertain to certain types of establishments exempted in state clean indoor air laws; others
- hold that local laws cannot be more stringent than those of state.



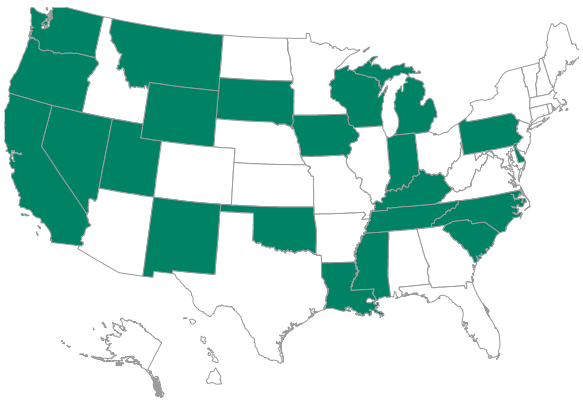
Advertising Preemptions 2014: 18

- some require certain messages/sizes for health warnings in ads; others
- preempt laws for promotions to "ensure uniformity" throughout the state.



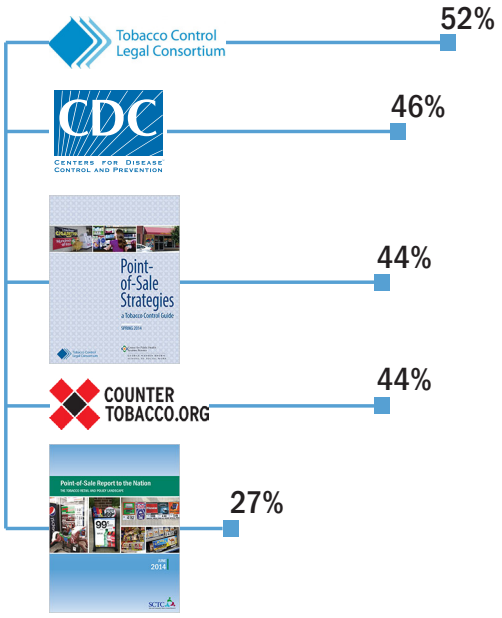
Youth Access Preemptions 2014: 22

- some expressly preempt changing MLSA; others
- preempt youth access laws to "ensure uniformity" throughout the state.



Source: CDC Tobacco Use Data Tables.[17]

Figure 9. Frequently Used Websites and Guides



Percent of states reporting frequent use

Which resources are most needed for POS efforts?

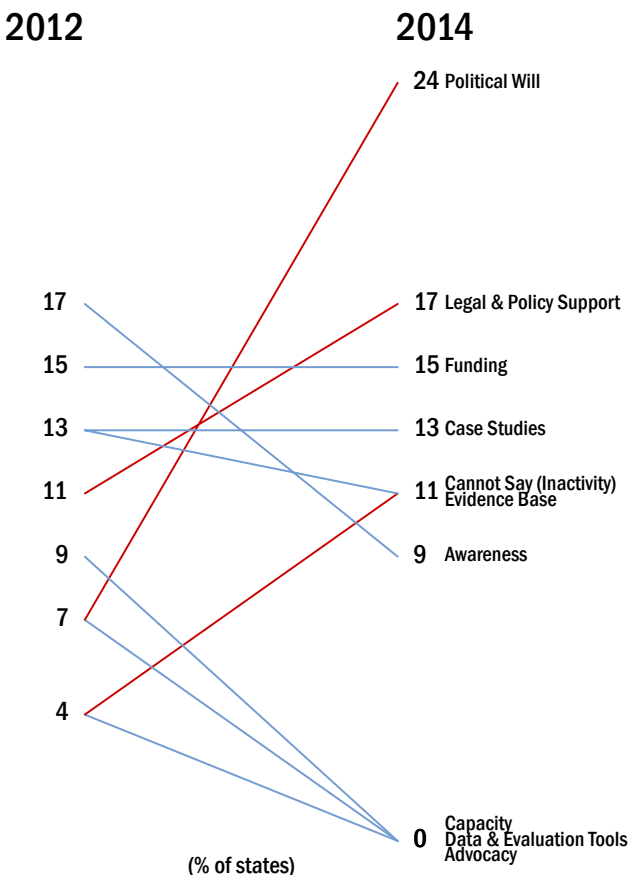
We also asked tobacco control staff what single resource they most needed to advance POS policy efforts in their state. Similar to reported barriers, large shifts occurred in the resources cited. Table 2 contains descriptions and examples of the categories of resources that tobacco control staff reported as most needed.

Figure 10 shows the most needed resources reported. The largest increases from 2012 to 2014 are shown in red. In 2012, one-third (32%) answered either awareness or funding. In 2014 the largest group of states – 24% up from just 7% in 2012 – cited the political will for advancing POS efforts as the most needed resource. Legal and policy support and a solid evidence base were also cited much more in 2014 as the one most needed resource for POS efforts. Claims that funding and case studies were the most needed resource remained steady.

Table 2. Resources Most Needed for POS Policy Efforts

Resource Type	Description	Example
Political Will	Policymakers lack interest in POS policies, see POS policies as anti-business, rarely address tobacco or public health issues	"We need supportive legislators."
Legal & Policy Support	Assistance from legal staff to draft or model policies, to interpret existing laws, and to find legal precedence/potential challenges	"It's been a really tricky area for us to get help in drafting and clarifying policy."
Funding	Funding for tobacco control (or for anything) is lacking, spent elsewhere, has recently been cut, etc.	"More funding for education efforts."
Case Studies	Best practices and success stories from other states/communities, as well as examples and models for future progress and implementation	"Success stories in states that are fairly similar."
Cannot Say (Inactivity)	Cannot say what is needed for POS activity to report since nothing is being done	"Realistically, we can't speak to specific resources because of inactivity in this arena."
Evidence Base	There is a lack of evidence of the impacts/effectiveness of POS policies at decreasing tobacco use rates	"The science is a little thin on this issue. We need resources that tell us how to connect the science to policy."
Awareness	Policymakers, public, or others have low awareness of the extent and impacts of tobacco at the POS; educational efforts needed	"...disseminating the results of our data collection to the public to build support for policies."
Capacity	Agencies lack capacity/authority/resources to build awareness, lead programs, or drive policy; internal or coordination issues	"Five more staff."
Data & Evaluation Tools	Laws in place but difficult to enforce or not enforced; there is uncertainty over who would enforce new POS laws	"...we're currently trying to formulate how to collect specific data that will support the need for a point of sale license."
Advocacy	Support (or increased support) from state/national organizations	"...we need a champion that would get on board and really be the one to help us push the policy."

Figure 10. Resources Most Needed for POS Policy Efforts



> "Well we'd like a magic wand that could help us change the mindset of our administration and our legislature."

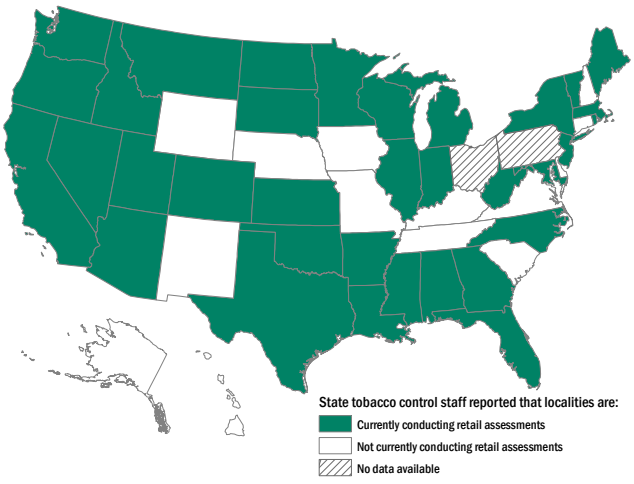
How are communities assessing the retail environment?

Assessments of the tobacco retail environment can help to educate, build awareness, and gain political will for POS policies. Nearly three-quarters (71%) of states in 2014 reported that cities and towns were conducting retail assessments. In 2012, tobacco control staff from just over half of states (54%) reported that localities were conducting or had conducted retail assessments. Most states then were using non-standardized assessment tools including Operation Storefront, Store Alert, or their own tools. As part of the National Cancer Institute funded State and Community Tobacco Control (SCTC) Research Initiative, a group of researchers and tobacco control partners developed the Standardized Tobacco Assessment for Retail Settings (STARS) tool. In 2013, STARS was piloted in several states and made widely available in 2014.

> "We need to know what these interventions produce in terms of outcomes so that we can convince funders that this is a necessary thing to do."

Of the 10 states newly reporting retail assessment activity in 2014, seven started with STARS. The use of a standardized tool makes it easier to compare information on pricing, availability, and advertising across states, counties, cities, and neighborhoods. In all, 24 of the 34 states with retail assessment activity are now using STARS. All of the STARS materials are available for download at http://bit.ly/1sciz4s.

Figure 11. Reported Retail Assessment Activity 2014



Next Steps

LOCAL LEVEL ASSESSMENT OF POLICY ACTIVITY

At the time of this publication CPHSS researchers are preparing to conduct follow-up surveys with a sample of local-level tobacco control representatives across the country. These interviews with local representatives will precede a third wave of surveys of state tobacco control representatives in all 50 states.

NATIONWIDE ASSESSMENT OF POLICY & RETAIL ENVIRONMENTS

Concurrently, members of the ASPiRE consortium are preparing to conduct store audits in a sample of tobacco retailers across the U.S. These data will be reviewed for changes since 2012 and then linked to neighborhood characteristics to further understanding of industry marketing and prices. Ultimately, the findings from all rounds of surveys and retail assessments will be included in a comprehensive progress report on POS policy development and implementation.

CASE STUDY DEVELOPMENT

Since the 2014 state level surveys, CPHSS researchers have also been working on the third in a series of case studies highlighting innovative POS tobacco control policies. This third case study features New York City's efforts to eliminate access to cheap tobacco and reduce youth initiation and use. As a supplemental case study, we are also preparing a report on four sites using S.T.A.R.S to educate and inform policy development in communities across the country.

References

1. Federal Trade Commission. Federal Trade Commission Cigarette Report for 2009 and 2010. Washington D.C. 2012.

2. Paynter J, Edwards R. The impact of tobacco promotion at the point of sale: A systematic review. Nicotine Tob Res. January 2009;11(1):25-35.

3. Slater SJ, Chaloupka FJ, Wakefield M, Johnston LD, O'Malley PM. The impact of retail cigarette marketing practices on youth smoking uptake. Arch Pediatr Adolesc Med. May 2007;161(5):440-445.

4. Wakefield M, Germain D, Henriksen L. The effect of retail cigarette pack displays on impulse purchase. Addiction. February 2008;103(2):322-328.

5. Center for Public Health Systems Science. Point-of-sale Report to the Nation: The Tobacco Retail and Policy Landscape. St. Louis, MO: Center for Public Health Systems Science at the Brown School at Washington University in St. Louis and the National Cancer Institute, State and Community Tobacco Control Research; 2014.

6. Counter Tobacco. Public Opinion Surveys. n.d.; http://countertobacco.org/public-opinion-surveys. Accessed April 16, 2013.

7. The Family Smoking Prevention and Tobacco Control Act of 2009. § 203, Section 5. Vol 15 U.S.C. 13342009.

8. Ribisl KM, Luke DA, Sorg AA. Reducing tobacco related disparities through point-of-sale regulation: differential impact of regulating tobacco advertising and sales near schools: Annual Meeting and Convention of the American Public Health Association. Washington, D.C. 2011.

9. Center for Public Health Systems Science. Regulating Price Discounting in Providence, RI. 2013.

10. Center for Public Health Systems Science. Reducing Cheap Tobacco and Youth Access: NYC. Forthcoming 2015.

11. Tobacco Control Legal Consortium. Cigarette Graphic Warnings and the Divided Federal Courts. Saint Paul, MN. 2013.

12. The Center for Public Health and Tobacco Policy. Tobacco Retail Licensing: Local Regulation of the Number, Location, and Type of Tobacco Retail Establishments in New York. Boston, MA: The Center for Public Health and Tobacco Policy at New England Law; 2010.

13. Center for Public Health Systems Science. Point-of-Sale Strategies: A Tobacco Control Guide. Center for Public Health Systems Science, George Warren Brown School of Social Work at Washington University in St. Louis and the Tobacco Control Legal Consortium; 2014.

14. Klein R. Local Land Use Regulation for the Location and Operation of Tobacco Retailers. St. Paul, MN: Tobacco Control Legal Consortium; April 2004.

15. The Center for Public Health and Tobacco Policy. Tobacco Product Display Restrictions. Boston, MA: The Center for Public Health and Tobacco Policy, New England Law; 2010.

16. Centers for Disease Control and Prevention. State preemption of local tobacco control policies restricting smoking, advertising, and youth access--United States, 2000-2010. MMWR. Morbidity and mortality weekly report. Aug. 26, 2011;60(33):1124-1127.

17. Centers for Disease Control and Prevention. Tobacco Use Data. 2015; https://chronicdata.cdc.gov/health-area/tobacco-use. Accessed March 12, 2015.