Point-of-Sale Strategies

a Tobacco Control Guide

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Tobacco Control Legal Consortium

Center for Public Health Systems Science

GEORGE WARREN BROWN SCHOOL OF SOCIAL WORK

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Laura Brossart, Sarah Moreland-Russell, Heidi Walsh, Anne Wachtel, Stephanie Andersen, Laura Edison, Laura Bach, Sarah Schell, Anneke Mohr, Douglas Luke

Valuable input for this guide was provided by:

Kerry Cork, Tobacco Control Legal Consortium
Maggie Mahoney, Tobacco Control Legal Consortium
Ian McLaughlin, ChangeLab Solutions
Mark Meaney, Tobacco Control Legal Consortium
Kurt Ribisl, University of North Carolina Gillings School of Global Public Health
Dave Schaibley, Assistant Attorney General of North Dakota (formerly of Tobacco Control Legal Consortium)

Valuable input for the case studies was provided by:

Peter Asen, Healthy Communities Office, City of Providence
Betsy Brock, Association for Nonsmokers-Minnesota
Bonnie Broderick, Santa Clara County Public Health Department
Janie Burkhart, Santa Clara County Public Health Department
Pat McKone, American Lung Association of the Upper Midwest
Allison Myers, Counter Tobacco
Cassandra Stepan, Minnesota Department of Health

Other contributions:

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Guide to the Reader

Purpose

The purpose of this guide series is to help state and local tobacco control staff build effective and sustainable comprehensive tobacco control programs. The guide will discuss strategies and interventions that fall under the coordination of state and local tobacco control programs and that have strong or promising evidence of effectiveness.[1]

Content

This guide focuses on point-of-sale strategies that can be considered as part of a comprehensive tobacco control program. Not only are most tobacco products bought in stores, but the retail environment is also a major avenue for tobacco product marketing and promotion. The widespread presence of tobacco outlets, products, and advertising encourages initiation and discourages cessation of tobacco use.[1-5] There are many ways to reduce access to tobacco and exposure to tobacco industry influence in the retail environment, including: reducing (or restricting) the number, location, density, and types of tobacco retail outlets; increasing the cost of tobacco products through non-tax approaches; implementing prevention and cessation messaging; restricting point-of-sale advertising; restricting product placement; and pursuing other point-of-sale strategies, such as restricting the sale of flavored non-cigarette tobacco products.[2,6] This guide will give tobacco control program partners information on emerging strategies to limit the sale, display, and advertising of tobacco products in the retail environment.

Organization

This guide is organized into seven sections:

- **Making the Case** – a brief overview of how tobacco control efforts benefit from implementing point-of-sale strategies
- **A Brief History** – how point-of-sale strategies have been used in tobacco control
- **How to** – ways to implement point-of-sale strategies
- **Providing Support** – how state tobacco control programs can support efforts to implement point-of-sale strategies
- **Case Studies** – real world examples of how to implement point-of-sale strategies or improve existing strategies
- **Conclusion: Case for Investment** – information needed to raise awareness of the effectiveness of point-of-sale strategies
- **Resources** – publications, toolkits, and websites to help in planning efforts

The Potential Impact of Point-of-Sale Strategies

The retail environment is an important area of focus for tobacco control partners. Most tobacco products are bought in retail establishments (*e.g.*, convenience stores, gas stations, grocery stores, and pharmacies), and the industry focuses most of its marketing efforts in these settings. Point-of-sale strategies enhance state and local tobacco control efforts by reducing exposure to tobacco products and advertising in stores. These interventions can:

- **Decrease tobacco use and impulse purchases of tobacco products.**
  Availability, advertising, promotion, and marketing of tobacco products in the retail environment increase youth and adult tobacco use and impulse buys.[1-5] Point-of-sale tobacco advertising encourages youth to try cigarettes and non-cigarette tobacco products and can persuade youth who are already experimenting with tobacco products to progress to regular use.[4] Research has also shown that youth who are exposed to advertising, live in areas with high retailer density, or both, are also more likely to smoke.[3,7-11] Point-of-sale strategies that reduce access and exposure to tobacco products are expected to decrease youth and adult tobacco use and impulse buys.

- **Reduce tobacco-related disparities.**
  The tobacco industry uses several strategies that affect certain populations, including using price discounts (*e.g.*, multi-pack offers, coupons, and buy-one-get-one-free offers) to encourage consumption. Although all consumers take advantage of price discounts, studies show that women, youth, and African Americans use discounts more often, regardless of income.[12] Low-income and predominantly minority neighborhoods often have higher tobacco retailer density and more tobacco advertising than other neighborhoods.[13,14] Point-of-sale strategies that restrict advertising, limit the number of retailers in neighborhoods, and prohibit price discounting could help promote health equity, thereby reducing tobacco-related disparities.[15]

- **Counter the huge sums of money and effort channeled into the retail environment by the tobacco industry.**
  The tobacco industry now spends most of its marketing budget in the retail environment.[16,17] Point-of-sale strategies that restrict advertising, product placement, and the number, location, density, and types of tobacco retail outlets could diminish the effect of this spending.

- **Increase community awareness of tobacco industry practices.**
  Tobacco control partners who develop and implement point-of-sale strategies will likely spend more time in retail establishments as they conduct surveys, track compliance, and build partnerships with retailers. These retail assessments can offer opportunities to document industry practices and educate community members. Greater awareness of tobacco industry practices in the retail environment could increase community members' support for point-of-sale and other tobacco control strategies.

- **Communicate health information.**
  The retail setting presents a natural opportunity to promote health by posting prevention and cessation messages that state the dangers of tobacco use and promote cessation services, such as quitlines.

- **Improve compliance with other tobacco control strategies.**
  Robust licensing and zoning laws can make it easier for partners to check retailer compliance with existing federal, state, and local policies, such as advertising and youth access restrictions.[18]

A Brief History

The federal government first addressed the tobacco retail environment in July 1992 by passing the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, also known as the Synar Program. This program aimed in part to reduce minors' access to tobacco. It required states to enact and enforce laws prohibiting the sale or distribution of tobacco products to anyone under the age of 18.[19]

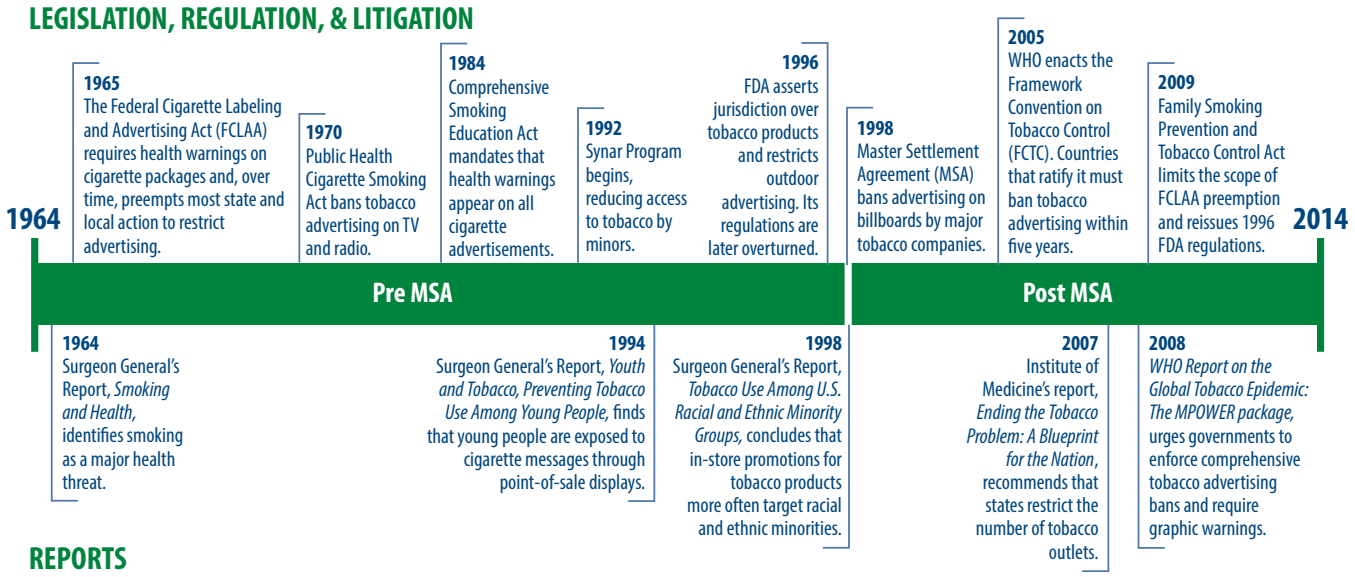
In 1998, the Master Settlement Agreement (MSA) restricted many of the main tobacco companies' marketing avenues (*e.g.*, tobacco transit ads and billboards), but left the retail setting largely untouched. Though the retail environment has been the highest spending category for tobacco industry marketing for over 25 years, the seven years after the MSA marked a sharp increase.[20,21] By 2005, the tobacco industry spent nearly 90% of its marketing budget in the retail environment,[22] with the greatest spending increase in price discounting.[23] After the MSA, the industry more than doubled the amount it spent exclusively on cigarette price discounts, spending over $8 billion and accounting for 84% of total industry spending in 2008 alone.[23]

Until recently, point-of-sale strategies centered on restricting youth exposure and access to tobacco products.[24] The 2009 Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) gave the U.S. Food and Drug Administration (FDA) new regulatory authority to restrict aspects of tobacco advertising, marketing, and promotion; regulate misleading messages about the health effects of tobacco products (*e.g.*, using words such as "light" or "ultra-light" to suggest that some products are safer than others); and require graphic warning labels on cigarette packaging and advertisements.[25] The Tobacco Control Act also allowed state and local governments to complement their existing policies with tobacco control legislation restricting the time, place, and manner (but not the content) of cigarette advertising and promotion.[25]

Communities across the U.S. have started to address reducing the number and location of tobacco product sales by restricting retailer presence through zoning, licensing, and stand-alone ordinances. In 2008, San Francisco prohibited the sale of tobacco products in pharmacies. In 2009, Boston prohibited the sale of tobacco products in all health care facilities (including pharmacies) as well as in institutions of higher education.[26,27]

International efforts to regulate tobacco products and the retail environment have been more extensive than those in the U.S. Over 30 countries now require graphic images on warning labels,[28] and at least five countries now prohibit tobacco product displays in retailers.[29]

Timeline of Legislation and Reports Affecting the Tobacco Retail Setting



Introduction to Point-of-Sale Strategies

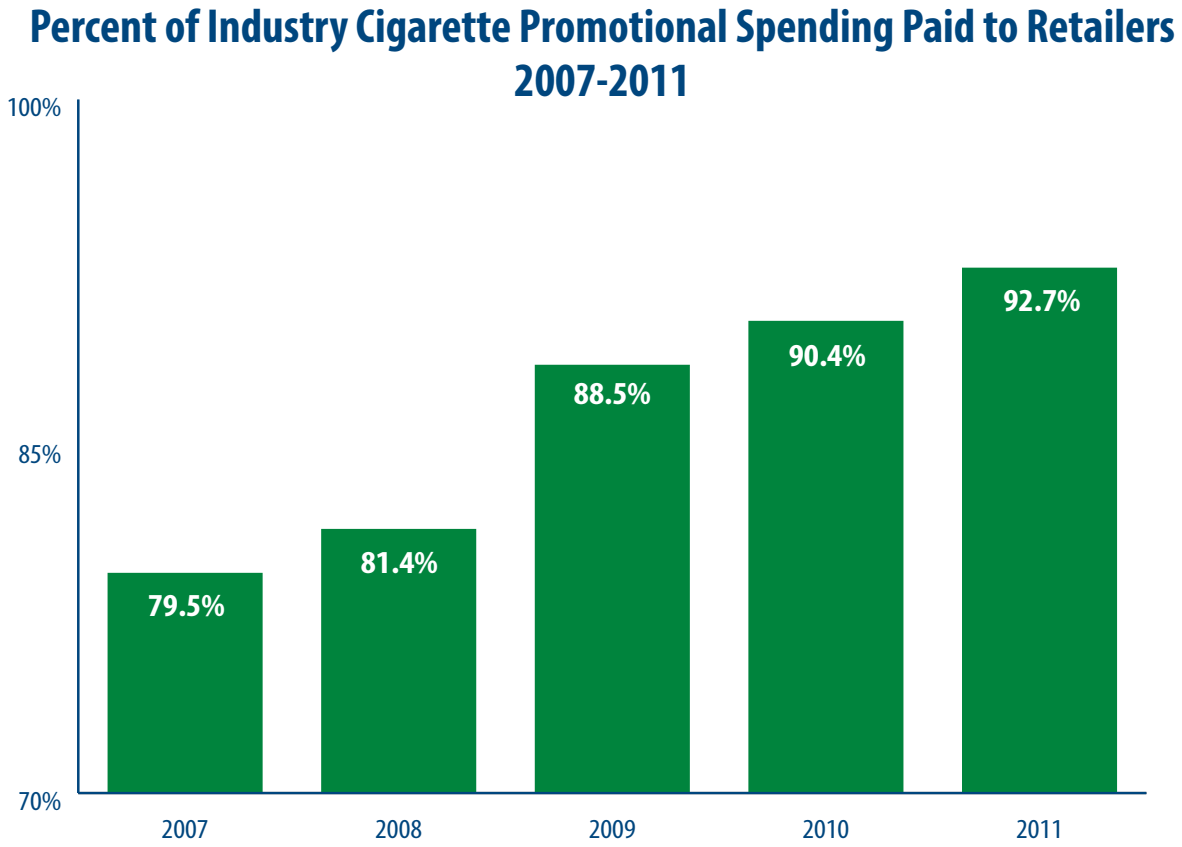
Traditional tobacco control strategies (*e.g.*, implementing smoke-free policies, increasing tobacco taxes, and enforcing laws prohibiting sales to minors), along with efforts to secure full and sustained funding for tobacco control programs, should continue to be the core focus for states and communities seeking to reduce tobacco use. But evidence now suggests that the time has come for point-of-sale strategies to be implemented alongside traditional interventions, particularly for states that have made progress in other core areas of tobacco control.[2,30] Several mechanisms can be used to implement point-of-sale strategies, including direct or stand-alone laws, licensing laws, and laws related to zoning or conditional use permits (see page 7). The primary types of point-of-sale strategies are:

- Reducing (or restricting) the number, location, density, and types of tobacco retail outlets;
- Increasing the cost of tobacco products through non-tax approaches;
- Implementing prevention and cessation messaging;
- Restricting point-of-sale advertising;
- Restricting product placement; and
- Other point-of-sale strategies.

These strategies are important because:

- **The retail environment is now the major channel used by the industry to promote initiation and use of tobacco products.**
  After restrictions imposed by the MSA went into effect, the tobacco industry began to channel even more of its marketing budget into the retail environment. In 2011, combined promotional allowances (*i.e.*, payments that secure retailer cooperation for product placement and promotion and make tobacco cheaper) paid to cigarette retailers and wholesalers accounted for 92.7% of total industry cigarette marketing and promotional spending.[16] Smokeless tobacco manufacturers have also increased their spending on retail marketing. In 2011, combined promotional allowances to tobacco retailers and wholesalers accounted for 56.1% of total smokeless tobacco advertising and promotional spending.[31]
- **The 2009 Tobacco Control Act gave states and communities additional legal authority to pursue point-of-sale strategies and imposed new restrictions on the retail environment.**
  The Tobacco Control Act is expected to enhance the ability of states and communities to pursue interventions in the retail setting that go beyond implementing and enforcing youth access restrictions. Other interventions could include restrictions on advertising and promotion as well as other point-of-sale policies that state and local governments have always had the authority to enact, but have largely neglected to date. The Tobacco Control Act imposes certain restrictions on the sale of cigarettes and smokeless tobacco products, including prohibiting self-service displays and vending machines. While these restrictions are significant, state and local governments can replicate and expand the federal provisions. This would allow local governments to enforce federal and local laws consistently. They can also create stronger penalties for violations and close the loopholes that exist in the federal law

> "[Point-of-sale] advertising exposes and potentially affects everyone: the young who grow up seeing tobacco as a benign cultural commonplace in the market on par with milk and bread and come to underestimate its risks; the adult smoker who is reminded and cued to smoke now and more often; the occasional smoker who is cued to consume more; the would-be quitter whose intentions to quit are undermined; and the ex-smoker tempted to relapse and resume smoking."
>
> – Richard Pollay,[6]
> University of British Columbia



Over time, the tobacco industry has spent increasing amounts on promotional allowances paid to cigarette retailers and wholesalers. This graph illustrates the percentage of the total promotional expenditure budget spent on these payments.

Source: Federal Trade Commission Cigarette Report for 2011[16]

(*e.g.*, strengthening the existing ban on the sale of single cigarettes known as "loosies" to include the sale of single cigars).

- **The same community mobilization efforts that have proven highly effective with other recent tobacco control policies (e.g., smoke-free policies) can be used for point-of-sale strategies.** In communities that have already successfully implemented smoke-free policies, tobacco control partners may be looking for new challenges. Point-of-sale strategies can offer a new focus for these partners, renew interest in tobacco control efforts, and rally community support. The same mobilization efforts needed for traditional policy approaches (*e.g.*, informing community members, engaging policy makers, identifying key partners, and highlighting priority issues) can be revitalized for use with point-of-sale strategies.

- **An infrastructure is already in place to track interventions in the retail environment. Tobacco control partners can expect the FDA to rely on and contract with state and local tobacco control programs to track compliance with youth access and advertising restrictions, as well as to enforce provisions of the Tobacco Control Act.** As states fund their coalitions to conduct store surveys, they can also identify tactics used by the tobacco industry at the point of sale to promote tobacco use in their communities. Some of these industry strategies may be designed to evade the Tobacco Control Act's restrictions or to diminish their impact. States and communities can track:
  - Introduction of new tobacco products;
  - Marketing tactics;
  - Product displays and placement; and
  - Price discounts.

IMPORTANT CONSIDERATIONS

When considering point-of-sale strategies, tobacco control partners must be aware of potential obstacles. These obstacles can include legal, economic, political, funding, and infrastructure challenges. Tobacco control partners should carefully plan how to address these challenges and seek legal advice when appropriate.

Legal Considerations

The tobacco industry and retailers may use existing laws as grounds to challenge point-of-sale strategies in court. Legal challenges vary by strategy and location, but the tobacco industry and its allies will argue most often that the U.S. or a state Constitution limits a state or local government's ability to adopt the new law. They will argue that state and local communities are preempted from enacting tobacco control laws that are stricter than laws set by higher levels of government.

Point-of-Sale Provisions of the Tobacco Control Act

The 2009 Tobacco Control Act gave the Food and Drug Administration (FDA) new regulatory authority over tobacco products. Several parts of the Act apply to the point-of-sale environment. Provisions of the Tobacco Control Act relevant to states and most local governments include:

- **Expanded state and local authority to regulate advertising and marketing**
  The 1965 Federal Cigarette Labeling and Advertising Act (FCLAA) and its amendments preempted states and communities from imposing requirements related to cigarette advertising or promotion based on concerns about smoking or health. The Tobacco Control Act changed this provision by allowing states and communities, where allowed by state law, to restrict or regulate the time, place, and manner (but not the content) of cigarette advertising and promotion. For example, states and many communities are now authorized to enact advertising restrictions, limit the size of product ads, and regulate the location of ads in stores.[32] However, states and communities considering these strategies will need to make sure that the policies pursued do not violate the First Amendment (see page 13).

- **Restrictions on cigarette and smokeless tobacco sales to youth**
  The Tobacco Control Act took several steps to protect youth from tobacco. Besides prohibiting sales to minors and the sale of "loosies," the Act prohibits vending machines and self-service displays for cigarettes and smokeless tobacco, except in adult-only locations.[17]

- **Warning labels**
  The Tobacco Control Act mandated larger and stronger warning labels for cigarettes to more effectively communicate the health risks of tobacco use. The law required large graphic warning labels covering the majority of cigarette packages and on cigarette advertisements.[33] Though the FDA issued final regulations on June 22, 2011 (see page 20), five tobacco companies filed a lawsuit claiming that the regulation violated their First Amendment rights. The court found the specific graphic warnings required by the FDA unconstitutional, and the ruling was upheld on appeal.[33] The federal government did not appeal this decision to the Supreme Court and instead plans to develop new graphic warnings consistent with the decisions of the court.[33]

Tobacco control partners should get legal assistance at the start of the policy process, draft legislative language carefully, and have legal assistance in place if strategies are challenged (refer to page 12 for more information on legal considerations for point-of-sale strategies).

Economic and Political Considerations

Certain point-of-sale strategies are likely to prompt opposition from the tobacco industry, retailers, and allied interests. This opposition can stem from the economic and political influence of the tobacco industry and the large number of retailers that sell tobacco products. One argument is related to the common perception that retailers depend on revenue from tobacco product sales. Tobacco control partners should strategically plan their efforts to educate policy makers and the public and mobilize support. Assessing the following conditions will help decide if there is enough support to move forward or if more education is necessary:

- The extent of public awareness and understanding of the problem;
- The level of public support for the proposed solution;
- Advocacy resources within the community; and
- The strength of opposing interests.

Funding and Infrastructure Considerations

Because some point-of-sale strategies are relatively new and untested in the U.S., some of the specifics of implementation, monitoring, and enforcement will need to be worked out through experience. These include:

- What new government infrastructure will need to be developed;
- The investment of funds and staff time that will be needed for implementation, enforcement, evaluation, and legal defense; and
- The agencies that should be involved.

Mechanisms for Implementing Point-of-Sale Strategies

Tobacco control strategies at the point of sale can be implemented through three main mechanisms at the state or local level:

- Direct or stand-alone laws, such as state statutes or local ordinances not directly tied to a licensing or zoning law;
- Licensing laws; and
- Zoning laws, including conditional use permits (CUPs).

STATE AND LOCAL STAND-ALONE LAWS

At the state and local level, direct regulation often occurs by passing a state statute or local ordinance. Although processes vary by municipality, ordinances are generally passed by a legislative body (*e.g.*, city council), signed by a city or county executive (*e.g.*, mayor), and enforced by local agencies (*e.g.*, health departments) and government attorneys. State laws can be enacted in a similar way, with the state legislature passing the measure and the governor signing it into law.

LICENSING LAWS

All states and many local governments have the power to require retailers to obtain a license before selling tobacco products.[34] Most states already license tobacco retailers, though these licenses are largely underused in tobacco control. In the U.S., 40 states have tobacco retailer licensing policies,[35] and a recent study found that only 37% of local governments (within a sample of 78 counties from all 50 states) had enacted tobacco retailer licensing policies.[36] Among the stronger laws is the California Licensing Act, which carries a range of criminal penalties for violations of state tax laws, including graduated fines and potential imprisonment.[37] The ability of local governments to adopt tobacco retailer licensing laws, or to place conditions on retailers within local licensing laws,

depends on the amount of authority given by the state to the local government. It is important to consult with legal counsel before including any of the following components in a retailer licensing law. If local authority is sufficient, tobacco retailer licensing laws should include at least the following requirements:[37]

- **Require all tobacco retailers to obtain a license and renew it annually.**
  Annual license records can give the state or community important data on the retail environment. An annual renewal process makes it is easier to change provisions as the tobacco industry changes its tactics at the point of sale, or as a state or community solidifies its tobacco control goals.

- **Make sure that violation of any federal, state, or local tobacco control law is also a violation of the license.**
  The FDA places limits on the sale, distribution, and promotion of certain tobacco products as part of the Tobacco Control Act. These limits include restrictions on the sale of single cigarettes, commonly known as "loosies," and prohibitions on selling cigarettes or smokeless tobacco products through vending machines or self-service displays.[38] Adopting these same restrictions—at a minimum—at the state and local level helps with local enforcement. Requirements should be clearly stated, with graduated fines for each violation.

- **Authorize the license to be suspended or revoked for any violation and name a dedicated enforcement agency.**
  The threat of lost revenue from being unable to sell tobacco products increases retailers' motivation to comply with existing federal, state, and local laws, including the licensing law. Law enforcement agencies, public health departments, or code enforcement departments can be responsible for administering licenses and enforcing licensing laws.[37] Penalties for violations of the licensing law can include monetary fines or license suspension and/or revocation.

- **Impose a license fee based on a reasonable estimate of all the costs of administration, implementation, and enforcement of the license.**
  At the local level, most fees range from $150 to $400 annually.[37] Unjustifiably high fees may prompt litigation, so fees should be based on the community's administration costs to implement and enforce its licensing program.

Licensing laws also can be used to place conditions on retailers that sell tobacco products, such as the strategies described later in this guide, which include restrictions on:

- **The use of coupons and two-for-one deals and the provision of free samples.**
  These "consumer-based pull strategies" are used by the tobacco industry to maximize sales and increase consumption.[39]

- **The sale of flavored tobacco products.**
  Flavored tobacco products are appealing to youth and are often incorrectly presumed to be safer than non-flavored tobacco products. The Tobacco Control Act made all flavored cigarettes except menthols illegal in September 2009. However, other flavored non-cigarette tobacco products are still commonly sold.[40] New York City passed an ordinance to restrict the sale of flavored tobacco products in 2009. The U.S. Court of Appeals for the Second Circuit upheld the ordinance in February 2013.[41] Providence, Rhode Island, also restricted the sale of flavored tobacco products by building upon the city's existing licensing law. The law went into effect in January 2013 after being upheld by a U.S. District Court.[42] It was later upheld by the U.S. Court of Appeals for the First Circuit.

- **The use of vending machines and self-service displays.**
  The Tobacco Control Act prohibits self-service displays for cigarettes and smokeless tobacco and the sale of these products through vending machines, except in adult-only locations. Replicating self-service display restrictions for these and non-cigarette tobacco products (*e.g.*, cigars and pipe tobacco) at the local level will give state and local governments more options to enforce the federal laws and reduce youth access to all products.

- **The types of retailers allowed to sell tobacco products.**
  Prohibiting pharmacies and other health care institutions from selling tobacco can help support their roles as health care service providers. Some communities are also considering restricting other types of retailers. Currently, 80 localities in Massachusetts have laws prohibiting tobacco product sales in health care institutions.[43]

- **The location of retailers near schools, child care centers, or other places youth visit.**
  Prohibiting tobacco retailers near places youth visit reduces tobacco retailer density[44,45] and limits the availability of and exposure to tobacco products. This could help reduce youth smoking rates.[34]

ZONING LAWS AND CONDITIONAL USE PERMITS (CUPS)

Zoning is the use of a community's police power to regulate activities within a local community by areas, called zones, and can play an important role in tobacco control. It is used almost exclusively by local governments.[46] Use-based codes are the most common types of zoning codes and determine what can be built, where certain uses are allowed, and what activities can take place.[47] For example, residential, commercial, industrial, or agricultural zones tell us where people can live, shop, manufacture, and farm within a community.[48] Use-based codes typically include detailed information on the uses that are allowed or prohibited in certain zones. For instance, an area that is zoned for residential use may prohibit firearms dealers

Effect of Zoning Laws on Existing Retailers

When changes in licensing requirements occur, local governments may decide to allow existing businesses to continue operating as they had before, resulting in more gradual change. Zoning laws, however, can sometimes offer other ways to address existing businesses when changing the point-of-sale landscape. Approaches that can be used with tobacco retailers in areas with zoning changes include:

- **Legal nonconforming use**
  Also known as "grandfathering," legal nonconforming use allows existing businesses to keep operating as they had before the new land use regulation. However, these businesses can be restricted from expanding, changing, or transferring ownership unless they obtain a conditional use permit. Over time, these retailers would be eliminated through attrition (*i.e.*, the gradual reduction in retailers that results from the restrictions).

- **Deemed approved status**
  This strategy lets an existing business that is in an otherwise unlawful location to continue to stay in business, as long as it complies with some regulatory requirements. Like a conditional use permit, a retailer's ability to continue to operate is tied to its compliance with specific conditions (*e.g.*, restrictions on the hours during which tobacco products can be sold).[48]

- **Amortization**
  When referring to land use, amortization is the payment of a financial obligation over time. In some circumstances, governments may have to compensate property owners if the use of the land is changed (*e.g.*, tobacco products can no longer be sold). Instead of "buying out" the business and closing it at once, a period of time is set (usually several years) during which the business can stay open to recoup part of its investment or conform to the new zoning regulation. Because amortization often prompts litigation, it is unpopular, expensive, and rarely used.[49]

Which Mechanism Can be Used—Licensing or Zoning?

Feature of Regulation	Zoning	Licensing
Applies to a specific parcel of land	✓	
Controls location	✓	✓
Controls density or number of uses	✓	✓
Controls the individualized design of sites and buildings	✓	
Imposes operational standards	✓	✓
Applies to existing businesses and future businesses	✓*	✓
Grants privileges that apply for a defined period of time		✓
Requires regular enforcement; fees may be charged	✓**	✓

*Legally possible but politically and practically difficult, especially when applied to existing businesses
**Enforcement will be required if CUPs or other conditions are imposed

Source: ChangeLab Solutions Report[50]

and adult entertainment businesses from operating within its boundaries.

Certain uses can be permitted, prohibited, or subject to conditional use. Conditional use permits (CUPs) are special use permits that traditionally specify the conditions that a business must meet to operate in an area where it may not normally be allowed. When CUPs are combined with zoning, they allow local governments to make individualized decisions about whether a proposed business should be allowed in a neighborhood.[51] For example, a community might have an existing zoning ordinance that prohibits the sale of tobacco products within 1,000 feet of schools, parks, or libraries. But this ordinance could contain a loophole that allowed a tobacco retailer to open next door to a Boys and Girls Club or other non-school youth club. If CUPs are required for all tobacco retailers in that community, an application for a retailer near a Boys and Girls Club could be denied on an individual basis because youth would be nearby.

CUPs allow for tailored restrictions to reduce negative impacts that certain businesses might have on the surrounding area.[49] These restrictions can be developed to support other tobacco control policies related to youth tobacco access laws, including the Tobacco Control Act's restrictions on tobacco sales to youth.[17,48] CUPs can also require tobacco retailers to submit a plan or checklist that shows they intend to comply with local tobacco control regulations.

Zoning requirements and CUPs can play an important role in tobacco control by:

- Requiring that tobacco retailers conduct business only within specific zones or under certain conditions;
- Restricting tobacco retailers from conducting business in areas where tobacco product sales are not appropriate (*e.g.*, a residential area or near places youth visit); and
- Limiting the number of tobacco retailers by prohibiting new stores from opening in a particular zone.[52]

General sign codes (*i.e.*, a set of laws that governs how businesses can post signs) that can be implemented through a zoning system may limit point-of-sale advertising and impact tobacco control efforts. A coalition in St. Paul, Minnesota, made up of people supporting varying causes (*e.g.*, public health, neighborhood beautification, and community safety) successfully advocated for changes to the County's sign code to limit all outdoor and outward-facing indoor ads, regardless of content, to no more than 25% of a retailer's window space.[53] (See page 39 for a case study on St. Paul, Minnesota's content-neutral sign code.)

Tobacco control advocates can take the following steps to begin work on licensing or zoning strategies:

- Identify potential partners, advocates, legal advisors, and researchers from the community;
- Decide if licensing or zoning strategies will work with existing regulations and local policy goals;
- Collect data on local tobacco retailer location and density;
- Create maps illustrating the local situation;
- Assess the costs of starting a licensing program; and
- Consider setting license fees at a level that will cover the costs of enforcing the program.[52]

In a municipal or county zoning code, descriptions of zones include maps showing the boundaries of each zone. Mapping and using Geographic Information Systems (GIS) is common practice in city and regional planning, but may be less familiar to tobacco control partners. Acquiring partners with GIS knowledge, or developing those skills internally, can be helpful when developing, implementing, and evaluating licensing and zoning policies.

At-a-Glance: Reforming the "Corner Store"

Reducing the presence of tobacco retailers is part of a broader effort to create healthier communities, so it is valuable to look for partners outside of tobacco control. Nationally, there is a growing interest in reforming the "corner store," which is often a main source of tobacco, alcohol, and unhealthy foods in urban areas.[46] The flexibility of retailer licensing and conditional use permits allows governments to attach a range of conditions, such as requiring outdoor lighting to improve neighborhood safety or requiring stores to stock fresh fruits and vegetables. In San Francisco, the nonprofit group Literacy for Environmental Justice started the Good Neighbor Program, which offers incentives to local corner stores to make their businesses healthier. In exchange for energy-efficient building improvements, local advertising, and business training, retailers must replace alcohol and tobacco products with fresh produce and healthy, affordable foods. They also agree to reduce tobacco and alcohol advertising in their stores.[54]

Partners should explore ways to coordinate efforts or develop integrated approaches to improve the "corner store" or convenience store retail environment. Developing a coalition of local groups interested in promoting neighborhood beauty, health, and safety can be an effective way to build support for tobacco control policies.

Legal Considerations for Point-of-Sale Strategies

Policies that affect the tobacco retail environment are often opposed by tobacco retailers, retail associations, and the tobacco industry. Industry allies will likely try to delay, weaken, or block the passage of retail tobacco laws.[55] This section summarizes common legal arguments related to point-of-sale strategies. It is not intended to be comprehensive or to be used as a substitute for legal advice. Policy language should always be drafted carefully and in consultation with legal experts.

The tobacco industry and retailers are likely to challenge policies in the retail environment based on any or all of the following four legal principles:

- Takings;
- Preemption;
- First Amendment compelled speech; and
- First Amendment restricted speech.

TAKINGS

The Fifth Amendment states that "private property [shall not] be taken for public use, without just compensation."[56] Traditionally, this concept only referred to the government's physical taking of private property. However, it has been extended by the courts to include protection against reduced economic benefits or value derived from a property, known as a "regulatory taking."[57] To determine if a regulatory taking has occurred, courts weigh the economic impact on the property owner against the purpose of the governmental action (*e.g.*, Does it deprive a business owner of all economic use of the property? Is it in response to an important public health issue?). Some states have adopted additional provisions and regulations addressing the use and/or regulation of private property. These are often more protective of property rights than the federal Takings Clause.[57]

Tobacco control advocates should be aware of common economic arguments against regulatory takings. Private businesses facing restrictions on the sale of tobacco products may argue that their businesses will suffer because of decreased patronage and revenue. In fact, economic studies have shown the opposite is true.[55,58] It is helpful to be familiar with state and local laws and ways in which past legal challenges about the Takings Clause have been addressed. Whether a restriction on retailers violates the Takings Clause depends on the specific law and how it affects the business challenging the law.

PREEMPTION

Preemption is a doctrine based on the Supremacy Clause of the U.S. Constitution.[48,59] It creates a hierarchy for laws that might conflict with each other. 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 particular law.

Federal law does not preempt state or local governments from regulating the number, placement, or type of tobacco retailers, nor does it preempt state or local sales restrictions or licensing laws. Most state tobacco retailer licensing laws do not preempt local governments from simply licensing retailers. But other state laws may preempt some of the conditions a local government wants to include in its licensing law. For example, Pennsylvania prohibits its local communities from restricting youth access further than restricted by state law.[60] Existing state laws may also preempt certain types of land use regulation. For example, Minnesota preempts counties from closing an existing retailer through amortization.[61]

Tobacco control partners should conduct careful and thorough research, as well as seek legal consultation, to understand how point-of-sale policies may interact with existing laws. Federal law partially preempts state and local governments from restricting cigarette advertising. The Tobacco Control Act amended FCLAA so that states and communities can now restrict the time, place, and manner of advertising. But FCLAA still preempts states and communities from restricting the content

of advertisements, such as restrictions on the specific words or images used in cigarette advertising.[62] Though the amendment expanded the authority of state and local governments, it left ambiguity about the scope of their authority. Because FCLAA only regulates cigarette advertising, a law related to non-cigarette tobacco product advertising may face fewer legal challenges on federal preemption grounds. However, states can preempt local advertising laws. As of 2010, as many as 18 states preempted local advertising restrictions.[63] Communities should seek legal assistance to understand how preemption may affect their policy approaches.

FIRST AMENDMENT COMPELLED SPEECH

The First Amendment compelled speech doctrine restricts the government's ability to force an individual speak a message. Potential lawsuits in reaction to required countermarketing might claim that retailers are being forced to advertise against themselves (*i.e.*, tell their customers not to buy their products).[64] Tobacco control advocates can prepare for this challenge by requiring that retailers not display cessation and prevention message signs directly on or tie them to tobacco advertising. Messages should also be factual and clearly identified as coming from the government, not from the retailer or manufacturer. These strategies may protect cessation and prevention messaging policies from violating the First Amendment and should be discussed with an attorney.

FIRST AMENDMENT COMMERCIAL SPEECH

When crafting policies, partners should be careful that their point-of-sale strategies do not violate First Amendment protections of commercial speech. Commercial speech is defined as "expression related solely to the economic interests of the speaker and its audience."[62] Product advertising, branding, and logos are types of commercial speech. Commercial speech has notable First Amendment protections based on court decisions over the past 30 years.[65] Any effort to restrict advertising should respect those protections. When designing a law, tobacco control staff can use a legal precedent called the *Central Hudson* test to help understand how a court might analyze the constitutionality of a law that places targeted restrictions on tobacco advertisements. The court will generally ask four questions when reviewing a law restricting commercial speech:[62,65-67]

- **Does the advertisement refer to unlawful activity or is it misleading?**
  If yes, the law restricting the advertisement will generally be found valid and the analysis will stop here. If the ad is discussing lawful activity in a non-misleading way, the court's analysis will continue.
- **What is the government's reason for restricting the advertisement?**
  If the government does not have a strong, legitimate reason (a "substantial interest"), the law will be found unconstitutional. If the government is able to make a strong case for why it wants to restrict commercial speech, the court's analysis will continue.
- **Does the restriction directly advance the government's interest?**
  If the law does not achieve reductions in tobacco use or harmful youth exposure to tobacco advertising, the law will be found unconstitutional.
- **Does the law restrict more commercial speech than necessary to achieve the government's interest?**
  If the law is too broad and restricts more speech than necessary to accomplish its goal, it might be found unconstitutional. If the law is tailored to

restrict only the forms of speech that achieve its goal, without affecting other aspects of speech that are unrelated to its goal, the law should be upheld.

Though the *Central Hudson* test is considered the standard for commercial speech protection, tobacco control partners must consult with legal counsel about any new standards the courts may apply. Recent cases interpreting the First Amendment like *Sorrell v. IMS Health* may lead the industry and its allies to argue that heightened judicial scrutiny (*i.e.*, a more rigorous test) is called for.[68] Tobacco control partners can strengthen their case for a restriction by:[62]

- Documenting the problem the law is meant to address;
- Analyzing the law's impact on commercial speech;
- Providing a clear statement of the government's goal;
- Indicating clearly that the law directly advances the government's stated goal;
- Justifying why that action must be taken instead of alternatives or why alternate measures have not worked; and
- Making sure that the law does not limit speech more than is necessary to achieve its goal.

Types of Point-of-Sale Strategies

The mechanisms on page 7 and legal considerations on page 12 can help guide communities when considering the following point-of-sale strategies:

1. Reducing (or restricting) the number, location, density, and types of tobacco retail outlets;
2. Increasing the cost of tobacco products through non-tax approaches;
3. Implementing prevention and cessation messaging;
4. Restricting point-of-sale advertising;
5. Restricting product placement; and
6. Other point-of-sale strategies.

LEGAL FEASIBILITY

The legal feasibility of the strategies discussed in this section varies greatly. Below, we assess a wide range of policies using a 'Red-Yellow-Green Light' categorization system like the one introduced by ChangeLab Solutions and the Center for Tobacco Policy & Organizing in 2010.[69] This classification system is not perfect, but helps explain the general legal feasibility of these strategies. Communities that are just beginning to work on interventions in the retail environment should consider starting with 'Green Light Interventions,' or strategies that have successfully been implemented in other communities and are generally thought to be legally sound. These interventions are the least likely to draw legal challenges. States and communities that have already worked on 'Green Light Interventions' can consider 'Yellow Light Interventions.' These interventions have not been widely tested and are more likely to trigger lawsuits, but some communities have had success implementing them. 'Red Light Interventions' are much more complex, and pursuing them is not recommended at this time. Other strategies are considered 'Exploratory' because they have potential, but generally have not been tested by many communities. The extent to which these interventions

would encounter legal challenges is unknown. As always, communities should consult an attorney at the beginning of policy work to understand the legal environment and to make sure that drafted laws are as legally sound as possible.[69] The feasibility rankings below do not take into account any state preemption of local policy making.

GREEN LIGHT YELLOW LIGHT RED LIGHT EXPLORATORY

1 REDUCING (OR RESTRICTING) THE NUMBER, LOCATION, DENSITY, AND TYPES OF TOBACCO RETAIL OUTLETS

The presence of tobacco retail outlets is unrestricted in most communities, making tobacco products easily accessible, particularly in low-income and minority neighborhoods.[70] Many studies show that greater tobacco retail outlet density is related to increased youth and adult tobacco use.[11,70] Smoking rates are higher among students in schools located in areas with greater tobacco retail density compared with students in schools without any tobacco retailers nearby.[23] The perception that cigarettes are easily available strongly predicts youth experimentation.[70,71] Tobacco retailers located near schools with high smoking rates generally have lower cigarette prices, fewer government-sponsored health warnings, and more in-store tobacco product promotions.[23] The Institute of Medicine recommends that governments develop and implement ways to restrict the impact of tobacco in the retail environment.[38] Strategies to regulate tobacco retailer presence include:

1a Establishing a licensing system with fees or increasing licensing fees

Examples include: 1) requiring each tobacco retailer to register with the department of revenue or the local health department and pay an annual licensing fee that covers administration costs; or 2) increasing the fees for the government's current retailer licensing system to an adequate level to administer its program.

Important considerations: Although tobacco retailer licensing can be a mechanism to implement other strategies, it can also be considered a strategy. A policy creating or increasing licensing fees can reduce retailer density if retailers who violate the terms of the license have their license suspended or revoked. Licensing fees have the added benefit of generating revenue that can be used to enforce the requirements of the licensing ordinance, such as compliance with all local, state, and federal laws. Some communities prohibit retailers from displaying tobacco advertisements while they have suspended or revoked licenses. This protects the community from exposure to tobacco in stores that cannot sell tobacco products.

1b Reducing the number of tobacco retail outlets

Examples include: 1) capping the number of retailers at the current number; 2) limiting the number of retailers based on population density; or 3) allowing only one new retailer into a city for every two that go out of business.

Important considerations: If used alone, this approach could reduce density, but it could also transfer density problems to other areas if retailers move their businesses to locations where density had been low before.

1c Restricting the location of tobacco retail outlets

Examples include: 1) prohibiting sales within 1,000 feet of places youth visit (*e.g.*, schools, parks, and libraries); or 2) barring tobacco product sales in certain zoning districts (*e.g.*, residential zones).

Important considerations: Although this approach could reduce retailer density in certain areas, it could also increase density in other areas by forcing retailers to move. It is important to carefully consider how restrictions may affect existing retailers.

1d Requiring a minimum distance between tobacco retail outlets

Example: Prohibiting new tobacco retailers from operating within a certain distance of existing tobacco retailers (*e.g.*, 500 feet).

Important considerations: This approach would directly reduce tobacco retailer density as well as reduce the overall number of tobacco retailers if the requirement meant not enough suitable business locations were available.

1e Prohibiting the sale of tobacco products at certain types of establishments

Examples include: 1) restricting tobacco product sales in bars, restaurants, pharmacies, or on college campuses; or 2) prohibiting sales of tobacco products in businesses that allow smoking on site.[72]

Important considerations: This approach would directly reduce tobacco retailer density and could decrease the social acceptability of tobacco use. Reducing the presence of tobacco products, specifically in health-related locations such as pharmacies, enables health professionals to better promote wellness.[73] This policy can be implemented through licensing, zoning, or stand-alone ordinances. Communities that have successfully prohibited tobacco product sales in pharmacies have done so with few legal challenges.[43,73]

1f Limiting the number of hours or days when tobacco products can be sold

Example: Prohibiting tobacco product sales during the hours or days when youth are more likely to be present.

Important considerations: This approach, though largely untested, could reduce youth access and exposure to tobacco products if retailers were only allowed to sell tobacco products during school hours or after a local curfew. Limiting access could reduce youth experimentation and established tobacco use, and limiting exposure could change the social acceptability of tobacco use.

2 INCREASING THE COST OF TOBACCO PRODUCTS THROUGH NON-TAX APPROACHES

Research has shown that when price cuts are offered and advertised where tobacco products are displayed, sales increase by as much as 30%.[23] Increasing the cost of tobacco products, thus making them less affordable, has been shown to decrease smoking rates.[74,75] Low-income smokers and youth are the most price-sensitive consumers. By increasing the price of tobacco products, communities can reduce tobacco-related disparities.[76] Non-tax approaches can be combined with tax increases to help preserve the product price that excise taxes are intended to achieve. In communities where tax increases are not feasible, tobacco control partners can raise the price of tobacco products by implementing non-tax approaches. State governments have the authority to pass, implement, and enforce laws about the sale and price of tobacco products. However, states often preempt local governments from implementing or enforcing pricing requirements. This preemption can be overridden by a state action directly giving that authority to local units of government.[77] Non-tax policy approaches include:

2a Establishing minimum price laws

Examples include: 1) Requiring that a minimum percentage markup be added to the wholesale and/or retail price of cigarettes; or 2) establishing a set price for each type of product, regardless of brand.

Important considerations: Most minimum price laws now in place are ineffective for tobacco control because they allow for tobacco industry discounts.[22]

For minimum price laws to be effective, they should specifically exclude trade discounts when setting minimum price.[78] Minimum prices can also be set at much higher specific amounts and tied to inflation.

2b Prohibiting price discounting

G

Example: Prohibiting cents-off or dollars-off discounts, coupon redemption, buy-one-get-one-free deals, and/or multi-pack discounts (*e.g.*, two-for-one deals) for all tobacco products.[22]

Important considerations: A policy that prohibits tobacco industry discounting schemes could reduce tobacco use, particularly in low-income individuals and youth, who are among the most price-sensitive shoppers.[79] But any policy restricting tobacco product price discounts will likely be challenged under the First Amendment and, if the law applies to cigarettes, under FCLAA. Attorneys can help craft restrictions that relate to the discounting activity itself and do not address or change the content of any advertisements. Price-discounting can be prohibited by amending an existing tobacco retailer licensing ordinance or by enacting a new stand-alone ordinance.

2c Restricting sale based on pack size for non-cigarette tobacco products

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Example: Requiring that cheap cigars be sold in packages of at least four or that little cigars be sold in packages of at least 20.

Important considerations: States and many communities have the authority to pass sales restrictions. These policies do not set requirements on manufacturers, just retailers, so it is important to make sure that they are not mischaracterized as requirements about the manufacture or packaging of the products themselves.

2d Implementing mitigation fees

E

Example: Placing a fee on each pack of cigarettes sold to cover the costs the government incurs as a result of improperly discarded cigarette butts. These include the costs of litter clean up, extinguishing wildfires, and implementing environmental protection programs.

Important considerations: Fees should be tied to costs that are supported by data and related to a problem that the law is trying to lessen. In some states, these fees cannot be imposed. Tobacco control partners should check whether state laws limit either state or local governments from imposing mitigation fees.

2e Implementing sunshine or disclosure laws

E

Example: Requiring that tobacco companies disclose payments and incentives made to retailers in exchange for offering price-discounting promotions.

Important considerations: A disclosure policy would be helpful in assessing the use of price-discounting schemes in communities that are starting to work on point-of-sale policies. However, state laws on data practices might limit the ways in which this data can be used. Other state laws might preempt local governments' authority to require this information. If so, it may be possible to amend those state laws.

3 IMPLEMENTING PREVENTION AND CESSATION MESSAGING

The 2007 Institute of Medicine report, *Ending the Tobacco Problem: A Blueprint for the Nation,* recommends requiring tobacco retailers to display and distribute health warnings and cessation signs.[80] Just as tobacco companies use the retail setting to advertise their products, tobacco control partners can use the retail setting to implement health warnings and cessation message signs. These warnings educate consumers about the health effects of tobacco use.[80] These signs are similar to countermarketing campaigns on television, billboards, and tobacco product packages in that they use text and/or graphic images to give information on the health effects of tobacco use. They also often include information about cessation services that encourages users to quit. Prevention and cessation message signs can include:

- Graphic images depicting the harmful consequences of tobacco use;
- Factual statements by the government;
- Text stating that the warning sign is produced by the government; and
- Promotion of a cessation service, such as a quitline telephone number.

New York City's Board of Health adopted and implemented a resolution in 2009 requiring tobacco retailers to display signs with graphic health messages and a quitline number near tobacco product displays and cash registers. The policy was in effect for less than a year when a trial court voided the law after the tobacco industry sued the city (refer to page 21 At-a-Glance for more information). A study found that during the law's short implementation, awareness of health warning signs more than doubled and thoughts about quitting smoking increased by 11%.[81]

Requiring graphic point-of-sale prevention and cessation messages is too new to have developed a broad evidence base. However, the findings from New York City's experience, along with the effectiveness of television and radio countermarketing campaigns, suggest that prevention and cessation message signs are likely to have positive impacts. Research shows that smokers know little about tobacco-related illnesses other than lung cancer.[15] Smokers also underestimate their personal risk of developing lung cancer and other tobacco-related illnesses.[82] Prevention and cessation signs can help counter this lack of knowledge and low perception of risk, thus reducing tobacco use and initiation and encouraging quit attempts.

Telephone-based cessation services, or quitlines, are also an effective intervention for smoking cessation. Easy accessibility to quitlines is a key reason for their success and is especially helpful for smokers who have limited mobility and those who live in rural areas.[83] Quitlines are also used by tobacco users of ethnic minority backgrounds—populations who are underrepresented in traditional cessation services.[83] Requiring that tobacco retailers post a quitline number at the point of sale is a cost-effective way to increase awareness of cessation services.[84,85]

Requiring prevention and cessation messaging at certain establishments where tobacco or nicotine products are bought and consumed (*e.g.*, hookah or water pipe smoking lounges and vaping or e-cigarette lounges) would also raise awareness of cessation services and of the health concerns associated with using these products. Studies recommend that hookah pipes and hookah tobacco carry strong health warnings.[86] Although awareness of the health risks of traditional tobacco products has increased, there are still many misconceptions about the risks of these emerging products. Hookah has gained in popularity, especially among 18 to 24 year-olds.[87] Studies have shown that hookah smokers generally believe that hookah tobacco is less harmful than cigarettes.[87] Prevention signs should help correct this common misunderstanding, stating that the products consumed are not proven to be safe alternatives to cigarettes.[88] Hookah smoking has health risks similar to cigarette smoking. Because hookah smokers inhale over a longer period of time, they actually inhale the smoke content of 100 or more cigarettes in one session.[87] Hookah users are also at risk for infectious diseases because the mouthpiece used for smoking is usually shared by a group of individuals.[87]

Communities that are ready to work on more untested policies could consider well-crafted regulations that require graphic health message signs and cessation information in the retail environment. Images showing smoking as threatening to survival evoke a strong emotional response, grab attention, and discourage smoking.[89] If successful, a policy requiring graphic health message signs and cessation information could positively affect public health by discouraging initiation and prompting thoughts about quitting.[90]

Important Components of Graphic Health Message Signs

Laws implementing graphic health message signs should require:

- Signs in all places where tobacco products are sold;[80]
- Clear statements that the signs are produced and edited by the government;[91]
- Only factual statements and images;[91]
- Information about the signs' purpose, such as: 1) to protect citizens' health; and 2) to reveal the potential for consumers to be deceived or harmed without the proper factual warnings;[67]
- Information about the negative health effects of tobacco use, including those that fewer people know about;[2,62]
- Emotionally compelling negative images illustrating the health effects of tobacco use;[18,91] and
- Information on resources available to help users quit and reasons to seek help,[80] such as a quitline number that is shared by using informative statements (*e.g.*, "To quit smoking, call 555-5555"), not commands (*e.g.*, "Quit smoking today. Call 555-5555").[91]

Strategies to implement prevention and cessation messaging interventions include:

3a Requiring the posting of quitline information in retail stores

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Example: Requiring that a quitline sign be posted on tobacco vending machines and in all locations selling tobacco products.[92] The sign could be printed in letters and numbers at least one-half inch high and display a toll-free phone number to help callers quit using tobacco products.

Important considerations: A policy that requires posting quitline information in retail stores is an inexpensive and visible way to share information about cessation services. Most tobacco users can access quitline services, including people in minority, low-income, and rural communities. Improving awareness about these services could increase cessation attempts and decrease tobacco-related disparities.

3b Requiring the posting of health warnings at hookah lounges

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Example: Requiring lounges that sell hookah for use on the premises to post signs warning that hookah tobacco is addictive and contains nicotine, and that hookah smoking puts users at risk for cancer, heart disease, lung disease, and infectious diseases like herpes, tuberculosis, and hepatitis.[93] As more research is published on effects of e-cigarette use and exposure, vaping lounges and similar venues could be included in this strategy.

Important considerations: Posting health warnings about hookah tobacco and smoking will combat the misconception that hookah is safer than cigarettes, while also reducing the spread of infectious diseases. These health warnings have the added benefit of targeting important audiences: 18 to 24 year-olds (a group that has rapidly increased hookah use) and ethnic minority groups such as Arabs and Arab Americans (groups that have traditionally smoked hookah).

FDA Required Warnings for Cigarette Packages and Advertisements

In 2011, the FDA adopted rules that would require larger, more prominent cigarette health warnings on all cigarette packaging and advertisements in the United States. These rules marked the first change in cigarette warnings in more than 25 years and were considered by the tobacco control community to be a significant advance in communicating the dangers of smoking. The final set of cigarette health warnings included nine different text warnings and color graphics designed to:

- Increase awareness of the specific health risks of smoking, such as death, addiction, lung disease, cancer, stroke, and heart disease;
- Encourage smokers to quit; and
- Empower youth to resist tobacco.[94]

Five tobacco companies filed a lawsuit against the federal government in August 2011, arguing that the warning labels violated the companies' constitutional right to free speech under the First Amendment.[33] The trial court sided with the tobacco companies. Using the *Central Hudson* test, the U.S. Court of Appeals for the D.C. Circuit affirmed this ruling in August 2012. The court stated that there was not enough evidence to show that the warnings would achieve the government's goal of reducing smoking initiation and encouraging cessation.[85] After the Court of Appeals denied the FDA's petition for a rehearing, the FDA indicated that it would not appeal to the U.S. Supreme Court. Instead, the FDA plans to explore other options and develop new warning labels based on evidence about their effectiveness.

Examples of the proposed cigarette graphic warning labels

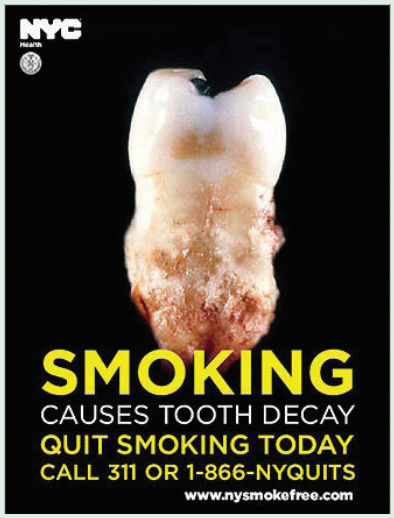
At-a-Glance: Graphic Health Message Signs in New York City

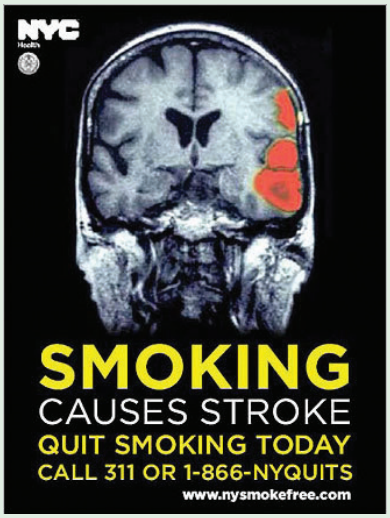
New York City was the first city in the U.S. to require that tobacco retailers display graphic health message signs. New York City's Board of Health passed this health regulation in September 2009. The health department developed signs to illustrate the negative health effects of smoking (*e.g.*, lung cancer, tooth decay, and brain damage) and give quitline information. Tobacco retailers were required to post the signs next to any tobacco products and near the cash register or point of sale. In June 2010, three tobacco companies, two tobacco retailers, and two trade associations sued the Board.

The trial court sided with the plaintiffs, ruling the regulation void based on FCLAA's 1969 preemption provision.[94] FCLAA already prohibited state and local governments from imposing warning requirements on cigarette packages; the 1969 provision also prohibited state or local requirements about cigarette advertising. This FCLAA provision made sure that warnings on cigarette packages and advertising were consistent. The court found that since only the federal government could impose health warnings on cigarette advertising and promotion, New York City had overstepped its authority.

The City appealed, but in July 2012 the U.S. Court of Appeals for the Second Circuit upheld the ruling.[94] This was not the outcome New York's tobacco control advocates expected. First, the regulation was a requirement on retailers, not the industry. Second, the 2009 Tobacco Control Act amended FCLAA so that advocates thought that even if FCLAA applied, this activity would still be allowed. The amendment to FCLAA allowed state and local governments to "enact statutes and promulgate regulations…imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes." The appeals court ruled that the New York City regulation addressed the content of cigarette promotion because the signs were required to be placed next to tobacco product displays. However, the court did not rule out other similar requirements.

New York's experience should not discourage tobacco control advocates from moving forward with retail strategies. A 2012 study found that after New York City implemented the signs, awareness of health warning signs more than doubled and thoughts about quitting smoking increased by 11%.[81] Other communities can learn from New York City's experience and be better prepared to defend against legal challenges.





New York City point-of-sale graphic health message signs

3c Requiring the posting of graphic health messages at the point of sale

Example: Requiring that all licensed tobacco retailers display graphic signs that include tobacco product information, details of the negative health effects of tobacco use, pictures illustrating those effects (*e.g.*, cancerous lungs and decaying teeth), and cessation resource information.[94]

Important considerations: Graphic health message signs in retailers are inexpensive to implement and reach both tobacco consumers and non-tobacco customers. This strategy is likely to be met with legal challenges. To date, no jurisdictions in the U.S. have successfully adopted point-of-sale graphic warning requirements. Communities that want to work on adopting graphic warning requirements should seek legal advice at the start of policy work. Tobacco control partners should collect and analyze community data and determine community readiness and support. These efforts can help build awareness and understanding of the importance of graphic health message signs.

4 RESTRICTING POINT-OF-SALE ADVERTISING

Studies have consistently shown a link between tobacco advertising and tobacco use.[3,4,95] Most notably, the National Cancer Institute's *Tobacco Control Monograph 19* concluded, "The total weight of evidence…demonstrates a causal relationship between tobacco advertising and promotion and increased tobacco use, as manifested by increased smoking initiation and increased per capita tobacco consumption in the population."[2]

Youth are at greater risk for exposure to tobacco advertising because tobacco ads are often placed at their eye-level or near candy, and 75% of teens visit a convenience store at least once a week. Greater exposure to tobacco advertising is linked to more favorable attitudes towards tobacco use and increased odds of smoking.[23,96,97] Research has found that tobacco advertising is greater in stores most visited by youth. Youth are also more likely to smoke the brand of cigarette most heavily advertised in the tobacco retailer nearest their school.[3,98] Furthermore, tobacco advertisements often show images that appeal to youth (*e.g.*, bold behavior, independence, adventure, social approval, good health, and sophistication).[23] This pervasive advertising promotes a perception that tobacco is accessible, acceptable, and popular, especially among young people.[57]

Point-of-sale advertising also negatively affects established tobacco users. Advertising has been found to encourage unplanned purchases of tobacco products, which undermines quit attempts by people trying to reduce or end their tobacco use.[5,59,99] One of the key strategies recommended in the 2008 *WHO MPOWER* report was to "enforce bans on tobacco advertising, promotion, and sponsorship."[30] Several countries have eliminated the negative influence of tobacco advertising in the retail environment by implementing restrictions as part of the WHO Framework Convention on Tobacco Control (FCTC), which requires participating countries to completely ban advertising.[30,100] International studies have found that these comprehensive advertising restrictions reduce tobacco use.[2,100-102]

Tobacco companies pay retailers for prime shelf space and work with retailers to post advertisements throughout stores. Tobacco companies predetermine the most effective way to display their products and often sign contracts with retailers that make sure their products will be promoted that way.[98] An assessment of tobacco retail advertising in New York State found an average of 18 tobacco ads per store, with even greater numbers in tobacco stores and combination gas and convenience stores.[103]

States and communities have several choices to limit the influence of tobacco advertising and promotion in the retail environment, including:

4a Implementing content-neutral advertising laws

Examples include: 1) restricting all window signs to no more than 30% of window space; or 2) amending a jurisdiction's sign code to reduce the window area that can be covered by temporary and permanent signs.

At-a-Glance: Tobacco Advertising in the Retailer Setting

Legal settlements prohibit posting advertisements of a certain size for cigarette or smokeless tobacco products sold by the primary tobacco companies.[20] The advertisements cannot be larger than 14 square feet. They also cannot form a single "mosaic" advertisement larger than 14 square feet.[20] However, many convenience stores have windows or walls covered by smaller ads placed side-by-side. Tobacco advertising at the point of sale takes a variety of forms, including:

- Exterior and interior;
- Permanent and temporary;
- Affixed (*e.g.*, neon signs; signs attached to a building by nails, screws, or brackets; and signs attached to poles cemented into the ground);
- Not affixed (*e.g.*, portable signs, free-standing signs, and sandwich boards);
- Functional (*e.g.*, gas pump toppers, trash cans, and store hour signs with brand logos); and
- Non-functional (*e.g.*, sandwich boards outside stores and advertising on windows).

Outward-facing interior sign

Affixed neon window sign

Interior advertisement

Sandwich board

Promotional offer display

Counter display

Gas pump topper

Interior advertisement

Important considerations: States and communities can widely restrict all types of advertising at once, without focusing on content (*i.e.*, not just tobacco advertisements). This is referred to as a "content-neutral" advertising restriction. This strategy is likely to face fewer legal challenges than any tobacco-specific advertising restrictions, as long as the intent behind it is truly neutral. It can also offer added benefits like increased visibility into store interiors for retailer safety (by freeing up window space) and improved neighborhood appearance.[67,104] Content-neutral advertising laws are likely to be supported by community groups with varying priorities, such as safety and neighborhood beautification. Most communities have sign code laws already in place. Tobacco control partners should check their local laws and find ways to either strengthen or enforce conditions of their communities' existing sign code ordinances.

4b Limiting the placement of tobacco retail advertising outside certain store locations

R *Example:* Limiting the placement of outdoor ads on stores within a certain distance from locations that youth visit, such as schools, playgrounds, or parks.[67]

Important considerations: Youth attitudes and beliefs about tobacco are influenced by their exposure to tobacco advertising.[105] Tobacco advertising normalizes cigarette use and non-cigarette tobacco products. Exposure to tobacco advertising can also influence young people's intention to start smoking.[105] Placing buffers around locations that youth visit could limit the amount of advertising youth are exposed to, which could decrease youth initiation.[45,67]

The Tobacco Control Act amended FCLAA to allow states and communities the authority to regulate the time, place, and manner, but not the content (*i.e.*, the specific words or images in the advertisements) of cigarette promotions and advertising. However, most strategies in this category are more legally challenging because of First Amendment commercial speech protections. Any strategies within this category should only be considered in communities working closely with legal counsel.

4c Limiting the times when tobacco retail advertising is allowed

R *Example:* Requiring retailers to remove or cover tobacco advertising with screens during certain times, particularly when youth are most likely to be present (*e.g.*, after school hours).[59,67]

Important considerations: See 4b.

4d Limiting the placement of tobacco retail advertising inside stores

R *Examples include:* 1) prohibiting tobacco advertising near the cash register; or 2) prohibiting tobacco advertising near product displays.

Important considerations: See 4b.

4e Limiting the manner of tobacco retail advertising

R *Example:* Banning certain types of tobacco advertisements (*e.g.*, outdoor sandwich board-style ads).[67]

Important considerations: See 4b.

5 RESTRICTING PRODUCT PLACEMENT

Besides advertising, tobacco companies rely on product placement to sell their products. Product displays influence youth purchase attempts,[106] encourage impulse purchases, and undermine cessation attempts.[99] According to tobacco industry documents, a product display includes "a portable… unit presented in open view, generally on retail setting counters, with the capacity to merchandise… packs, cartons, and promotional products for sale."[107] Product displays also include the area behind the counter where products are visible.

Youth exposure to product displays distorts their beliefs about the popularity of tobacco use and enhances brand imagery, which are both linked to increased risk of smoking initiation.[57,99] Research has found that the influence of product displays on initiation of and experimentation with tobacco use is similar to the influence of parental smoking.[108] These effects have been shown even in the absence of standard point-of-sale advertising, indicating that the influence of product displays cannot be entirely reduced by partial or total advertising restrictions.[57,99] In fact, product displays often become more prominent after passing advertising restrictions.[23]

In 2011, the tobacco industry spent about 9.1% of total spending (over $750 million) on product placement.[16] Tobacco companies often compete with each other for shelf space in tobacco retailers.[98] In return for financial incentives such as volume discounts and sales, the tobacco industry requires retailers to use branded shelving units and displays and follow explicit marketing plans that impose shelf space and brand location requirements.[23] Industry representatives often develop a diagram called a "planogram" that shows where retailers should place their products and advertising. When large numbers of tobacco product packages are placed side-by-side, they create a "power wall" that becomes a form of advertising.[57]

Several countries have ended the negative influence of product displays in retailers by instituting comprehensive restrictions on tobacco advertising, promotion, and sponsorship, including product displays.[28,98] In 2001, Iceland became the first country to prohibit product displays. Since then, Canada, Thailand, Ireland, Norway, and Australia have implemented similar laws.[57] Several other countries including Scotland and the U.K. have enacted display restrictions that are expected to be fully implemented soon.[77] Both Canada and Iceland have reported declines in youth smoking after implementing advertising and display restrictions.[57] As of 2013, six more countries have passed product display laws that are awaiting implementation.[109]

First Amendment protections and FCLAA's preemptive provisions may present significant challenges to implementing product display prohibitions in the U.S. In April 2012, the village of Haverstraw, New York, adopted the first-ever comprehensive product display law in the U.S. Before the law took effect, the New York Convenience Store Association and seven tobacco companies filed a federal lawsuit claiming that the law was an unconstitutional violation of their free-speech rights.[110] As a result, the village decided to withdraw the law. Communities in the U.S. that are considering comprehensive product display bans can expect similar legal challenges. Without more research, communities in the U.S. are not encouraged to try product display prohibitions at this time.

Approaches that limit the influence of tobacco product placement in the retail environment include:

5a Prohibiting self-service access to non-cigarette tobacco products

G

Example: Requiring cigars to be placed out of reach so that a store clerk must get the product for the consumer.

Important considerations: The Tobacco Control Act and FDA regulations prohibit self-service access to cigarettes and smokeless tobacco, except in adult-only locations. This restriction does not keep tobacco products out of view; it requires that cigarettes and smokeless products be stored behind the counter[17] and helps prevent shoplifting and youth access. Many communities have complemented the federal requirements by adding self-service restrictions for all tobacco products, not just cigarettes and smokeless tobacco. Replicating parts of the Tobacco Control Act also gives state and local governments the authority to enforce those laws and make stricter penalties for violations.

5b Limiting the times when tobacco products are displayed

R

Example: Requiring retailers to cover product displays with screens when youth are most likely to be present (*e.g.*, after school hours on weekdays).

Important considerations: The Tobacco Control Act amended FCLAA to allow states and communities the authority to regulate the time, place, and manner,

but not the content, of cigarette advertisements or promotions. However, this strategy may be legally challenging because no court has yet offered guidance on the scope of FCLAA or the First Amendment as they may relate to this specific intervention. This strategy should only be considered in close collaboration with legal counsel.

5c Restricting the number of products that can be displayed

R *Example:* Allowing retailers to display just one package of each product that is for sale, essentially eliminating power walls.

Important considerations: See 5b.

5d Prohibiting product displays

R *Example:* Requiring retailers to store tobacco products out of view of the consumer (*e.g.*, under the counter or behind opaque shelving).

Important considerations: To date, no U.S. jurisdiction has successfully enacted a partial or full product display restriction. The tobacco industry and retailers will likely oppose tobacco product display laws. Retailers, particularly convenience stores, may oppose these laws because of the they believe they will lose sales, as well as payments and incentives they receive from the tobacco industry to display products. However, it is important to consider that if consumers reduce tobacco purchases, they will likely spend their money on other products, supplementing tobacco retailers' income.[98] Although product display restrictions have been implemented in several countries, partners should know that the legal challenges of instituting product display restrictions are different in the U.S. Currently, these strategies are not recommended without more research.

6 OTHER POINT-OF-SALE STRATEGIES

As communities have passed more comprehensive tobacco control regulations, the industry has developed and promoted non-cigarette tobacco products, such as snus, candy-flavored cigarillos, and e-cigarettes. These products have helped tobacco companies keep their current customer base and attract new consumers. Many communities have started to enact other point-of-sale strategies to combat the industry's response to traditional tobacco control regulations. These other point-of-sale strategies are generally thought to be legally feasible and have varying effects. Strategies include:

6a Prohibiting the sale of flavored non-cigarette tobacco products

G *Example:* Amending a community's licensing law to prohibit licensed retailers from selling any tobacco product that has characterizing flavors.

Important considerations: New York City and Providence, Rhode Island, have both successfully enacted flavored sales restrictions. The tobacco industry uses flavored products to attract youth, who are more receptive to characterizing candy and fruit flavors.[111] By restricting the sale of flavored tobacco products, communities can reduce youth initiation.

6b Raising the minimum legal sale age (MLSA) to buy tobacco products

G *Examples include:* 1) restricting the sale or distribution of tobacco products to any person under 21 years of age; or 2) increasing the legal age to buy tobacco products to age 21, but leaving the legal age for possession or use at 18.[112]

Important considerations: In most states and communities, the MLSA for tobacco products is still 18, though a few places have increased the MLSA

to 19.[112] In 2013, New York City raised the MLSA to 21, making it the highest in the U.S.[113] Increasing the MLSA is expected to be an effective strategy for reducing or delaying tobacco use, leading to lower overall rates of tobacco use.[112]

6c Requiring that tobacco retail clerks meet the minimum legal sale age (MLSA)

G *Example:* Adding a provision to the tobacco retail licensing law that all clerks who sell tobacco products meet the local minimum legal sale age.

Important considerations: Young retail clerks may be a major source of tobacco products for their underage friends and peers. Increasing the age requirement for retail clerks to the MLSA would make it more difficult for youth to get tobacco products.[112]

6d Implementing stricter laws on the sale and use of commercial roll-your-own (RYO) tobacco

G *Examples include:* 1) prohibiting commercial RYO machines; or 2) increasing state or local taxes for RYO tobacco products.

Important considerations: The federal tax on cigarette tobacco has increased in recent years, but pipe tobacco is still taxed at a lower rate. Tobacco companies have rebranded RYO tobacco as pipe tobacco and sold it for use with high volume cigarette rolling machines. This practice has made RYO tobacco in cigarette form easy to obtain at much cheaper prices than mass-produced cigarettes.[114] Prohibiting commercial RYO machines, raising the tax on RYO tobacco, or both, will greatly reduce access to these cheaper products.

6e Including a "shame law" in the tobacco retailer licensing ordinance

G *Example:* Amending local licensing laws to suspend licenses of tobacco retailers who commit three licensing violations in a one-year period and to require them to display a highly visible sign for the rest of the suspension that reads: "This retailer has violated important public health laws regulating tobacco. Tobacco product sales are currently banned at this location."[115]

Important considerations: This strategy informs the public of retailers that do not comply with tobacco retail licensing laws and may persuade customers concerned about youth access and public health to shop elsewhere. A shame law may motivate licensed retailers to comply with licensing laws and could help protect youth from tobacco retailers who sell to minors.

6f Implementing a license incentive program

G *Example:* Giving an incentive to tobacco retailers that lowers the cost of their annual licensing fee if they meet certain requirements such as: 1) they have no violations in the last year; and 2) they use a cash register that reads the magnetic strip on drivers' licenses to verify age.

Important considerations: A license incentive could help motivate licensed retailers to comply with licensing laws and decrease youth access by modernizing the age-verification process.

6g Regulating the sale of e-cigarette and other nicotine-delivery systems

G *Examples include:* 1) Updating the definition of "tobacco products" in youth access laws to prohibit the sale of e-cigarettes to minors; 2) requiring licensing for e-cigarette sales; 3) prohibiting samples of e-cigarettes; or 4) prohibiting sales of flavored e-cigarettes.

Important considerations: The dangers of e-cigarette use and vapor exposure are not fully known. The FDA has yet to regulate e-cigarettes. In many states, e-cigarettes can be bought and used by youth, potentially leading them to try other tobacco products known to be harmful.[116]

Point-of-Sale Strategies Ranked by Legal Feasibility*

	Policy	Page #	Rating	Examples
1	REDUCING (OR RESTRICTING) THE NUMBER, LOCATION, DENSITY & TYPES OF TOBACCO RETAIL OUTLETS			
1a	Establishing a licensing system with fees or increasing licensing fees	15	G	At least 126 communities
1b	Reducing the number of tobacco retail outlets	15	G	Huntington Park, CA
1c	Restricting the location of tobacco retail outlets	15	G	Santa Clara, CA; Santa Barbara, CA; New Orleans, LA; Baldwin Park, CA
1d	Requiring a minimum distance between tobacco retail outlets	16	G	Santa Clara, CA
1e	Prohibiting the sale of tobacco products at certain types of establishments	16	G	San Francisco, CA; 80 MA localities
1f	Limiting the number of hours/days when tobacco products can be sold	16	Y	
2	INCREASING THE COST OF TOBACCO PRODUCTS THROUGH NON-TAX APPROACHES			
2a	Establishing minimum price laws	16	G	Over 25 states; New York, NY
2b	Prohibiting price discounting	17	G	Providence, RI; New York, NY
2c	Restricting sale based on pack size for non-cigarette tobacco products	17	G	Boston, MA; New York, NY; Many MA localities
2d	Implementing mitigation fees	17	E	San Francisco, CA
2e	Implementing sunshine or disclosure laws	17	E	
3	IMPLEMENTING PREVENTION AND CESSATION MESSAGING			
3a	Requiring the posting of quitline information in retail stores	19	G	Indiana; Boston, MA
3b	Requiring the posting of health warnings at hookah lounges	19	G	Suffolk, NY
3c	Requiring the posting of graphic health messages at the point of sale	22	Y	

G = Green Light or 'recommended' Y = Yellow Light or 'recommended with caution' R = Red Light or 'not recommended' E = Exploratory

*Feasibility at the local level will depend on state law

Point-of-Sale Strategies Ranked by Legal Feasibility*

	Policy	Page #	Rating	Examples
4	RESTRICTING POINT-OF-SALE ADVERTISING			
4a	Implementing content-neutral advertising laws	22	G	Ramsey County, MN; Henderson, NV; Milwaukee, WI
4b	Limiting the placement of tobacco retail advertising outside certain store locations	24	R	
4c	Limiting the times when tobacco retail advertising is allowed	24	R	
4d	Limiting the placement of tobacco retail advertising inside stores	24	R	
4e	Limiting the manner of tobacco retail advertising	24	R	
5	RESTRICTING PRODUCT PLACEMENT			
5a	Prohibiting self-service access to non-cigarette tobacco products	25	G	Bristol, MA; many states
5b	Limiting the times when tobacco products are displayed	25	R	
5c	Restricting the number of products that can be displayed	26	R	
5d	Prohibiting product displays	26	R	
6	OTHER POINT-OF-SALE STRATEGIES			
6a	Prohibiting the sale of flavored non-cigarette tobacco products	26	G	Maine; Providence, RI; New York, NY
6b	Raising the minimum legal sale age (MLSA) to buy tobacco products	26	G	Alabama; Alaska; New Jersey; Hawaii
6c	Requiring that tobacco retail clerks meet the minimum legal sale age (MLSA)	27	G	Alabama; Alaska; Utah
6d	Implementing stricter laws on the sale and use of commercial roll-your-own (RYO) tobacco	27	G	Vermont; Illinois
6e	Including a "shame law" in the tobacco retailer licensing ordinance	27	G	Sierra Madre, CA
6f	Implementing a licensing incentive program	27	G	Vista, CA
6g	Regulating the sale of e-cigarette and other nicotine-delivery systems	27	G	California; Minnesota; Tennessee; Wisconsin

G = Green Light or 'recommended' Y = Yellow Light or 'recommended with caution' R = Red Light or 'not recommended' E = Exploratory

*Feasibility at the local level will depend on state law

The Impact of Point-of-Sale Strategies on Specific Populations

THE EFFECT OF TARGETED MARKETING PRACTICES

The tobacco industry helped create and continues to sustain disparities in tobacco use and secondhand smoke exposure by targeting the marketing of its products, tailoring its advertising, and making its products readily available to specific populations.[117] When considering point-of-sale strategies, tobacco control partners should understand how these groups, particularly minority and low-income populations, are targeted by the industry's many activities and huge spending at the point of sale.

Example of tobacco industry targeted marketing

The density of tobacco retail outlets is higher in low-income census tracts and counties with large racial and ethnic minority populations.[13,118-120] These findings highlight important population disparity issues, especially given that low-income Americans are significantly more likely to smoke.[121] Policies that limit the density of tobacco retail outlets in all neighborhoods can reduce density disparities that influence advertising exposure, tobacco product availability, and tobacco use.[122] An analysis of the potential impact of a law eliminating tobacco retail outlets within 1,000 feet of schools in New York and Missouri showed that this type of policy could reduce or eliminate disparities in point-of-sale marketing and store density.[105]

WAYS TO COUNTER TARGETED MARKETING STRATEGIES

The tobacco industry directs coupons and price promotions at specific groups to influence purchases and use. Although pricing strategies can affect all consumers, studies have shown that the tobacco industry's discounts and multi-pack coupons are used most often by women, young people, African Americans, and other minority groups, regardless of income.[12] Smokers of menthol cigarettes and Camel brand cigarettes, most of whom are African Americans and young adults, are more likely to take advantage of discounts than users of other brands.[12] Non-tax pricing approaches such as coupon and pack size regulations and implementing or strengthening minimum price laws can help combat these tobacco industry tactics. State and local governments have the authority to explore tobacco pricing control, but should seek technical assistance to draft laws that can withstand legal challenges by the tobacco industry.[123]

Just as tobacco companies market coupons to low-income and minority groups, tobacco control partners can direct prevention and cessation messaging toward these groups. If health promotion efforts do not consider high risk groups, they can actually increase disparities by delivering messages that do not resonate or that are difficult to act on.[47] As mentioned earlier, prevention and cessation message signs in the retail environment that are required by a government entity, and include negative images,

Example of tobacco industry targeted marketing

should also include factual statements, text stating that the signs are produced by the government, and information about how to access cessation services. When designed correctly, signs can improve access to health information among low-income and minority populations, including non-English speakers and persons with low reading ability.[124]

Tobacco product retail advertising is often concentrated in low-income and minority communities.[98,125] In Boston, high-income neighborhoods have much less retail advertising than low-income neighborhoods.[65,125] More point-of-sale advertising has been found in African American, Asian American, and Hispanic American neighborhoods.[117,126] The tobacco industry also advertises particular products to certain demographic groups. For instance, advertisements for menthol products are more common in African American and other minority neighborhoods.[117,125-128] According to a 2011 report by the FDA Tobacco Products Scientific Advisory Committee (TPSAC), this targeted marketing has played a large role in menthol use by minority (particularly minority youth) and low-income populations.[129] Based on findings about the public health impact of menthol, TPSAC recommended the removal of menthol cigarettes from the market.[129] In 2009, the Tobacco Control Act banned all flavored cigarettes except menthol,[32] leaving this disparity in place. Many young consumers have shifted to using the industry's many other types of flavored non-cigarette tobacco products. By regulating these flavored non-cigarette tobacco products, communities can address the disparities that have increased because of the industry's youth-targeted marketing.

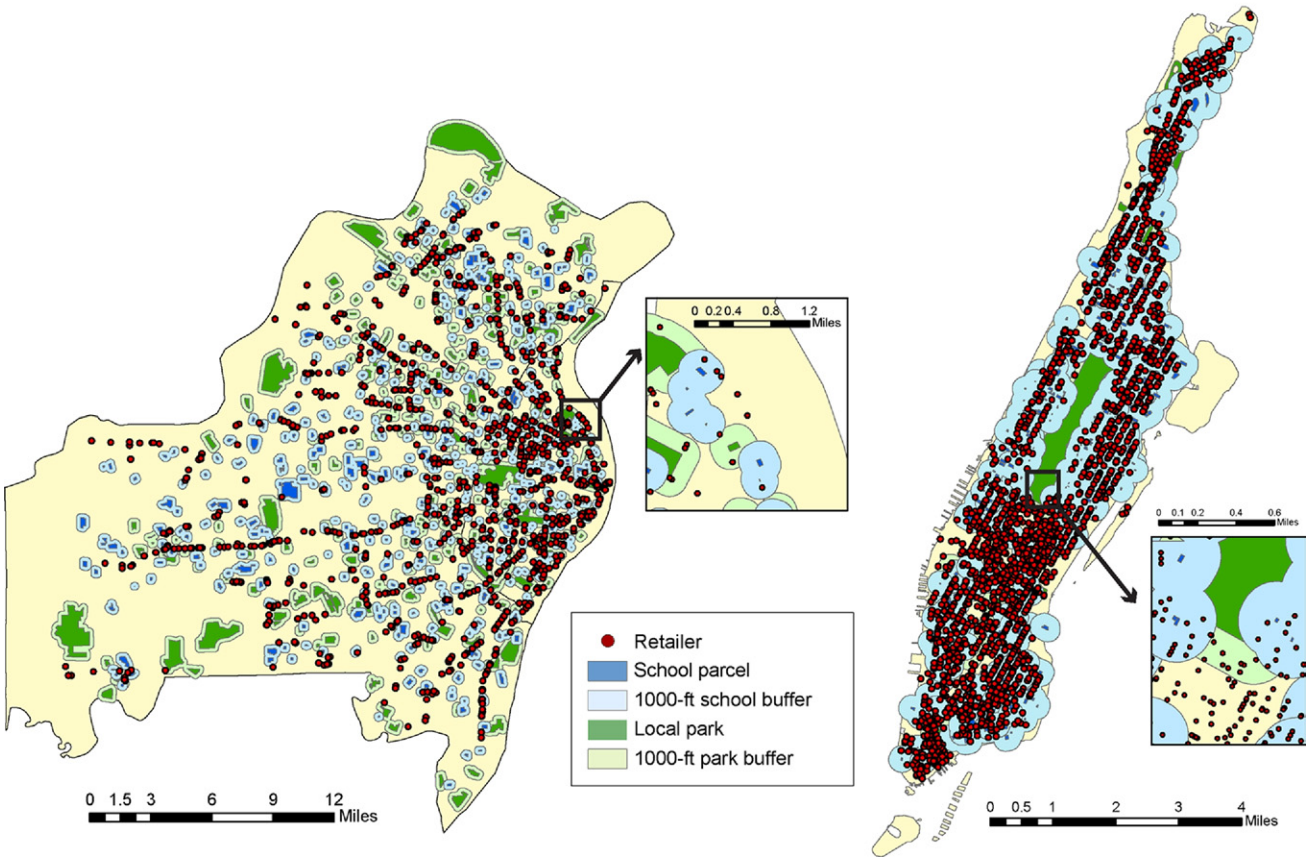
Tobacco product displays also encourage tobacco use among adults and children. Youth exposed to tobacco product displays are more likely to recognize tobacco product brands, feel that using tobacco products is normal, and start smoking.[112] As with advertising, the tobacco industry gives menthol products more shelf space to make sure that those products stay more visible in minority communities.[129,130] Though there are substantial legal feasibility concerns in the U.S., banning product displays could help to address the higher number of menthol products in retailers located in African American neighborhoods, as well as protect the vulnerable youth population from targeted marketing.

Building Support for Point-of-Sale Strategies

MAPPING THE TOBACCO RETAIL LANDSCAPE

Understanding the tobacco retail environment is an important first step in building support for point-of-sale policies. Tobacco control partners can use tools such as Geographic Information Systems (GIS) software to map the location and density of tobacco retailers. For example, partners in Buffalo, New York, use maps highlighting disparities in retailer density to educate policy makers about the benefits of restricting tobacco retail licenses. GIS can also show the effect of creating buffers around places youth visit, such as schools, and to highlight the presence of the tobacco industry in areas visited by youth. Because of their visual impact, maps are powerful tools for educating the community and policy makers about the pervasive presence of tobacco retailers. They can also model the potential effects of point-of-

GIS Map of Tobacco Retailers and Advertising Restriction Buffers for St. Louis and New York City



Source: Luke et al., 2011[105]

sale policies. For example, one study used GIS to show the potential effects of outdoor advertising restrictions within 350, 500, and 1,000 feet of schools and parks in St. Louis and New York City.[105]

SURVEYING RETAIL ADVERTISING AND PRODUCT PLACEMENT

States and communities can also do assessments and store audits to better understand the environment within tobacco retailers. Tobacco control partners can assess the type, location, and amount of advertising within and near stores, as well as the types of tobacco products displayed. Tobacco control partners can conduct store audits using publicly available tools, such as those developed for Operation Storefront, StoreAlert, and CounterTobacco.org.[131-134] To save time and resources, store audits can be carried out along with regular compliance checks that already take place. Like GIS mapping, store audits offer powerful, tangible evidence of tobacco industry presence within stores that can educate key stakeholders about the importance of point-of-sale strategies. Regular audits and compliance checks can also help tobacco control partners stay aware of new products and marketing tactics used by the tobacco industry.

At-a-Glance: CounterTobacco.org and Counter Tools

In 2011, Counter Tobacco launched CounterTobacco.org, the first comprehensive resource for local, state, and federal organizations working to counteract tobacco product sales and marketing at the point of sale. The website describes in detail the consequences of the tobacco industry spending the vast majority of its advertising and promotional dollars at the point of sale and includes an image gallery exposing tobacco industry tactics. Counter Tobacco suggests a menu of policy solutions that can be implemented by states and communities to counter the industry's efforts and offers advocacy materials and news updates through the CounterTobacco.org website, Facebook, and Twitter.[135]

In July 2012, the founders of Counter Tobacco introduced a new resource, Counter Tools, a nonprofit organization that provides software tools, training, and technical assistance to state and local public health workers in the United States and abroad. To build a local evidence base and take tobacco control partners from a community problem to a policy solution, Counter Tools offers two tools delivered at cost, a Store Audit Center assessment tool and a Store Mapper tool.[136]

Using a smart phone or another web-enabled mobile device such as an iPad (or paper assessment form, if neither is available), the Store Audit Center helps tobacco control partners collect current data about tobacco marketing and promotional activities in local stores. Users can mobilize a team, upload a list of stores, build a survey form from a menu of items, and launch an assessment campaign. Allison Myers, Counter Tobacco and Counter Tools co-founder, explains that the true value of the Store Audit Center is the result—the tool creates a report that does the data analysis for the user. "It moves the user from 'How do I do this?' to 'I have a report,'" Myers says. "It shows people what's happening in their backyards."[136]

The second tool, the Store Mapper, is an interactive mapping web tool that allows tobacco control partners to find and display tobacco retailer data. The tool analyzes and displays relationships such as proximity to certain store types (*e.g.*, places frequented by youth) between tobacco retailers and other important locations. The Store Mapper also compares tobacco retailer density with neighborhood variables, such as household income level. Counter Tools customizes the Store Mapper for each community. It allows for overlay of demographic variables and can simulate the impact of a proposed tobacco product sales ban on nearby stores. The tool generates a report that can display information for counties, legislative zones (*e.g.*, House or Senate districts), or any visible map area. "It simplifies the complex process of geographic information analysis," explains Myers.[136]

According to Myers, Counter Tools' advantage is its adaptive and mobile nature. "It is a great way to get kids on board and it helps people get started on implementing point-of-sale policies," she says. Counter Tools offers training and technical assistance to tobacco control staff interested in using the tools. Myers says the goal of both CounterTobacco.org and Counter Tools is to be a central hub for advocates interested in counteracting tobacco advertising at the point of sale. "People need to know what's happening in their communities. That's the first step."[136]

EDUCATING POLICY MAKERS AND COMMUNITY MEMBERS

Assessing Support

Point-of-sale policies must have strong support to be adopted and implemented. Assessing both policy maker and public support for point-of-sale policies can help partners tailor messages for different audiences and gauge how much education will be needed. Preliminary steps partners can take to help understand their community include:[137]

- **Collecting background data.**
  This could include researching demographic information, crafting neighborhood profiles, and interviewing influential community organizations.
- **Understanding how the government works.**
  This includes assessing how elections are conducted, election terms, legal processes, voting records, and enforcement processes.
- **Creating a profile of elected officials.**
  Partners should become familiar with their elected officials, especially those representing committees that are relevant to tobacco control. Partners must also understand relationship dynamics between these officials (*e.g.*, alliances and leaders).

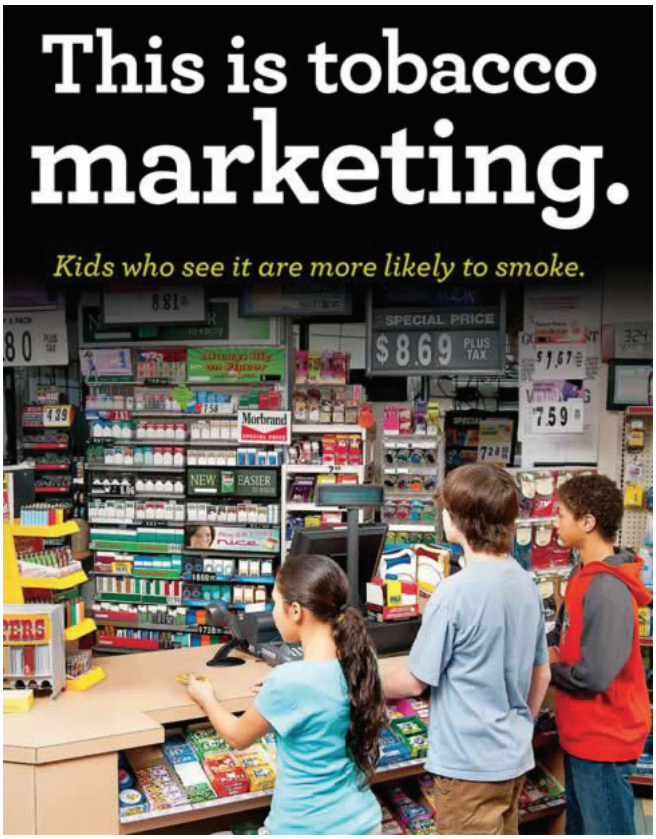
Tobacco control partners can then look for answers to the following questions to help gauge support for tobacco control policies in their community:[137]

- What tobacco control policies have already been discussed, voted on, passed, or defeated?
- How strong are pro-tobacco influences?
- How strong are pro-health influences?
- What is the current public opinion on the tobacco problem of interest and the proposed policy solution?

To answer these questions, partners can survey community members, interview elected officials, and examine voting records. This process should help partners understand community member and policy maker knowledge and awareness about the issue, evaluate baseline support, and identify potential obstacles and collaborators.

Framing the Issue

Framing the issue in a way that resonates with community members is a critical part of policy education efforts. The education of both policy makers and the community should focus on how point-of-sale strategies help counter tobacco industry influence in the retail setting. Data on tobacco use, results of tobacco retail assessments such as store audits and GIS mapping studies, and data on tobacco industry spending on marketing can help tobacco control partners explain the need for certain policies. Framing tobacco use as a social or political issue rather than as a risky personal behavior can help gain community and policy maker support. For example, highlighting the higher number of tobacco advertisements in low-income areas may help fuel



Example of New York state point-of-sale education campaign

community support by framing tobacco product sales in the retail setting as a social justice issue.[138] Framing point-of-sale policies as a way to protect youth is a powerful way to gain support from community members, including parents, teachers, and policy makers.[42] Messages could discuss:[95,139,140]

- How the tobacco industry selectively targets its marketing towards youth;
- How youth experience tobacco marketing in their daily lives (*e.g.*, on the way to school, in grocery and convenience stores, and in pharmacies); and
- The impact of targeted marketing on youth tobacco use rates.

Using Earned and Paid Media

Earned and paid media both help increase public understanding of tobacco retail issues. If funds are available, a paid media campaign that carries persuasive messages to target audiences can reach large populations and capture the attention of policy makers.

Earned media can enhance paid media efforts and serve as a call to action for community members to join the campaign by talking about the issue, writing letters to the editor, or contacting lawmakers.[139] Earned media is low-cost and can help raise community awareness about an issue at critical times, such as during a campaign for a ballot initiative. Letters to the editor, formal editorials, and articles are all examples of effective earned media formats. New low-cost social media platforms such as Facebook and Twitter can also be used to alert supporters about upcoming legislative votes, to collect and share information and resources, and to track community buzz about an issue. This information can help tailor messages to certain audiences and respond to community concerns.[140]

MOBILIZING POLICY MAKERS AND COMMUNITY MEMBERS

Strong community education efforts should lead to mobilization. As with all areas of tobacco control, mobilizing the community around point-of-sale strategies through involvement and shared decision making is crucial to effective policy implementation. Community members can be valuable partners in planning, implementing, evaluating, and enforcing point-of-sale strategies.[141] By engaging diverse sectors of the community in all phases of the policy making process, tobacco control partners can:

- Tie point-of-sale policies to community benefits;
- Bring together people with a range of abilities and connections;
- Increase the likelihood that messages resonate with all parts of the community; and
- Make sure that all community populations are represented and included as active participants.[1]

Identifying Key Partners and Priority Issues

Tobacco control staff can seek opportunities to partner with groups working on other community and public health issues. Communities with high tobacco retailer density and youth tobacco use rates are often also affected by issues like poverty, violence, obesity, cardiovascular disease, diabetes, and cancer. These issues may take higher priority in a community than point-of-sale tobacco control issues.[1] For that reason, linking tobacco point-of-sale strategies to other priority issues can help engage and mobilize new partners.

Engaging Youth

Youth engagement is a key part of community mobilization around point-of-sale strategies. Because youth are directly targeted by the tobacco industry, particularly in the retail setting, they must be engaged as powerful allies. Youth can help build community support for tobacco control by:[140]

- Advocating for policy change to political leaders and the media;
- Educating their peers and other community members about tobacco industry influences and tactics;
- Bringing energy, creativity, and insight to decision making; and
- Mobilizing their peers.

At-a-Glance: New York's "Reality Check" Youth Action Program Runs Media Advocacy Campaign

New York State's youth action program Reality Check launched a campaign as part of "Kick Butts Day" 2010 to educate the community about tobacco advertising targeted towards youth. The campaign involved paid and earned media, community events, and work with key decision makers. Mock stores were set up so the community could see, from a young person's perspective, what products youth are exposed to on a typical visit to a tobacco retailer. Partners distributed displays and handouts highlighting the billions of dollars spent by the tobacco industry on point-of-sale advertising. Advocates presented to local organizations such as the PTA, Chambers of Commerce, and other groups with youth-centered missions. All of these efforts helped to strengthen public support by making sure that decision makers took notice and by motivating community members to advocate for change.

Sign from New York's "Reality Check" youth action program media advocacy campaign

How Can Tobacco Control Programs Support Point-of-Sale Strategies?

Here are some ways that tobacco control staff can support point-of-sale strategies as part of comprehensive tobacco control programs:

EDUCATION & CAPACITY BUILDING

- ✓ Educate partners about the policies and legal mechanisms available as tobacco control strategies at the point of sale.
- ✓ Help partners prepare for legal challenges to point-of-sale strategies.
- ✓ Connect partners to tools for tracking and mapping tobacco retailer locations and advertising practices.

ADMINISTRATIVE & EVALUATION SUPPORT

- ✓ Perform state- and community-level assessments to determine public support for point-of-sale strategies and share results.
- ✓ Support or conduct evaluation and share evaluation results in a strategic manner.

COORDINATION & COLLABORATION

- ✓ Communicate to decision makers and key stakeholders the harms of tobacco retail marketing, particularly for young people, and the benefits of point-of-sale strategies.
- ✓ Help support and coordinate media campaigns. Make sure to communicate a clear and unified message that ties in with youth, cessation, and other tobacco control program activities.
- ✓ Engage influential individuals and groups to build support for and mobilize the community around point-of-sale strategies.
- ✓ Identify other groups with complementary goals (*e.g.*, neighborhood beautification and public safety) that would benefit from coordinating point-of-sale efforts.
- ✓ Identify other groups with that can provide technical assistance (*e.g.*, legal organizations, revenue departments, and city councils) to help with point-of-sale efforts.

Case Study #1: Providence, Rhode Island

Providence, Rhode Island, addresses youth tobacco consumption by prohibiting price discounting.

Concerned about youth tobacco consumption, Providence, Rhode Island, implemented a city-wide policy that effectively raised the price of tobacco products, protecting youth, who are the most price-sensitive shoppers. The policy prohibited price discounting, a method the tobacco industry uses to lessen the impact of tobacco price increases.

Protecting Providence youth motivates price-discounting policy work

In 2009, as part of the Communities Putting Prevention to Work (CPPW) initiative, the CDC asked communities to apply for funding to implement evidence-based interventions focusing on tobacco or obesity. Because Rhode Island already had a high tobacco excise tax,[142] the state Department of Health (known as HEALTH) and the Providence Mayor's Substance Abuse Prevention Council (MSAPC) proposed an intervention that would raise the cost of tobacco products by eliminating vendors' ability to redeem coupons or provide other price discounts (*e.g.*, buy-one-get-one and two-for-one deals).[143]

Providence lays the foundation for policy work by assessing the retail environment

Tobacco control partners began by identifying their objective—to reduce youth tobacco consumption. Next, partners identified allies (*e.g.*, partners, coalitions, and community champions) and identified resources and data needed to build community support. In April 2011, three community-based organizations (CBOs) conducted store assessments that measured the frequency of price-discount offers.[144] The collected data informed the public and decision makers about the impact of pricing strategies on tobacco use and cessation. In response, city lawyers drafted policies based on help that partners received from the Tobacco Control Legal Consortium.[143] Providence first passed a licensing ordinance, which required tobacco retailers to apply for a license and pay a $100 annual fee.[2] The ordinance served as the foundation for other policy work. In February 2012, a new stand-alone ordinance was enacted to eliminate the price discounting[143] that had lowered the price of tobacco products through coupon redemption and multi-pack discounts. Violations of the law are punishable by fines or revocation of the tobacco retail license.[145] The policy went into effect in January 2013 after being upheld by a U.S. District Court.[146]

Tobacco control partners join forces and address retailer concerns

Policy efforts were informed and supported by both local and national stakeholders. National partners provided policy education and trainings. HEALTH staff and partners from other cities that had done similar policy work shared their resources and experience. The Consortium provided draft language for partners to consider, and local lawyers shaped it to fit Providence's legislative landscape.[143]

Although the policy had strong community and city council support,[147] there was some opposition. Tobacco retailers worried customers would travel to neighboring towns to make purchases. Lawmakers were concerned the new pricing policies would be viewed as anti-business. Tobacco control partners were prepared for this opposition and used the data gathered in the store assessments to launch a public ad campaign.[143]

Community-based organizations prove essential in building support

Garnering community support for the initiative was integral in making sure lawmakers were acting on the wishes of constituents. CBOs played a crucial role in building this support—data collected by CBOs during the store assessments was used in the decision making process for developing the licensing ordinance. With this ordinance, Providence was one of the first U.S. cities to prohibit price discounting, which will effectively increase the price of tobacco products and reduce youth tobacco use.[147] The MSAPC continues to promote a healthier Providence by encouraging kids to stay tobacco-free.

Case Study #2: St. Paul, Minnesota

St. Paul, Minnesota, adopts a content-neutral advertising ordinance.

With strong community and youth engagement, the Ramsey Tobacco Coalition and other partners successfully persuaded the City of St. Paul, Minnesota, to adopt an ordinance regulating the amount of window space that can be covered by signs at local businesses. Passing this type of content-neutral advertising restriction can have an added benefit of limiting the influence of tobacco advertising at the point of sale.

Coalition assesses point-of-sale advertising

Since 1996, the Ramsey Tobacco Coalition (RTC) of the Association for Nonsmokers-Minnesota (ANSR), with funding from a Minnesota Department of Health Tobacco-Free Communities Grant, has worked to reduce the harms caused by tobacco products in Ramsey County, Minnesota.[148] In 2007, the coalition conducted an assessment of point-of-sale tobacco advertisements in Ramsey County, which includes the St. Paul metro area. The assessment revealed a disproportionate amount of advertising in low-income and minority neighborhoods.[53]

Partners explore options for revising sign codes

In 2010, RTC focused on reducing the impact of tobacco retail advertisements. Neighborhood and church groups, a coalition of organizations interested in neighborhood beautification and safety, and youth from areas disproportionately affected by these advertisements joined forces to form a broad coalition. The coalition focused on St. Paul's sign code, a set of laws that governs how businesses can post signs. Local governments often restrict advertising to improve aesthetics or safety. Restricting all advertising, regardless of content, is known as "content-neutral restriction." This is usually within the authority of local governing bodies because it does not violate First Amendment protections of content.[104]

While researching this concept, RTC found a loophole in St. Paul's sign code; though the code placed restrictions on exterior window signs, it did not restrict outward-facing interior window signs.[53,149] The RTC and other advocates proposed that St. Paul change its code to restrict signs to no more than 30% of the total window area of a business and to include outward-facing interior signs in the code. This change would promote safety (by ensuring that the clerk and interior of the store are visible from the outside) and neighborhood beauty (by reducing cluttered storefronts), and have the benefit of restricting tobacco product advertising.[51,149] In May 2011, the broad coalition of advocates took this sign code change to a public hearing. In December 2011, the sign ordinance passed. It took effect on January 1, 2013.[149]

Diverse coalition achieves success

Betsy Brock, Director of Research at ANSR, believes the victory was due to the diverse group of advocates working towards change. "We came together for multiple reasons," Brock says, "which is why we were successful." Brock cautions that sign code changes are complex and that advocates should be prepared for resistance from groups that oppose business regulation. Even though they lacked support from St. Paul's mayor, the RTC and other advocates were successful in promoting the ordinance to St. Paul's district council members. RTC maps illustrating greater advertising in low-income neighborhoods offered persuasive evidence. Youth advocates were especially effective messengers throughout the process.

Brock strongly recommends obtaining technical assistance from lawyers who understand the complexity and politics of city ordinances and zoning laws. The RTC worked with a former St. Paul city attorney to better understand the ordinance-drafting process. Though the ordinance has passed, the work is not over. ANSR is now collaborating with the St. Paul Department of Safety and Inspections to enforce the changes in the sign code. "It's an ongoing process," Brock says, "but it speaks to the power of a coalition."[149]

Case Study #3: Santa Clara County, California

Santa Clara County, California, successfully adopts tobacco retailer licensing ordinance.

In the fall of 2010, with funding from the Centers for Disease Control and Prevention (CDC) and a positive political climate, Santa Clara County adopted three new tobacco control ordinances: a tobacco retail licensing requirement, a multi-unit housing smoking ban, and a smoking pollution ordinance. The licensing requirement included three innovative policies addressing tobacco retailer density and location, the sale of flavored tobacco products, and the sale of tobacco in pharmacies. These policies were designed to tackle the issue of youth smoking by reducing the availability, visibility, and appeal of tobacco products.

Health department recommends tobacco retailer permits

In March 2010, Santa Clara County was awarded funding from the CDC's Communities Putting Prevention to Work (CPPW) initiative to implement changes that would reduce youth tobacco use.[150,151] Once funding was in place, the County Board of Supervisors asked for input from the county health department on tobacco control interventions. The health department recommended a tobacco retailer permit ordinance that would reduce tobacco retail outlet density, limit sales near schools, and prohibit the sale of flavored tobacco products.[152]

Collaboration with local, state, and national partners proves integral to success

Janie Burkhart, program manager of the Santa Clara County Public Health Department, stressed that working from the beginning with local and national partners who provided technical assistance, trainings, and draft ordinances was integral to the county's success. Guidance from the California Tobacco Control Program, which places a high priority on tobacco point-of-sale policy, was also key to a successful process. "Our work is very much informed by our collaboration with our state tobacco control program, and they are extremely supportive of progressive tobacco control policies that can be passed at the local level," said Burkhart.

Santa Clara County based its new retail licensing policy on model ordinances from ChangeLab Solutions, a California-based law and policy organization. The County supplemented its funds from the CPPW grant with resources from California's Proposition 99, which reserves 20% of cigarette tax revenues for tobacco control program funding and research.[153] This broad sharing of resources between state, local, and national partners led to the passage of the tobacco retailer permit ordinance by the Santa Clara Board of Supervisors on October 19, 2010.

Innovative point-of-sale regulations complement measures to strengthen traditional policies

The tobacco retailer permit ordinance was designed to cover the sales of all tobacco products in unincorporated Santa Clara County and required that all tobacco retailers obtain a permit and pay a $425 annual fee administered by the Department of Environmental Health.[150,154] The law included three important parts. First, the ordinance created zoning restrictions prohibiting new tobacco retail outlets from being located within 1,000 feet of schools or within 500 feet of other tobacco retailers.[150] Existing lawfully-operating retailers were grandfathered and not subjected to the new location restrictions. Second, the ordinance included a provision prohibiting tobacco retailers from selling flavored tobacco products (except menthol-flavored products).[152,154] And third, the ordinance prohibited pharmacies from obtaining tobacco retailer permits.[154] Because no pharmacies were operating in unincorporated Santa Clara County at the time the ordinance was implemented, partners met no opposition from the tobacco industry.[150]

In addition to passing the innovative permit ordinance, Santa Clara County also took the opportunity to amend and strengthen the county's existing tobacco control ordinances, closing loopholes around secondhand smoke in certain indoor and outdoor areas and prohibiting smoking in multi-unit residences. The end result was a comprehensive package that will protect the youth of Santa Clara County and serve as a model for other counties in California and across the nation.

Case Study #4: Northern Minnesota

Minnesota partners with Counter Tools to assess the tobacco retail environment in the state's northern counties.

Encouraged by tobacco control partners at the state and federal level, Minnesota used CounterTobacco.org's newly launched Counter Tools audit tool in 2012 to assess the retail environment in northern Minnesota. The ongoing assessment of retail density, licensing and oversight, and point-of-sale advertising is revealing unexpected findings and paving the way for communities to use local data to assess different strategies.

Community Transformation Grant sparks new ideas and partnerships

In 2012, the Minnesota Department of Health (MDH) received a $3.6 million CDC Community Transformation Grant (CTG) to reduce health disparities by decreasing tobacco use and exposure and obesity rates in 22 mostly rural northern counties of Minnesota and on one tribal reservation. MDH chose to focus on youth initiation of tobacco use and the retail environment in these counties. MDH and its longtime partner, the American Lung Association (ALA) of the Upper Midwest, worked together with Counter Tools, the new online resource for point-of-sale assessments and mapping (see page 33), to assess the Minnesota tobacco retail environment. ALA and Counter Tools helped MDH and its local public health grantees do a comprehensive retail environment assessment in the CTG region. In July 2012, Counter Tools traveled to northern Minnesota to conduct trainings with almost 30 partners from ALA, MDH, and local health departments.[155]

Assessment exposes high retailer density, variation in licensing, and poor compliance

After Counter Tools' training, and with their continued technical assistance, Minnesota partners got to work doing store audits, advertising and policy assessments, and retailer mapping of the northern counties. The assessment will continue for three years, but has already revealed that youth access is a larger problem in northern Minnesota than expected. Cassandra Stepan of MDH said, "Gathering tobacco retail data is helping local communities assess the challenges they face and effectively tackle problems with youth access to tobacco." The assessment has exposed higher retailer density than expected in a sparsely populated area, a wide variation in local retailer licensing policies, and low compliance with state laws. Licensing fees range from $15 to $340, and in many rural areas the required local compliance checks are not taking place because of the lack of an oversight system. The assessment also revealed some other surprises. Pat McKone of ALA remarked, "Some gut feelings were dispelled. During the training, I had the sense that there was more outdoor advertising than was found. Also, the prevalence of e-cigarettes and little cigars is much higher than anticipated."[155]

Counter Tools partnership helps communities use data to tackle tobacco problems

The assessments are allowing communities to explore the retail environment and find out what is most needed before proposing solutions. Once the assessments are complete, community leaders will review the data to find gaps and consider the range of policy options that they can use to reduce local youth access to tobacco. At a minimum, the community data is highlighting the need for community leaders to meet state standards by improving local licensing and compliance check practices across the region. Leaders may also consider other options, such as changing retailer-density and location policies.

Stepan encourages others to embrace the "exploration mode." The Counter Tools assessment has been a learning experience for Minnesota partners, and Stepan and McKone both promote use of the resource. "I have relied heavily on Counter Tools," McKone says. "They understand how data can help communities transform health problems with policy solutions. There are all kinds of information we can gather, but unless we think strategically about how it plays into policy work, it's wasted energy."[155]

Conclusion: Case for Investment

Why Invest in Point-of-Sale Strategies?

Point-of-sale strategies can counteract tobacco product marketing and promotion that encourages initiation and undermines quit attempts.[1-6] Point-of-sale strategies include reducing (or restricting) the number, location, density, and types of tobacco retail outlets; increasing the cost of tobacco through non-tax approaches; implementing prevention and cessation messaging; restricting point-of-sale advertising; restricting product placement; and pursuing other point-of-sale strategies.

HISTORY AND ADOPTION

After the Master Settlement Agreement, the tobacco industry began to shift a staggering amount of funds towards advertising and promotion efforts at the point of sale, which has increased the need for tobacco control interventions that target the retail environment.[20-22] Although the Federal Cigarette Labeling and Advertising Act (FCLAA) formerly preempted states and communities from certain point-of-sale strategies, the 2009 Tobacco Control Act has given states and communities new opportunities to restrict the time, place, and manner (but not the content) of tobacco product promotions and advertisements. These changes to federal law energized communities that already had strong smoke-free laws and other key tobacco control policies in place, resulting in greater attention on the point-of-sale environment.

Some communities have started to pave the way. San Francisco and at least 80 municipalities in Massachusetts prohibit the sale of tobacco products in pharmacies, and Boston prohibits a broad range of health care institutions from selling tobacco products.[25,43] New York City and Providence, Rhode Island, have taken measures to restrict the sale of flavored tobacco products and prohibit price discounting.[42] Although examples of advertising restrictions in the U.S. are limited, international experience has shown that comprehensive tobacco advertising and promotional restrictions reduce tobacco use.[30] Furthermore, the WHO Framework Convention on Tobacco Control (FCTC) requires all countries that ratify the treaty to implement a complete ban on the advertising, promotion, and sponsorship of tobacco products within five years and to create guidelines for large, clear health warnings on cigarette packages.[156] Iceland and Canada have both seen reductions in youth tobacco consumption since implementing comprehensive advertising and product display restrictions.[59]

SCIENTIFIC EVIDENCE

Research shows that advertising and promotion at the point of sale increase youth and adult tobacco use, normalize and exaggerate the popularity of tobacco use, trigger impulse purchases, and discourage cessation attempts.[1,3,5,9,11,71,95,157] Advertising and promotion efforts have also increased tobacco-related disparities through the high density of tobacco retailers and targeted marketing, particularly of menthol products, in minority and low-income neighborhoods.[13,119,120,125,129,130,158,159] Tobacco control strategies at the point of sale, such as those that restrict tobacco retailer density, price discounts, and the sale of certain products, can counter these trends by decreasing access to tobacco products and exposure to the tobacco industry's marketing tactics.

Conclusion: Case for Investment

COST

The cost of implementing point-of-sale strategies varies by intervention and each community's political and legal environment, but investment in these policies can result in an overall benefit to society and decreased health spending. From 2009 to 2012, cigarette smoking was estimated to result in $289 to $332.5 billion in annual health-related economic losses in the U.S.[159] Point-of-sale strategies are an effective way to reduce both youth and adult tobacco use, thereby decreasing economic losses in the long run. Strategies that are well implemented and have community support will have a larger cost benefit. States and communities can increase community support by doing community assessments, educating stakeholders, and mobilizing diverse parts of the community. Point-of-sale strategies and advocacy efforts can help to counter the millions of dollars spent by the tobacco industry on promotion at the point of sale.

SUSTAINABILITY

Engaging the community in efforts to restrict tobacco industry influence at the point of sale can help build a sustainable tobacco control program. By creating ties with organizations that share similar concerns (*e.g.*, community beautification, safety, and protecting youth) about protecting the community, point-of-sale assessments and strategies create support that may carry over to other tobacco control policies. Building the capacity to work on policy issues is a critical part of a comprehensive tobacco control program. Lessons learned from point-of-sale policy efforts can also inform future policy development and implementation. Point-of-sale strategies that use licensing and zoning can also increase a government's capacity to track compliance with other tobacco control laws (*e.g.*, youth access).

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