

Comprehensive Tobacco Retailer Licensing Laws are Effective at Reducing Tobacco Use

Tobaccoⁱ use is one of the primary causes of cancer-related health disparities^{ii,iii,iv} and is responsible for nearly a half million deaths each year, more than one-third of which are premature deaths due to cancer.^v The tobacco retail environment – including the availability of tobacco products, where retailers are located, the number of retailers in a geographic area, the marketing, price, and discounts offered at the point-of-sale – impacts tobacco use and health disparities.

Research shows the proximity to tobacco retailers is associated with higher smoking rates^{vi} and can reduce quit success.^{vii,viii} Tobacco retailers are too prevalent in all communities, but even more so in specific communities. One study of 30 U.S. cities found that, on average, 70% of residents live within half a mile of a tobacco retailer and 63% of public schools are located within 1,000 feet of a tobacco retailer. Additionally, there were nearly five times more tobacco retailers per square mile in the neighborhoods with the lowest income compared to the neighborhoods with the highest income.^{ix} Other studies have found greater tobacco retailer density in areas with a higher proportion of African American residents, same-sex couples, and rural residents – all populations with some of the highest tobacco use rates.^{x,xi,xii}

Tobacco marketing at point-of-sale in retail stores increases the risk of youth uptake, encourages impulse purchases of tobacco products, increases cigarette cravings and undermine quit attempts.^{xv,xvi,xvii,xviii,xix,xx} In fact, tobacco retailers have been found to dedicate twice as much shelf space to display the three most popular brands among youth.^{xxi} Note surprising, over 96% of all tobacco companies' marketing budget is spent on advertising at the point of sale.^{xxii}

Comprehensive tobacco retailer licensing laws can reduce the harmful impact of the tobacco retail environment by regulating where and how tobacco retailers can operate and sell tobacco products as well as providing the licensing entity the authority to ensure tobacco retailers are complying with all applicable tobacco control laws.

Tobacco Use

Youth Data: In 2024, more than 2 million students (8.1%) reported current tobacco product use. Current tobacco use rates were highest for American Indian and Alaska Native (16.3%) Black or African American (10%) Multiracial (9%) and Hispanic or Latino (8.4%) youth and males (8.5%). More than 1.63 million youth reported current e-cigarette use, 7.8% of high school students and 3.5 % of middle school students.^{xiii}

Adult Data: In 2022, nearly one in five, or 49.2 million, U.S. adults used tobacco products. Cigarettes continued to be the most commonly used tobacco product among adults in 2022. Rates of cigarette smoking were highest among adults with severe generalized anxiety disorder (27.2%), adults with severe depression (27.1%), non-Hispanic American Indian and Alaskan Native adults (19.8%), adults living with a disability (18.6%), adults identifying as bisexual (14.3%), and non-Hispanic Black adults (14.2%).^{xiv}

Current Tobacco Retailer Licensing Laws

While many states, the District of Columbia, and U.S. territories require tobacco retailers to obtain a license to sell tobacco products,^{xxiii} the requirements vary widely, which can impact their effectiveness. For instance, many jurisdictions do not have comprehensive tobacco retail licensing requirements. Many states do not require a tobacco retailer license for all tobacco products. Some jurisdictions may not provide the licensing entity sufficient authority to hold tobacco retailers accountable when the retailer fails to comply with tobacco control laws.

The Benefits of Comprehensive Tobacco Retailer Licensing

To reduce the availability of tobacco products and decrease exposure to tobacco product point-of-sale marketing, comprehensive tobacco retailer licensing can be an effective policy tool by limiting the total number of tobacco retailers allowed to operate in a community. Additional benefits of comprehensive tobacco retailer licensing can include:

- ✓ creating a sustainable tobacco control compliance infrastructure by:
 - requiring all tobacco retailers to pay an annual fee to obtain and maintain a license; and
 - authorizing the licensing agency to issue civil penalties when tobacco retailers have violated any federal, state, or local tobacco control laws, that include monetary fines that increase when additional violations occur and allow for the suspension and revocation of the tobacco retailer license.
- ✓ preventing new tobacco retailers from operating in close proximity to schools and other youth focused areas, such as parks and public recreation centers, as well as near other tobacco retailers; &
- ✓ knowing where retailers that sell of all tobacco products, including e-cigarettes, nicotine pouches and heated tobacco products, are located eases the administration of tobacco control laws to ensure tobacco retailers are complying with all applicable laws.

Administration of Tobacco Retail Licensing, Funding and Authority

Tobacco retailer licenses should include an annual fee that's sufficient to fund the administration of and compliance with tobacco control laws.^{xxiv} Compliance related best practices include verifying retailers meet the license requirements before selling any tobacco products and conducting a minimum of two underage compliance checks each year, while also inspecting the retailer annually to confirm whether retailers are continuing to comply with all applicable tobacco control laws. Licensing entities need the authority to hold tobacco retailers accountable by suspending and revoking retailer's licenses when they repeatedly violate tobacco control laws, such as selling tobacco to youth or young adults. When licensing entities have the authority to hold tobacco retailers accountable it increases the likelihood that retailers will adhere to tobacco control laws.^{xxv}

The administration of and compliance with tobacco control laws needs to be vested in public health or other non-police officials (e.g. civil code enforcement officers). Tobacco control laws should not be enforced against individuals but, instead, focused on retailers selling tobacco products. In the instance a tobacco retailer violates tobacco control laws, such as illegally selling tobacco products to individuals under the age

of 21, the licensing entity should be authorized to take action by issuing civil penalties to the retail owner or licensee, rather than employees, and certainly not on the individual to whom the product was sold.

ACS CAN Supports Comprehensive Tobacco Retailer Licensing as Part of Effective Tobacco Control Strategies

ACS CAN supports comprehensive tobacco retailer licensing laws that regulate the sale of tobacco products, including reducing the number of tobacco retailers, and allows for the licensing entity to inspect and hold tobacco retailers accountable if they violate tobacco control laws. Tobacco retailer licensing laws that aren't comprehensive or don't provide the government sufficient authority and resources to regularly inspect tobacco retailers can be ineffective and can increase tobacco-related disparities.

To help states and local governments achieve health equity by developing and implementing comprehensive tobacco retailer licensing laws, the Centers for Disease Control and Prevention's (CDC) *Best Practices for Tobacco Where You Live: Retail Strategies to Promote Health Equity (2022)* outlines evidence-based recommendations.

ACS CAN recommends comprehensive tobacco retailer licensing includes the following provisions:

❖ General:

- A comprehensive definition of tobacco products to ensure all products, including all new products, are regulated.
- A requirement that to sell any tobacco product all tobacco retailers must pay an initial license fee to apply for a tobacco retailer license and an annual fee to renew/maintain the license.
- A requirement that the annual licensing fee is sufficient to fund the administration and compliance with tobacco control laws.
- A requirement that revenue from the licensing fees and civil penalties obtained from tobacco retailers not in compliance with tobacco control laws should be used to support public health objectives and advance health equity.
- The law provides authority for the state, county, or municipality to both conduct a minimum of two compliance checks at every tobacco retailer annually, as well the authority to conduct additional inspection(s) to check that the tobacco retailer is continuing to comply with all applicable tobacco control laws.
- A requirement that a tobacco retailer cannot be located within a specific distance (i.e., 1,000 feet) of an existing tobacco retailer.
- A requirement that a tobacco retailer cannot be located within a specific distance (i.e., 1,000 feet) of youth focused areas, such as schools, playgrounds, public libraries and public recreational facilities.
- A requirement that prohibits the sale of menthol cigarettes and all other flavored tobacco products.
- A requirement to establish a minimum price on all tobacco products.

- A requirement prohibiting pharmacies from obtaining a tobacco retailer license.
- A requirement that tobacco retailers cannot sell any form of cannabis, including cannabis designated as “medical” cannabis.
- A limit on the total number of tobacco retailer licenses available in a geographic area (i.e., there can be no more than 15 tobacco retailers per a specific geographic area) and relative to the population size (i.e., there can be no more than one tobacco retailer per 1,000 residents per city/county/health authority).

❖ **Requirements of the Licensing Entity:**

- The licensing entity inspects and verifies that all retailers selling tobacco products have a valid tobacco retailer license and that the retailer is complying with all applicable tobacco control laws.
- The licensing entity maintains a list of licensed tobacco retailers with their addresses, types of tobacco products they sell and a history of their compliance and/or violation of tobacco control laws.
- Tobacco retailers, distributors and manufacturers, not salesclerks nor customers, shall be held accountable for violating laws regulating tobacco sales.
- Compliance should be vested in public health or other non-police officials (e.g. civil code enforcement officers).
- The licensing entity collects compliance data to evaluate the effectiveness of tobacco control laws in reducing tobacco sales.

❖ **Holding Tobacco Retailers Accountable:**

- A civil penalty schedule should be established when tobacco retailers are found in violation of tobacco control laws, including selling to underage individuals. Civil penalties should be issued to the tobacco retail licensee (i.e. retail owner(s) and not employees). For every violation that occurs, the civil penalties for each violation should include graduated fines for retailers coupled with license suspension leading to license revocation.
- A provision that states any violation of any federal, state, or local tobacco control laws constitutes a violation of the tobacco retail licensing law, and the tobacco retailer is subject to the appropriate civil penalties including fines, license suspension and revocation.

ⁱ ACS CAN recognizes the important role of ceremonial tobacco for many indigenous communities. This term is intended to address commercial tobacco, not the provision, possession, or use of tobacco products as part of an indigenous practice or other recognized religious or spiritual ceremony or practice. All references to tobacco and tobacco products in this fact sheet refer to commercial tobacco.

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- ^{xi} Center for Public Health Systems Science. Point-of-Sale Report to the Nation: The Tobacco Retail and Policy Landscape. Center for Public Health Systems Science at the Brown School at Washington University in St. Louis and the National Cancer Institute, State and Community Tobacco Control Research Initiative, 2014.
- ^{xii} Center for Public Health Systems Science. Point-of-Sale Report to the Nation: Realizing the Power of States and Communities to Change the Tobacco Retail and Policy Landscape. Center for Public Health Systems Science at the Brown School at Washington University in St. Louis and the National Cancer Institute, State and Community Tobacco Control Research Initiative, 2016.
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