

T**OBACCO** RETAILER LICENSING

An Effective Tool for Reducing the Impact of Tobacco Use

Communities are adopting tobacco retailer licensing laws as one way to ensure compliance with tobacco laws and to combat the public health problems associated with tobacco use. In this fact sheet, we explain how tobacco retailer licensing works, why many communities are pursuing this policy, and what goes into creating and implementing a strong tobacco retailer licensing law.

What is tobacco retailer licensing?

Licensing is a common policy tool that state and local governments use to regulate businesses like alcohol retailers, pharmacists, or restaurants. A local government may similarly license tobacco retailers in order to protect the public's health and safety by ensuring that retailers comply with responsible retailing practices.

Under a local tobacco retailer licensing law, the city or county government requires all businesses that sell tobacco products to obtain a license from the government in exchange for the right to sell these products to consumers. Local governments may require licensed retailers to pay an annual fee, which can fund administration and enforcement activities such as store inspections and youth purchase compliance checks. Increasingly, tobacco retailer licensing is also being used to promote other innovative policy solutions, such as controlling the location and density of tobacco retailers and imposing additional restrictions on the sale and promotion of tobacco products.

As of June 2012, more than 100 cities and counties in California had adopted a local tobacco retailer licensing law. The Center for Tobacco Policy & Organizing classifies 94 of these as "strong," meaning the laws have at a minimum:

- ✓ A requirement that all tobacco retailers obtain a license and renew it annually
- ✓ An annual licensing fee high enough to fund sufficient enforcement
- ✓ Meaningful penalties for violators through fines and penalties, including the suspension and revocation of the license
- ✓ A provision stating that any violation of existing local, state or federal tobacco laws constitutes a violation of the local law



Why adopt a tobacco retailer licensing law?

Many communities adopt tobacco retailer licensing laws because they are effective tools for limiting the negative public health consequences of tobacco use. While this tool provides many benefits, there are three main advantages to a tobacco retailer licensing law. First, these laws have been shown to be effective at limiting youth access to tobacco. Second, strong laws with annual fees create self-financing programs that allow for regular enforcement. Third, a tobacco retailer licensing law facilitates comprehensive local enforcement of all tobacco related laws. Each of these points is discussed below.

Protecting youth

Despite state laws prohibiting sales of tobacco to minors, a 2007 survey found that nearly three-quarters of youth access enforcement agencies statewide issued warnings to merchants selling tobacco products to minors during the prior year. Fortunately, strong local tobacco retailer licensing laws—that is, laws that meet the criteria above—have proven effective at reducing illegal tobacco sales to minors. The Center for Tobacco Policy & Organizing has found that local tobacco retailer licensing is extremely effective at reducing illegal sales to underage youth: the organization surveyed 31 municipalities that have implemented and enforced a strong tobacco retailer licensing law and found that the rates of illegal sales to minors decreased, often significantly, in all communities surveyed.



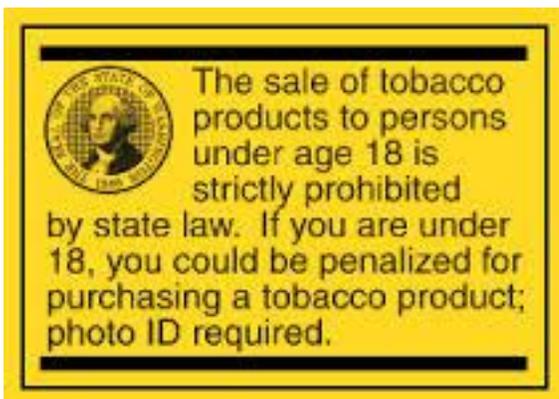
A self-financing program

An important strength of licensing is that the government may impose a licensing fee that is sufficient to cover the costs of enforcement. This alleviates the need to seek additional funding services to monitor the program's execution.

A comprehensive enforcement mechanism for local communities

A number of federal and California state laws already regulate tobacco sales and establish penalties for illegal sales to minors. But these laws each have separate enforcement mechanisms and penalty structures, making it difficult to enforce them at the local level. A local tobacco retailer licensing law, on the other hand, empowers *local law enforcement* to impose *meaningful penalties* for illegal sales to minors and ensure compliance with all existing laws—ensuring that local communities can prioritize enforcement even when state and federal authorities are unable to do so.

Meanwhile, some of these state and federal laws fail to address important public health concerns related to tobacco. For example, the federal regulations authorized by the 2009 Tobacco Control Act currently apply only to cigarettes and smokeless tobacco products—they do not apply to little cigars or other tobacco products that are aggressively marketed to youth. A local tobacco retailer licensing law is a tool communities can use to help bridge these gaps and address public health concerns in their communities.



What else can a tobacco retailer licensing law do?

While a tobacco retailer licensing law may be the best tool to prevent sales to minors, it can also promote other innovative policy solutions, such as controlling the location and density of tobacco retailers, imposing additional restrictions on the sale of other tobacco products like little cigars, and preventing the sale of drug paraphernalia.

Zoning - Location and density of retailers

Local governments can use tobacco retailer licensing to control both the location and density of tobacco retailers in their communities. A licensing law could, for example, prohibit licenses for any businesses operating too close to a school or other area frequented by youth. Because tobacco sales near schools and child-oriented areas have been shown to increase youth smoking, this policy can be used to keep tobacco retailers out of areas where youth typically congregate. A tobacco retailer licensing law also could cap the total number of licenses issued based on population, controlling the overall density of tobacco retailers in a community. California law limits alcohol licenses based on density, and this policy applies that same rationale to tobacco retailers.

Little cigars and cigarillos

A tobacco retailer licensing law can also prohibit the sale of individual or small packages of low-priced cigars, including little cigars and cigarillos. Due to their low prices and candy flavoring, these products are particularly appealing to youth, and though they are often similar to cigarettes, they are not subject to the same restrictions against selling the product individually or in small quantities. This policy allows communities to close this loophole and regulate a product that is increasingly used by youth.



Drug paraphernalia

Many communities are using tobacco retailer licensing laws to address the sale of drug paraphernalia in their neighborhoods. Through this provision, a retailer found to have violated state laws regarding drug paraphernalia will also be in violation of the local tobacco retailer license, and the penalties of the licensing ordinance will apply. In this way, the tobacco retailer licensing law becomes an additional tool for local law enforcement to combat sales of drug paraphernalia.

These are just a few examples of cutting-edge policy solutions for tobacco control. These innovative policy solutions—referred to as “plug-in” provisions—can be incorporated into our model language for a tobacco retailer licensing law.

Implementation and Enforcement of TRL Policies

Individual communities can decide who will implement and enforce a tobacco retailer licensing law. Multiple agencies might be involved: one agency may issue the license (the city manager, for example, or the agency that issues general business licenses), while another agency, such as the environmental health or police department, may monitor compliance.

There is no one right way to implement and enforce a local tobacco retailer licensing program however there are certain components that make policies more effective than others.

First, they are overseen by a single government agency with dedicated staff members. They also plan early for enforcement that engages all the key players and they require a license fee that is large enough to cover the full costs of administering and enforcing the program. Another key component is imposing strict enough repercussions for those who violate the policy. There are two primary ways to enforce the policy, through a “one-step” or “two-step” process. A one-step process allows the community to impose license-related penalties without first going to court. In contrast, a two-step enforcement process requires the underlying violation—for example, selling tobacco to a minor in violation of state law—to be first prosecuted by the government in a court of law. Both types of penalization can be effective and the more suitable option will depend on the specific targeted community.

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TO OR PURCHASE
BY MINORS OF
TOBACCO PRODUCTS
IS UNLAWFUL**
As per RA 9211 and Ordinance No. _____

While the specifics of a TRL policy and its regulation will vary depending on the local community, these laws have the ability to truly change the nature of tobacco sales within the targeted region. Tobacco retail licensing will have become and will continue to be increasingly important as tobacco prevention efforts are streamlined across the nation.