

JUST THE FACTS: TOBACCO RETAIL LICENSING

Tobacco Retail Licensing Helps Reduce Tobacco Use

- Tobacco retail licensing is a powerful tobacco control tool that can be used in a variety of different ways. Licensing systems require retailers to obtain a license before selling tobacco products. These laws can be structured so that a license can be suspended or revoked if the licensee violates state and/or local law.
- By requiring a license for the sale of tobacco products, a community can then set limits on the **location**, **number**, and **type** of tobacco retailers.

Tobacco Retail Licensing Prevents Illegal Tobacco Sales

- Stores have been shown to be more vigilant about verifying ages while selling cigarettes when illegal sales could result in a license suspension or revocation.¹
- Although sales to youth are already prohibited by state law, a licensing system allows for *local* enforcement and more meaningful penalties.
- Other tobacco control measures could be incorporated into a licensing system, such as a ban on selling flavored tobacco products that appeal to youth.²

Communities Could Use Tobacco Licensing Requirements to Restrict the Location, Number and Type of Tobacco Retailers

Location: Addressing Tobacco Sales Near Schools

- In New York State, 51% of tobacco retailers are located within 1,000 feet of an elementary or secondary school.³
- When there are more tobacco retailers near schools, students are more likely to smoke.⁴
- Licensing could be used to prohibit the issuance of licensing to *new* tobacco retailers near schools. Existing businesses would not be impacted.

Number: Limiting the Number of Tobacco Retail Outlets

- There are currently approximately 23,000 tobacco retail stores in New York State – one for every 185 kids.⁵
- Research involving alcohol retail density suggests that reducing the number of tobacco retail outlets will help to reduce tobacco use.⁶ Tobacco should not be treated as just another normal consumer product that is readily available in every corner store.
- A reduction in the number of tobacco retailers could be implemented gradually, so that existing businesses are not affected.

Type: Pharmacies and Tobacco Sales

- Pharmacies market themselves as a part of the health care system, and it is incongruent for those same entities to profit from selling tobacco, which is responsible for more than 25,000 deaths in New York each year.
- Prohibiting the sale of tobacco by pharmacies assists in reducing the availability, visibility, and social acceptability of tobacco.
- Cities such as Boston and San Francisco have already prohibited pharmacies from selling tobacco products.

Licensing Systems Can Pay for Themselves

- Licensing fees can be used to fund the implementation and enforcement of a tobacco retail licensing system.

New York City and Dutchess County already have local retail licensing requirements in place – as do many other communities around the country. These communities could consider using their existing licensing systems to pursue additional tobacco control measures.

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¹ See Ian McLaughlin, Tobacco Control Legal Consortium, License to Kill?: Tobacco Retailer Licensing as an Effective Enforcement Tool (2010) *available at* <http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-retailer-2010.pdf> (“In one study of twenty-six communities with strong licensing laws, the sales rate to minors decreased dramatically in all but one of the communities, and the decrease was often quite substantial; in eleven communities, the youth sales rate dropped by over 30 percent.” *Id.* at 6).

² See, e.g., Santa Clara County (CA), Ordinance No. NS-300.832 (2010) (prohibiting licensed tobacco retailers from selling flavored tobacco products, with the exception of menthol flavoring).

³ Douglas A. Luke et al., *Family Smoking Prevention and Tobacco Control Act: Banning Outdoor Tobacco Advertising Near Schools and Playgrounds*, 40 AM. J. PREV. MED. 295, 300 (2011).

⁴ B.R. Loomis, *The density of tobacco retailers and its association with attitudes towards smoking, exposure to point of sale tobacco advertising, cigarette purchasing, and smoking among New York Youth*, 55(5) PREV. MED. 468, 468 (2012).

⁵ N.Y. STATE DEP’T OF HEALTH, EXPOSURE TO PRO-TOBACCO MARKETING AND PROMOTIONS AMONG NEW YORKERS 23 (2011), *available at* http://www.health.ny.gov/prevention/tobacco_control/docs/tobacco_marketing_exposure_rpt.pdf; U.S. Census Bureau, State and County QuickFacts, <http://quickfacts.census.gov/qfd/states/36000.html> (last visited March 30, 2012).

⁶ See generally, e.g., Andrew Hyland et al., *Tobacco Outlet Density and Demographics in Erie County NY*, 93 AM. J. PUB. HEALTH 1075, 1075 (2003); INST. OF MED., ENDING THE TOBACCO PROBLEM: BLUEPRINT FOR THE NATION 306 (2007), *available at* http://books.nap.edu/openbook.php?record_id=11795; TASK FORCE ON COMMUNITY PREVENTIVE SERVS., EVIDENCE-BASED STRATEGIES TO PREVENT EXCESSIVE ALCOHOL CONSUMPTION AND RELATED HARMS, GUIDE TO COMMUNITY PREVENTIVE SERVICES, (2011), *available at* <http://www.thecommunityguide.org/alcohol/SummaryCGRecommendations.pdf>.

