



Limiting “Teen-Friendly” Cigars: What Communities Can Do

Cigars, little cigars, and cigarillos are often among the first tobacco products that teens use.¹ Commonly sold individually or in small packages, these products are often low-priced and flavored like candy, making them especially attractive to young people. Cigarettes are regulated by state and federal law and cannot be flavored or sold individually,² but cigar products—which pose similar health risks—are not subject to the same regulations.

Selling cigars individually makes them cheaper and easier for youth to buy. Some little cigars and cigarillos are packaged for individual retail sale, and others are taken out of their original packaging and sold individually by the retailer. To reduce youth access to these flavored, inexpensive tobacco products, a community may want to eliminate the sale of individual cigars or those sold in packages of small quantities.³

Restricting the Sale of Cigar Products

Cigar products are not currently regulated either by the federal Family Smoking Prevention and Tobacco Control Act or by the Master Settlement Agreement reached between certain tobacco companies and states. Because of this, a community may want to address sales of single cigars and cigarillos through a local law.

One way a community can limit the sale of cigar products is in conjunction with a tobacco retailer licensing (TRL) law. PHLP has model ordinance language requiring a minimum pack size for little cigars, which is designed to be “plugged into” a TRL ordinance, but PHLP staff can also draft stand-alone legislation for any community that wants to create this restriction outside of a TRL law.

The goal of the model “Plug-in” is to limit the availability of cheap, often flavored cigar products that are attractive to youth. The model Plug-in offers communities language that would make it illegal to:

- Sell individually packaged cigars
- Open a package of cigars and sell them individually
- Sell sealed packages that contain fewer than a certain number of cigars (this could ban two-packs, three-packs, or five-packs, depending on the city’s preference)

These restrictions would apply to all cigars, so some cities may want to exempt “premium” cigars when crafting a new law to ban the sale of single cigars; this would allow the sale of more expensive individual cigars, which are not typically consumed by youth and are not usually fruit- or candy-flavored. There are several ways to create an exemption to allow the sale of individual premium cigars if one is necessary—the chart on the next page explores the pros and cons of each.



cigar

tiparillo

cigarillo

little cigar

cigarette

Cigarillos and little cigars come in fruit and candy flavors and are often hard to distinguish from candy.



Possible Exemptions for “Premium” Cigars

Exemption Type	Advantages	Disadvantages	Considerations
<p>By Tobacco Product Description: Describe what a premium cigar is (e.g., a cigar “wrapped in whole leaf tobacco”) and then allow the sale of any tobacco product meeting this description</p>	There would be no locations in the community where the cheap “little cigars” could be purchased	<p>The exemption must specifically describe the products being exempted so it isn’t accidentally overbroad</p> <p>Could be hard for enforcement personnel to tell which cigar products fit the law’s definition of “premium”</p>	A comprehensive list of banned (or exempted) products based on the descriptions in the law should be created and consistently updated to aid in enforcement
<p>By Business Type: Allow certain types of retailers, such as tobacco lounges or cigar bars, to sell cigars</p>	Easy to enforce because it is clear which types of businesses can sell single cigars	Youth may still be able to obtain individual flavored little cigars if the retailers exempted from the law sell cheap tobacco products in addition to premium cigars	Could be combined with one of the price-based exemptions to prevent the sale of nearly all cheap individually sold cigar products
<p>By Retail Price: Allow the sale of cigars above a certain retail price (with language allowing adjustments for inflation)</p>	Enforcement would be straightforward: any cigar sold individually at a price below the established minimum is a violation	Would only ban cigar sales below a certain price, but retailers could sell cigars above that price, though the high prices would probably remove much of the demand for the little cigars and cigarillos	Combining this exemption with another, such as an exemption by product description or by business type, would create a more meaningful exemption than one based on retail price alone
<p>By Wholesale Price: Allow the sale of single cigars above a certain wholesale price (with language allowing adjustments for inflation)</p>	Because the wholesale prices for little cigars and cigarillos are low, banning cigars sold below a certain wholesale price would ban most, if not all, of the single little cigars and cigarillos currently on the market	Enforcement would be slightly harder: enforcement personnel would have to review the retailer’s purchase invoices to determine the wholesale price	<p>Because the wholesale price is not set by the retailer, the retailer can’t mark up the individual cigar prices to meet the minimum dollar amount set in the ordinance</p> <p>The model law includes language requiring retailers to make invoices available to enforcement personnel</p>

The Model TRL Ordinance and this Plug-in, including the actual language for the exemptions, are available on our website. If you would like help adapting this model for your community, please contact us at www.changelabsolutions.org/tobaccoquestions.

¹ Center for Disease Control and Prevention, Department of Health and Human Services, Youth Risk Behavior Surveillance-United States, 2009, June 4, 2010, Table 34. MMWR 2010;59(SS-5):1-142. Available at www.cdc.gov/mmwr/pdf/ss/ss5905.pdf.

² 21 C.F.R. § 1140.14(d).

³ It is legal for a community to completely ban the sale of all cigar products or all tobacco. Contact ChangeLab Solutions if you are interested in pursuing such a policy.



Brightly packaged cigar products are attractive to youth because of their fruit and candy flavors and their very low prices.

ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state. This material was made possible with funds received from the California Department of Public Health under contract #09-11182.

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