

# TOBACCO RETAILER LICENSING **PLAYBOOK**



**ChangeLab Solutions**  
Law & policy innovation for the common good.

# TOBACCO RETAILER LICENSING PLAYBOOK STRATEGIES

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# Ten strategies for creating and implementing effective tobacco retailer licensing (TRL) policies in your community



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# GETTING STARTED

*Existing regulations are insufficient to ensure retailer compliance with all applicable laws, or to significantly reduce the influence of tobacco marketing in stores.*

## Tobacco Retailer Licensing in the Retail Environment

The tobacco control movement has been successful over the past several decades in reducing both smoking prevalence and the burden of tobacco-related disease. During that time, public health professionals and advocates have focused on several “core” strategies for reducing tobacco use, including hard-hitting media campaigns, cessation interventions, smokefree air policies, and increased excise taxes.

In recent years, the retail environment has emerged as a new arena for governmental intervention to complement continued work on these core tobacco control strategies. The tobacco industry spends most of its promotional expenditures in retail outlets where tobacco products are sold, primarily on price-related promotions and marketing. And as tobacco companies roll out new products, such as electronic smoking devices and flavored tobacco products, the retail environment is becoming increasingly saturated with cheap products and advertising that entice youth and undermine adult quit attempts.

Every state prohibits sales of cigarettes and other traditional tobacco products to minors, and the federal Family Smoking Prevention and Tobacco Control Act<sup>1</sup> contains additional regulations that apply in retail outlets nationwide. Existing regulations are insufficient to ensure retailer compliance with all applicable laws, or to significantly reduce the influence of tobacco marketing in stores.

Fortunately, many different strategies can be implemented to address the proliferation of tobacco outlets and tobacco products. But a common question for many public health professionals and advocates is “Where do we start?” Experience in several states has demonstrated that tobacco retailer licensing (TRL) at the local level is an extremely effective, and comprehensive, regulatory approach. Tobacco retailer licensing can be used to implement and enforce a variety of policies aimed at reducing access and exposure to tobacco products in the retail environment, making it a great foundational regulatory tool for local governments.

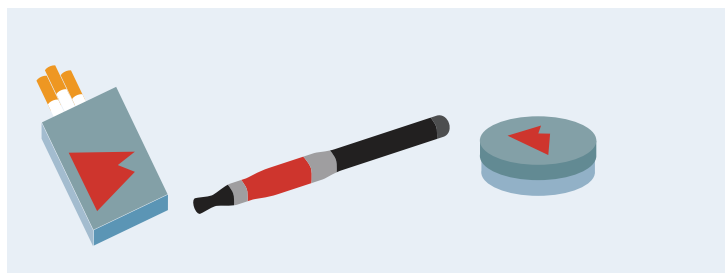
Tobacco retailer licensing is a policy whereby government requires all stores that sell tobacco to obtain a special license for the privilege of selling these products to consumers. The government can impose specific performance standards and requirements as conditions of maintaining the license, and failure to meet the performance standards may result in license suspension or revocation. TRL is not unlike other types of licensing – like licensing for drivers, for instance – which are aimed at ensuring that licensees have sufficient training to meet performance standards, and that put in place a system to address the problem when licensees fail to meet those standards.

Tobacco retailer licensing is a versatile regulatory system. Most states already require retailers to obtain a license to sell tobacco, but almost every state uses its TRL system solely to enforce tobacco tax laws and not to enforce other tobacco control strategies aimed at improving health.<sup>2</sup> Across the country, most of the innovative retail work has occurred at the local level, and many jurisdictions already use TRL as a health-promoting policy. This playbook details the considerations and actions necessary to develop, implement, and enforce a comprehensive tobacco retailer licensing system that can improve public health.

This playbook is intended as a reference guide to provide an overview of all the steps and considerations involved in building support for TRL and creating and implementing a solid policy. It draws from many of the materials that have been produced on this subject. Although the playbook is broken down into ten “steps,” the entire process is iterative and many activities will occur concurrently, or in a slightly different order as opportunities arise. It will depend heavily on the unique nature of each community and its political conditions.

## KEY RESOURCES

For a more comprehensive overview of tobacco retailer licensing, please refer to *License to Kill: Tobacco Retailer Licensing as an Effective Enforcement Tool*, a publication of the Tobacco Control Legal Consortium.<sup>3</sup> The Center for Public Health Systems Science at Washington University in St. Louis has also developed a detailed guide of the entire range of point-of-sale strategies, titled *Point-of-Sale Strategies, a Tobacco Control Guide*. This guide can be used as a resource for all types of retail work.<sup>4</sup>



# ADDRESSING HEALTH INEQUITIES THROUGH TRL

*Research has found that prices of tobacco products tend to be lower in African-American and low-socioeconomic status neighborhoods.*

One of the most promising potential uses of tobacco retailer licensing is to reduce inequities in how tobacco products are marketed and sold in different communities. In most states, smoking rates for low-socioeconomic status (SES) populations are higher than both state averages and smoking rates for higher-SES populations.<sup>5</sup> The tobacco industry targets these same communities with its marketing practices, so low-income communities and communities of color are disproportionately affected by the tobacco industry's sales tactics. TRL has the potential to address these inequities.

Research has found that prices of tobacco products tend to be lower in low-SES neighborhoods and African-American neighborhoods. For example, in the 2011 report *Tobacco Marketing in California's Retail Environment*, a survey of California tobacco retailers found that Marlboro cigarette packs cost significantly less in low-income neighborhoods. The authors also found that "menthol cigarettes were advertised more and cost less in African-American neighborhoods and in low-income neighborhoods."<sup>6</sup>

Studies from Washington, DC, Minnesota, and California have found an inverse relationship between race and price; the higher the percentage of African-American residents in a community, the cheaper the price of tobacco products sold there.<sup>7</sup> In other words, the tobacco industry sells its products at lower prices in low-income communities and certain communities of color. Evidence shows that these same communities have higher rates of tobacco use and addiction, worse health outcomes, and increased health inequities.<sup>8</sup>

Equity issues are not a specific step in this playbook, but they must be considered throughout the entire process and in every policy decision. Any policy strategy that impacts retailer location or density, tobacco prices, or marketing can be implemented through tobacco retailer licensing, and in turn reduce health inequities. Only more rigorous evaluation of strong licensing systems will yield valuable data to demonstrate the extent to which tobacco retailer licensing addresses these inequities.

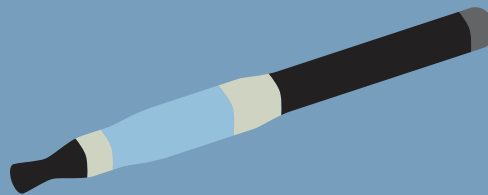
# WHAT IS A “TOBACCO PRODUCT”?

Tobacco control regulations have traditionally defined “tobacco product” as a product that contains tobacco leaf, which includes most of the products that have historically been marketed and sold. However, tobacco products now come in new shapes and sizes, including emerging smokeless products (e.g., powders, gels) and an array of electronic nicotine delivery systems, such as e-cigarettes, most of which can be produced with synthetically-derived nicotine or nicotine derived from tobacco.

When developing a tobacco retailer licensing system, it is important to decide at the outset which types of products to include. This will determine which businesses must obtain the license. Once the jurisdiction makes this policy decision, it must define “tobacco product” in the law to ensure that the term encompasses all the products stakeholders want to include.

## KEY RESOURCES

For additional information on the importance of using comprehensive definitions, please see *The Importance of Product Definitions in U.S. E-cigarette Laws and Regulations*. For sample language of a comprehensive definition of “tobacco product” that includes e-cigarettes, see our *Tobacco Retailer Licensing Model Ordinance*.



# 1

## CONDUCT AN ENVIRONMENTAL ASSESSMENT

*The community identifies where tobacco products are being sold*

# 2

## DEFINE THE PROBLEM

*Stakeholders use data gathered from the assessment to articulate the issues to be addressed*

*A thorough environmental assessment helps define the problem to be addressed through tobacco retailer licensing.*

At its most basic level, requiring tobacco retailers to obtain a specific license to operate allows a city or county (or state) to maintain an inventory of all the businesses that are selling tobacco, including the different kinds of businesses that sell tobacco, and where they are located relative to schools, youth-populated areas, and each other.

Many jurisdictions already require all businesses to obtain a general business license, and that license application can be expanded to require a business to inform the government if it sells tobacco. The location of each tobacco retailer should then be plotted on a map of the jurisdiction using a GIS mapping tool (or other similar tool) to show the density and locations of retailers.

This information can be combined with other data, such as results from a youth tobacco purchase survey or results from state or federal compliance checks, to identify patterns or trends that can help inform future regulation. For example, tobacco retailers near schools may sell to minors more frequently than tobacco retailers that are not located near schools, calling for a reduction in retailers operating near schools. This information can also illustrate areas of the city or county with a greater density of tobacco retailers, which is common in low-SES areas of a community.

Once a jurisdiction has conducted an environmental assessment and identified retailing trends, it can define the problem to be addressed through a tobacco retailer licensing system. The problem to be addressed depends on what the data shows; it could be illegal sales to minors, retailer density or location, marketing, to name a few. Defining the problem is necessary to develop an advocacy strategy and draft a strong policy.



**NOTE:** In addition to a basic community environmental assessment, communities may also consider conducting a more sophisticated store environmental assessment – one that closely examines the conditions inside individual stores. A store environmental assessment can help a jurisdiction identify which types of products each business sells and at what prices, as well as the marketing techniques stores use to attract customers.

### Examples

Tobacco retailer licensing can address various community needs. For example, in January 2012, the City of Providence, RI, amended its TRL law to prohibit local retailers from selling most flavored tobacco, selling tobacco products through multi-pack discounts, and redeeming coupons.<sup>9</sup> Although the tobacco industry challenged these ordinances in court, it did not challenge Providence’s authority to implement and enforce these innovative policies through TRL.

San Francisco’s landmark “**Tobacco Sales Reduction Act**” aims to reduce the number of tobacco retailers in the city drastically, particularly in the districts with the highest density of retailers (primarily the low-income areas). The legislation resulted in large part from the work of youth groups to map the tobacco retailers in the city, which illustrated that the density of retailers was much higher in low-income areas of the city than in higher-income areas.



## KEY RESOURCES

All states that require tobacco retailers to obtain a specific state license will likely have information about tobacco retailers in every city and county. To obtain that information, the local government should contact the state agency (usually a tax collection agency) that administers the state's tobacco retailer licensing or tax law program.

Under the Synar Amendment, in order to receive the annual Substance Abuse Prevention and Treatment federal block grant, a state must enact and enforce a law prohibiting the sale of tobacco products to minors, and also send results of retail inspections to the Department of Health and Human Services. The agency that oversees Synar compliance may also have information about retailers in specific cities and counties.

Two important resources dedicated to tobacco policy development in the retail environment have been developed out of the University of North Carolina Gillings School of Global Public Health. The first is [CounterTobacco.org](https://www.counter-tobacco.org), a clearinghouse website that serves as a comprehensive resource for organizations working to counteract tobacco product sales and marketing in the retail environment. CounterTobacco.org is funded by the Centers for Disease Control and Prevention's Office on Smoking and Health.

The second is [Counter Tools](https://www.counter-tobacco.org), a 503(c)(3) national nonprofit organization that provides software tools, training, and technical assistance directly to public health agencies and advocates working on retail policies. Two software tools can help communities with needs assessments and policy development: (1) the [Store Audit Center](https://www.counter-tobacco.org), a store assessment data collection and management tool, and (2) the [Store Mapper](https://www.counter-tobacco.org), an interactive mapping website that allows users to analyze and display retail locations, density, and sociodemographic relationships, and test policies prior to implementation.

To conduct a comprehensive retail assessment, the [Standardized Tobacco Assessment for Retail Settings \(STARS\)](https://www.counter-tobacco.org) is designed to characterize the availability, placement, promotion, and price of tobacco products. The ten-minute assessment form and supplementary materials were developed by NCI's State & Community Tobacco Control Initiative in collaboration with the CDC, Tobacco Control Legal Consortium, and five state tobacco control programs.

# 3

## ASSESS THE LEGAL LANDSCAPE

*The jurisdiction analyzes the relevant state, local, and federal statutory laws and court decisions, and identifies potential preemption*

Retail tobacco sales and marketing are regulated both by federal law (the Family Smoking Prevention and Tobacco Control Act and the Federal Cigarette Labeling and Advertising Act<sup>10</sup>) and to some degree by every state. A threshold issue in developing a local tobacco retailer licensing system is to analyze and assess the existing legal landscape, including state and federal laws, and the court decisions analyzing those laws.

A legal analysis serves numerous purposes. Most importantly, in some states, state law preempts, or prohibits, local tobacco retailer laws. If this is the case, understanding the scope of state preemption is critical – the state may preempt licensing for cigarettes and other tobacco-containing products, but not for electronic products, for example. In states with preemption, public health professionals and tobacco control advocates must consider alternative policies outside the scope of preemption, and/or work to overturn or minimize state preemption.<sup>11</sup>

An analysis of existing laws can also help identify the state agency or agencies that have compiled a database of tobacco retailers for tax collection or other purposes. Often a state's database of retailers can be used as a starting point for preparing a local database of retailers. A jurisdiction can use the local database to support local TRL.

To conduct this assessment, a jurisdiction will likely need to consult with legal counsel – either a local agency counsel, or a state/national legal technical assistance provider.

### Examples

Some state laws, such as those in California, expressly allow for local tobacco retailer licensing,<sup>12</sup> whereas other states, such as Oklahoma, expressly preempt local ordinances regarding sales.<sup>13</sup> Often it is unclear whether state law prohibits local licensing, and in such cases a legal interpretation by the Attorney General is helpful.<sup>14</sup> If local tobacco retailer licensing is preempted, alternative regulatory strategies, such as zoning restrictions, can be considered.

## KEY RESOURCES

The [Tobacco Control Legal Consortium](#) and [ChangeLab Solutions](#) are legal organizations funded to provide technical assistance on tobacco control retail issues nationwide. These organizations have general legal analyses available on their websites, and they can provide state-specific analyses as well. In addition, several states are served by a legal technical assistance provider funded to work directly within specific states. Collaboration with local city or county attorneys will also be necessary.



# 4

## CONVENE A COMMUNITY COALITION

*Stakeholders and youth mobilize and gather support for tobacco retailer licensing*

# 5

## EDUCATE DECISION MAKERS AND THE PUBLIC

*The coalition discusses the policy with local officials and the public, and prepares for a response from the tobacco industry*

Tobacco retailer licensing is a regulatory policy, which must be adopted by the legislative body of the town, city, county, or state. As with many laws, enacting tobacco retailer licensing usually requires a strategic community organizing effort to educate decision makers and the general public about the public health and safety problems associated with tobacco retailing and the need for a licensing law.

Some states already require their local grantees to convene a tobacco control coalition in order to be eligible for state tobacco control funding, and those coalitions are an important vehicle for engaging stakeholders in a community organizing effort. Regardless of whether there is an existing coalition to build upon, community organizing requires many dedicated community members, and includes different phases to mobilize the public and reach out to decision makers. Members of government agencies who have an interest or role in TRL can also support these efforts, such as the health department, law enforcement, code enforcement, the business licensing department, and the planning department.

Because tobacco retailer licensing has traditionally been a strategy to prevent sales and marketing to youth, engaging youth in this process is important as well. Youth involvement can benefit and support TRL development; youth can be involved in collecting data about marketing in stores, providing powerful testimony to decision makers, and helping enforce youth access laws by participating in youth decoy operations.

## Examples

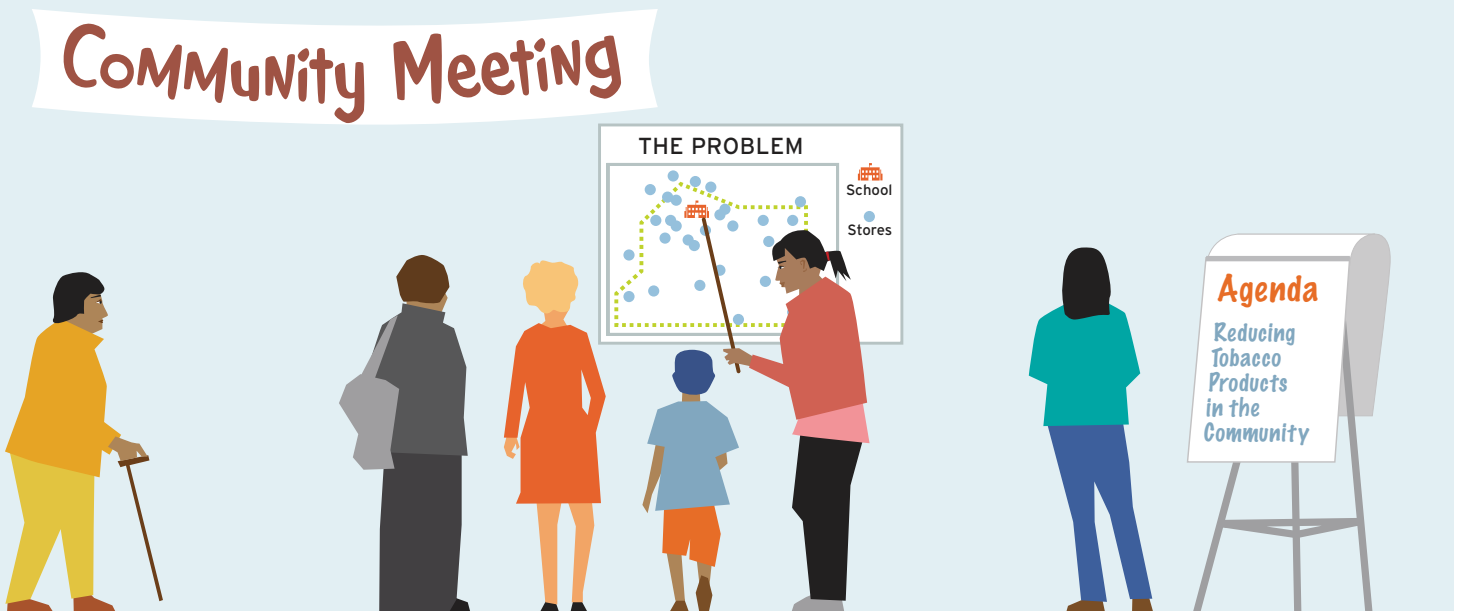
Youth involvement in retail campaigns has proved to be compelling. For example, in Union City, CA, a group of teens led a **successful effort against cheap flavored tobacco products** by surveying the stores in their community and presenting their findings to the City Council.

In Philadelphia, the **Youth Commission** (see page 129) has been instrumental in tobacco control retail efforts.

## KEY RESOURCES

- The **Center for Tobacco Policy and Organizing**, a project of the American Lung Association in California, provides tools, training, and technical assistance on advocacy and community organizing for advocates and public health professionals working on TRL.
- The **California Youth Advocacy Network** empowers youth to create change in their community, including working on policies to reduce youth access to tobacco and limit exposure to tobacco marketing.

Based on their experiences working with hundreds of California communities, both organizations have developed tools and resources that are available online.



# 6

## CREATE AND ADOPT A STRONG TRL POLICY

*Government officials draft clear policy language to facilitate implementation and enforcement*

Successful implementation and enforcement of any law starts with strong, clear policy language that outlines responsibilities and establishes accountability. Once an advocacy strategy has been prepared, it is critical to draft a TRL policy that clearly articulates the goals identified and defined earlier in the process, and that sets forth each party's obligations.

The law does not need to itemize every aspect of the licensing program, but the policy language should contain several key elements: the process for obtaining a license, the duration of the license term, information on the renewal process, the license fee, the performance standards for retailers, the penalties for noncompliance, and accountability measures to ensure government enforces the policy.

The relevant government officials and agencies, including the agencies that will issue licenses and enforce the law, should collaborate to craft the policy language. In addition, the city attorney or county counsel will need to review and approve the draft, so collaboration with local attorneys early in the process is critical.

### Examples

There are numerous examples of local tobacco retailer licensing laws with clear, strong language. The [tobacco ordinance from Rock County, MN](#), contains clear requirements for retailers, including strong definitions, restrictions on retailer density and concentration, and a ban on sales by pharmacies. Rock County's success in enacting a strong tobacco retailer ordinance in rural southwestern Minnesota was aided in large part by an active team planning process coordinated by the County Attorney, the

tobacco control staff of the County's public health service provider, and law enforcement leaders.

In addition, many cities and towns in Massachusetts have [adopted tobacco retailer licensing ordinances](#), often through their Boards of Health.

### Key Resource

ChangeLab Solutions' [Model California Ordinance Requiring a Tobacco Retailer License](#) was originally published in 1998 and has been updated several times since. It is a "plug and play" model legislation that reflects best practices. Although it is primarily intended for use by California communities, it is adaptable for use in other states as well.



# 7

## CALCULATE COSTS TO IMPLEMENT AND ENFORCE TRL

*The jurisdiction determines an appropriate licensing fee*

The effectiveness and long-term viability of any TRL program depends on vigorous enforcement. A dedicated source of funding to support enforcement efforts can ensure the law is actually enforced, and therefore sustainable.

In most states,<sup>15</sup> it is legal for the government to charge retailers a licensing fee for the privilege of conducting a particular type of business, and the amount of the fee can be set to cover the costs of administering, implementing, and enforcing the licensing program. For example, in California, more than one hundred cities and counties have strong TRL programs, and the licensing fees for those programs range from approximately \$30/year to \$1,500/year.<sup>16</sup>

*The licensing fee should cover the administrative and enforcement costs of the licensing program.*

The licensing fee must be set no higher than the actual costs incurred by the government to operate the program. Therefore, a local jurisdiction must be able to quantify the specific costs of operating the program. The first step in making this calculation is to identify all the tasks related to implementation and enforcement. Then, based on the duties involved and the salaries and other expenses necessary to fulfill those duties, the jurisdiction can accurately calculate the costs necessary to operate the program and establish an appropriate fee based on the amount of retailers in the jurisdiction.

The fee, like the law itself, must be approved by the legislative body, so ultimately the fee amount will require a balance of political feasibility, legal justification (cannot exceed the costs of the program), and sufficiency to cover the costs to implement and enforce the licensing law.

### Examples

As mentioned above, a licensing fee cannot exceed the actual costs of administering and enforcing a tobacco retailer licensing program. In 2009, the New York State Legislature adopted legislation to replace the licensing fee of \$100/year with a graduated fee of between \$1,000 and \$5,000/year, depending on the volume of sales by a retailer. The amount of the proposed new fee was not based on any precise calculation of program costs. A trade association filed a lawsuit alleging that the fee increase was an unconstitutional tax, and the appellate



court issued an order allowing the retailers to pay the \$100 fee until the court decided the case. The lawsuit was ultimately dismissed when the State Legislature adopted legislation to impose a flat licensing fee of \$300/year. See *Long Island Gasoline Retailers Ass'n v. Paterson*, 83 A.D.3d 913 (App. Div. 2011).

## KEY RESOURCES

ChangeLab Solutions has created two resources specifically to assist communities calculate the amount of a tobacco retailer licensing fee:

- *Budgeting for a Local Tobacco Retailer Licensing Ordinance in California*, a checklist for cities and counties that sets forth the various aspects of the law that require funding; and
- An online *Tobacco Retailer Licensing Fee Calculator* that communities can use to calculate the appropriate fee by inputting data specific to their jurisdiction.



# 8

## WORK WITH OTHER AGENCIES

*The relevant agencies collaborate to implement and enforce the tobacco retailer license policy*

As noted in Step 6, drafting strong policy language is essential to creating an effective tobacco retailer licensing program. However, unlike some laws that are generally “self enforcing,”<sup>17</sup> tobacco retailer licensing requires strategic, proactive efforts to ensure retailer compliance. Without enforcement systems in place, the law will have no real effect.

Often, several different government agencies need to be involved in this effort. They will need to collaborate to create a master list of retailers and a license application; administer youth decoy operations and visual inspections for violations; and prosecute violators, among other duties. In addition, entirely new systems and processes will need to be created to sustain TRL.

Early collaboration and cooperation among all the agencies and officials involved can help ensure that the licensing program is properly implemented and effectively enforced. Convening the relevant persons while the law is being drafted will allow them to share information about their piece of the program and discuss how it will work with other parts. They can also use this opportunity to provide input on the language of the law and express their preferred systems of implementation. If the policy is created without these stakeholders’ input, it is less likely to be successful.

### KEY RESOURCES

ChangeLab Solutions’ *Implementation Checklist for Tobacco Retailer Licensing* lists all the elements required to establish and enforce a tobacco retailer licensing program.

For more information on the various ways tobacco retailer licensing is enforced, refer to ChangeLab Solutions’ *Case Studies on the Implementation and Enforcement of Local Tobacco Retailer Licensing Ordinances in California*, which provides an overview of TRL in four different communities, each of which takes a different approach to enforcement.



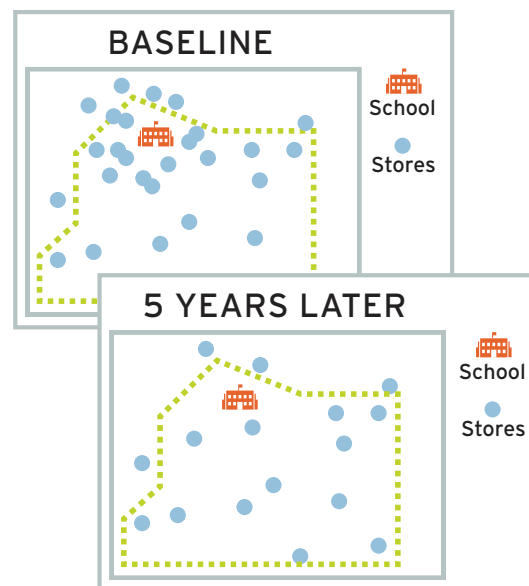
## 9

# COLLECT DATA AND EVALUATE THE TRL POLICY

*The community determines the effectiveness of the TRL policy and outlines next steps*

Despite the fact that an increasing number of jurisdictions are adopting local tobacco retailer licensing ordinances, there has been no rigorous evaluation of any policies. Lack of comprehensive evaluation data makes it difficult to measure effectiveness and build an evidence base to support TRL adoption. Data can also be used as part of an advocacy strategy by future jurisdictions considering tobacco retailer licensing.

It is important to collect data and evaluate a licensing policy to determine if the policy is addressing the problem originally identified, and to determine whether amendments to the policy would make it more effective. The data collected should relate directly to the performance standards and requirements in the policy – if youth access to tobacco was a main concern, has the youth sales rate been reduced since the licensing law was implemented? If the location or density of retailers was a concern, has the distribution of retailers in the community changed (or will it change over time)? In order to successfully evaluate TRL in a community, it is necessary to identify key questions and priorities prior to implementation, and to collect accurate data at the outset to use as a baseline for future evaluation.



## KEY RESOURCE

Few resources exist that are specifically targeted to evaluation of tobacco retailer licensing policies. The tools used in the community's environmental assessment and retail assessment can also be used to evaluate the progress of the policy. The Center for Tobacco Policy and Organizing, a project of the American Lung Association in California, has conducted [informal evaluations of several policies](#) in California and concluded that a strong local TRL system is effective at preventing illegal sales of tobacco to minors.

# 10

## ADDITIONAL USES FOR TOBACCO RETAILER LICENSING

*A jurisdiction can add plug-in policy options to strengthen the licensing program*

Tobacco retailer licensing is an extremely versatile regulatory scheme. The basic requirement is simple: retailers obtain a license to sell tobacco products and agree to abide by specified performance standards. Failure to meet those standards results in suspension or revocation of the license (e.g., loss of the privilege granted by the government).

The performance standards and requirements should address the problem defined earlier in the process, whether it is sales to minors, retailer density or location, or something else entirely. However, TRL can be used to enforce virtually any policy strategy in the retail environment, including pricing strategies, restrictions on tobacco sales by certain types of businesses, marketing restrictions, or other innovative strategies. These various policy options can be “plugged in” to a core tobacco retailer licensing policy.

Any regulatory policy can be implemented independently, without being part of a new licensing program. However, an effective licensing program provides a means of enforcement and meaningful penalties, and also consolidates all retail policies into a single law. A single enforcement system is more effective and efficient for both government and retailers.

### Examples

[New York City’s Sensible Tobacco Enforcement ordinance](#), adopted in 2013, established a minimum price for cigarettes and both a minimum price and a minimum pack size for little cigars. In addition to civil monetary penalties, both requirements are incorporated into New York City’s retailer licensure law, and violations can lead to license suspension or revocation.



### KEY RESOURCE

ChangeLab Solutions has created [legislative language](#) for a series of 13 “plug-in” policy options that can be incorporated into a TRL ordinance, as well as a fact sheet that provides an overview of the “plug-ins.”

# ENDNOTES

- 1 Family Smoking Prevention and Tobacco Control Act (Pub. Law 111-31, June 22, 2009); A summary of the retail provisions of this Act can be found at: US Food and Drug Administration. *Overview of the Family Smoking Prevention and Tobacco Control Act: Consumer Fact Sheet*. 2015. Available at: [www.fda.gov/tobaccoproducts/guidancecomplianceregulatoryinformation/ucm246129.htm](http://www.fda.gov/tobaccoproducts/guidancecomplianceregulatoryinformation/ucm246129.htm).
- 2 Over 40 states require some form of a tobacco retailer license. [www.cdc.gov/tobacco/data\\_statistics/state\\_data/state\\_highlights/2010/index.htm](http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2010/index.htm). Most of the state tobacco retailer licensing laws are implemented and enforced by the state agency that enforces tax laws.
- 3 McLaughlin I. Tobacco Control Legal Consortium. *License to Kill?: Tobacco Retailer Licensing as an Effective Enforcement Tool*. 2010. Available at: <http://publichealthlawcenter.org/resources/license-kill-tobacco-retailer-licensing-effective-enforcement-tool>.
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- 7 Cantrell J, Kreslake JM, Ganz O, et al. "Marketing Little Cigars and Cigarillos: Advertising, Price, and Associations with Neighborhood Demographics." *American Journal of Public Health* 103(1):1902-9. 2013. doi:10.2105/AJPH.2013.301362.  
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- 8 Centers for Disease Control and Prevention (CDC). (2013). Smoking & Tobacco Use: Current Cigarette Smoking Among Adults in the United States. Retrieved April 3, 2015, from [www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/adult\\_data/cig\\_smoking/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/adult_data/cig_smoking/index.htm);  
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- 9 Providence, R.I., Code of Ordinances §§14-303, 14-309.
- 10 Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 et seq.
- 11 ChangeLab Solutions. *How State Laws Preempting Local Authority to Reduce Youth Access to Tobacco Products Adversely Impact Health*, 2015. Available at: [www.changelabsolutions.org/publications/preemption\\_youth\\_access](http://www.changelabsolutions.org/publications/preemption_youth_access).
- 12 California Business and Professions Code 22971.3: "Nothing in this division preempts or supersedes any local tobacco control law other than those related to the collection of state taxes. Local licensing laws may provide for the suspension or revocation of the local license for any violation of a state tobacco control law."
- 13 Oklahoma Stat. Ann. Title 37 §600-10.
- 14 For an example of a state Attorney General opinion on preemption, see: Morales, D. Office of the Attorney General, State of Texas. *Opinion No. DM-433 Re: Authority of a home-rule city to adopt an ordinance restricting or prohibiting cigarette vending machines (RQ-912)*. March 5, 1997. Available at: [www.texasattorneygeneral.gov/opinions/opinions/48morales/op/1997/htm/dm0433.htm](http://www.texasattorneygeneral.gov/opinions/opinions/48morales/op/1997/htm/dm0433.htm).
- 15 Unlike a tax, which can be levied to raise revenue for any governmental purpose, a regulatory fee is a charge levied by a governmental entity on an industry of economic activity to offset specific public operating costs or impacts associated with that industry or economic activity. While regulatory fees are authorized in each state, every state's law is different and it is important to consult with legal counsel to understand the extent of allowable licensing fees in a specific state.
- 16 The Center for Tobacco Policy & Organizing, American Lung Association. *Matrix of Strong Local Tobacco Retailer Licensing Ordinances*. 2013. Available at: <http://center4tobaccopolicy.org/wp-content/uploads/2013/09/Matrix-of-Strong-Local-Tobacco-Retailer-Licensing-Ordinances-September-2013.pdf>.
- 17 A so-called "self enforcing" law is one that will prompt compliance without significant enforcement efforts by the government. Smokefree air laws are sometimes said to be "self enforcing" because they can achieve substantial compliance simply through public awareness of the existence of the law.

ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

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