



# Coupons and Other Price Discounting Policy Options

Through licensing and related regulations, local governments (cities and counties) have the opportunity to address the sale of tobacco and related devices and products (such as electronic cigarettes) in the retail environment. This fact sheet provides an overview of considerations involved when regulating tobacco price discounting. It is one in a series of resources providing Minnesota-specific information on local retail tobacco licensing and point-of-sale options.

### Background

Keeping the cost of tobacco products high is one of the most effective tools to decrease smoking prevalence and initiation. This is especially true for young people who are among the most price-sensitive shoppers.

Tobacco taxes are the most common method to increase price, but their effect can be undermined by other price discounting strategies. In fact, tobacco companies spend billions of dollars each year to lower the cost of their products through coupons, cents- or dollars-off promotions, buy-one-get-one-free deals, and multi-pack offers (e.g., two-for-one). Local governments have a number of non-tax options available to combat these industry price discounting tactics.

Cities such as New York, NY; Providence, RI; and Chicago, IL have restricted tobacco price discounting through laws prohibiting certain practices. Laws combating tobacco price discounting have been tested in courts and upheld. While not a guarantee of the same results, those experiences and court decisions may help support local restrictions here in Minnesota.

### Minnesota Minimum Cigarette Price Law

As a measure to counter unfair trade practices that lessen competition, our [state law](#) prohibits wholesalers and retailers from selling cigarettes “below cost.” The [law](#) sets a price floor for cigarettes based on a formula that presumes a 12.9% total markup from invoice prices, but it allows lower markups if wholesalers and retailers can prove

their actual selling costs are lower. There is no one statutorily-set minimum price because wholesalers' and retailers' invoice costs vary, so every brand of cigarettes has its own minimum price. The Department of Commerce maintains a [minimum price list](#), which is updated annually. This law applies only to cigarettes and does not prevent the retail redemption of coupons or "buy down" promotions from the cigarette manufacturer, which typically allow the retailer to receive a rebate for discounted products sold to consumers.

## Policy Considerations

Communities should review their existing tobacco retailer licensing law to see if it already includes regulations on tobacco pricing or promotions, such as establishing a minimum price or pack size for cigars or prohibiting the distribution of free or low-cost samples. If so, any new restrictions on tobacco pricing should be coordinated with existing law, including potential changes to compliance/enforcement programs and licensing fees that reflect the administrative and financial impact of the new regulations.

Being familiar with [key terms and concepts](#) can also help you better understand industry price-related promotions and marketing strategies.

## Policy Options

Local governments can adopt any combination of the following approaches to increase the price of tobacco products. Communities should weigh the pros and cons of each policy option when considering them, both as stand-alone approaches and in combination with each other.

### ■ Restrict price discounts for tobacco products

To keep the cost of tobacco products high and reduce consumption, local governments may restrict price discounting. Such laws could restrict all or some forms of price discounting, including the redemption of coupons, cents- or dollars-off

promotions, buy-one-get-one-free deals, and multi-pack offers (e.g., two-for-one).

- **Coupons.** Available in a wide array of mediums, coupons allow industry-targeted geographic or demographic outreach (e.g., on packages; at events; via direct mail, the internet, or a smartphone application; etc.). Restricting the distribution of coupons has historically been a common policy approach but could have Commerce Clause and First Amendment implications. Restricting coupon *redemption*, on the other hand, limits regulation to one aspect of a sales transaction, which may limit in turn the legal challenges posed by coupon distribution restrictions.
- **Retail value-added promotions.** These are essentially in-store promotions. The most common forms are multi-pack discounts and offers of free or low-cost tobacco or other products with the purchase of a tobacco product (e.g., buy-one-get-one-free, a free lighter or tin of chewing tobacco with the purchase of a pack of cigarettes, buy-two-get-\$2-off-a-third-pack, etc.). Limiting retail value-added promotions is another important component to an effective public health policy to combat tobacco price discounting.

The cities of Providence, New York, and Chicago have laws that restrict all forms of price discounting. As the first and second in the country to pass such laws, Providence and New York successfully fought legal challenges in court based on preemption and First Amendment grounds. Chicago's recently adopted restriction has not been challenged as of the date of this publication.

For more information on these strategies, see [Death on a Discount: Regulating Tobacco Product Pricing](#).

### ■ Establish a local minimum tobacco price law

Although Minnesota law prohibits retailers from selling cigarettes to consumers below a retailer's cost, the law only applies to cigarettes and does not address price discounting by manufacturers or retailers. Additionally, to date, laws restricting retail value-added promotions reference a base price that may still be manipulated. Closing this potential loophole, New York City also recently passed [legislation](#) raising its minimum price for cigarettes and cigars and setting the first-ever price floors for other types of tobacco products (i.e., smokeless tobacco, snus, shisha, and loose tobacco).

Local governments can go further than state law and address price discounting by manufacturers and retailers by setting a minimum price for all or some tobacco products. A retailer would not be allowed to sell products below the established minimum price. The price could also increase over time by a fixed amount annually or by tying the increase to inflation.

Additionally, a minimum price law can specifically include the other two policy options discussed here: (1) restricting price discounts and (2) implementing a minimum pack size for non-cigarette products. In Minnesota, a number of localities have taken this combined approach with cigars. For more information, see [Setting a Minimum Price and Package Size for Cigars](#).

### ■ Implement a minimum pack size for non-cigarette tobacco products

Another way to increase the price of non-cigarette tobacco products, such as cigars and cigarillos, is to require a minimum pack size. While federal law already requires that cigarettes be sold in packages of at least 20, single cigars can still be sold for a lower price than larger quantities. For more information on this strategy, see [Setting a Minimum Price and Package Size for Cigars](#) and [Regulating Tobacco Products Based on Pack Size](#).

## CONTACT US

Please feel free to contact the Public Health Law Center at (651) 290-7506 or [publichealthlaw@mitchellhamline.edu](mailto:publichealthlaw@mitchellhamline.edu) with any questions about the information included in this fact sheet or to discuss concerns you may have about implementing these policy options.