



Options for Regulating Tobacco in the Retail Environment

This document sets forth some options for state and local regulation of tobacco at the point of sale. In many cases, these options may be implemented in more than one way. The information contained in this document is not intended to constitute or replace legal advice and we encourage you to consult with local legal counsel before attempting to implement these measures. Some of these options are the subject of ongoing legal challenges by the tobacco industry and its allies. For more information and to discuss considerations relating to specific options, please contact the [Public Health Law Center](mailto:publichealthlaw@wmitchell.edu) at publichealthlaw@wmitchell.edu.

Basic Strategies¹

- Require a retailer to obtain a license, renewable annually, to sell tobacco products.
- Set the license fee at an amount sufficient to fund adequate implementation and enforcement of the law (in Minnesota, the fee cannot exceed enforcement costs).
- Include incremental monetary fines and suspension as penalties for license violations.
- Expand the definition of “tobacco product” so the law’s restrictions encompass new and emerging tobacco products, such as dissolvable products or “e-cigarettes” (electronic cigarettes).
- Ensure that the license is nontransferable (i.e., if a licensee changes ownership or its place of business, it must reapply for a license).
- Prohibit the sale of any tobacco products to anyone under the age of 18.**
- Prohibit self-service displays which allow tobacco products to be handled by a consumer prior to purchase (i.e., require all tobacco products to be located behind a sales counter).**
- Prohibit the sale of any tobacco products through vending machines,** in all locations.
- Eliminate free or nominal cost samples of any tobacco product.**
- Prohibit the sale of single cigarettes (“loosies”) or of smokeless tobacco products broken out of the original packaging for sale in quantities smaller than the manufacturer’s smallest package.**
- Establish minimum pack size requirements for non-cigarette and smokeless tobacco products.
- Require licensees to comply with all existing federal, state and local tobacco laws.
- Mandate that licensees train their employees prior to obtaining a retail license.

Locational Strategies

- Prohibit the sale of tobacco products within a certain distance from youth-oriented facilities.
- Prohibit tobacco retailers from doing business within a certain distance of other tobacco retailers (i.e., reduce the density of tobacco retailers).
- Limit the overall number of tobacco retailers allowed within a community.
- Prohibit the sale of tobacco by health care-related stores such as pharmacies.
- Prohibit the sale of tobacco by or within educational facilities.

Other Strategies

- Prohibit the sale of related non-tobacco products, such as novelty lighters and candy designed to look like cigarettes, chewing tobacco, and e-cigarettes.
- Restrict the sale of single non-cigarette tobacco products, such as single little cigars or cigarillos.
- Prohibit underage youth employees from handling tobacco products for sale.
- Prohibit high-speed roll-your-own machines.
- Increase the minimum legal sale age for all tobacco products.
- Restrict the retailer's ability to redeem coupons for tobacco products.

Advanced Strategies

- Require retailers to display graphic signs that warn of the health consequences of tobacco product usage.
- Restrict the sale of flavored, non-cigarette tobacco products.
- Impose time, place and manner restrictions on tobacco advertisements.
- Restrict retailers' ability to sell products at a discounted price, other than through the redemption of coupons.
- Restrict retailers' ability to use tobacco product shelving strategies to create a wall of tobacco products (i.e., "powerwalls").

Last updated: October 2012

¹ These options are typical options for tobacco retailer licensing laws. In some jurisdictions, they have been established as stand-alone laws or regulations. Some options are already required in some form under federal law. However, including them in state or local law allows jurisdictions to enforce them using their own licensing or regulatory schemes.

** Required under federal law, though in some cases there may be limited exceptions (e.g., for adults-only facilities).