

# Hey, That Actually Worked!

Achieving Rural PSE Change through  
Coordination & Collaboration

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2016 SHIP Annual Meeting

July 27, 2016



Working Together  
for Better Health



# Collaborators



# Overview

- **Policy Solutions & Process**
- **Legal Technical Assistance & Policy Options**
- **Success Story: Renville County**
- **Questions & Discussion**



# Policy Solutions to Address the Point of Sale

Erin Simmons

Senior Manager

American Lung Association in Minnesota



**AMERICAN  
LUNG  
ASSOCIATION®**  
Fighting for Air



WHO ?

WHAT ?

WHERE ?

WHEN ?

WHY ?

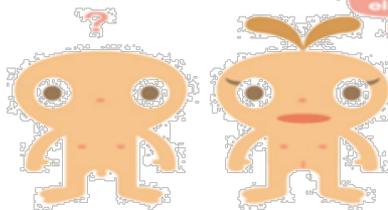
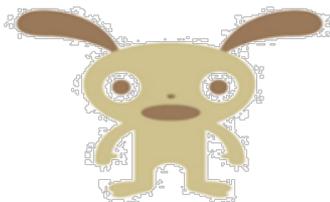
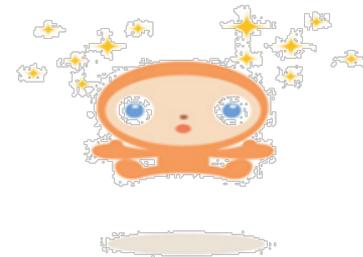
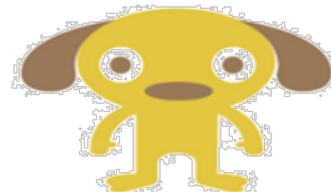
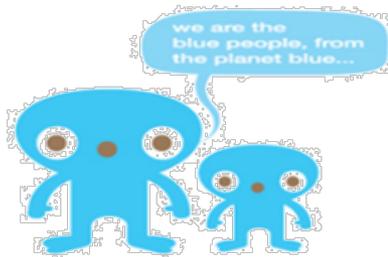
HOW ?

# Assessing Need

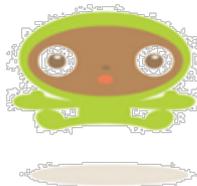
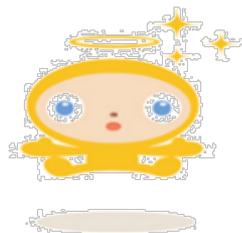
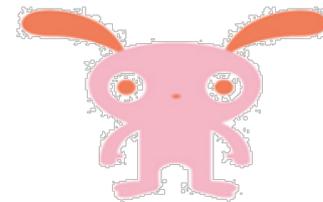
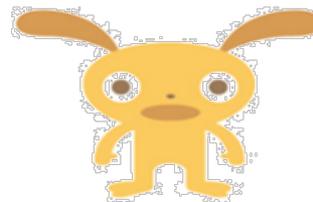
- Store audits
- Data assessment
- Policy review



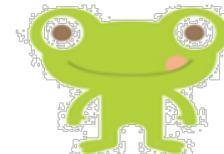
# Who is Coming With?



Shall we do something else now...?



I've forgotten what I wanted to say...



# Community Readiness

- One-on-One Meetings
- Community Leaders
- Decision Makers
- Champion



# Education

- Partners
- Decision Makers
- Media



# What Will We Do?



## Menu of POLICY OPTIONS

### Number, Type, & Location of Tobacco Retailers

- Cap number of tobacco retailers
- Ban tobacco sales near youth locations (e.g. schools)
- Restrict tobacco retailer proximity to other retailers
- Ban tobacco sales in places such as pharmacies, restaurants, and/or bars

### Point-of-Sale Advertising

- Restrict Content Neutral Signage
- Restrict product placement

### Other Point-of-Sale Policies

# Are We Ready?

- Support:
  - Community
  - Decision Makers



# It's Go Time

- Meet date is set
- Committed testifiers
- Monitoring opposition



# Implementation



including e-cigarettes

## † AMERICAN LUNG ASSOCIATION. IN MINNESOTA

Communities across the state have been faced with the issue of the ever changing tobacco industry, most recently electronic cigarettes (e-cigarettes). In May 2014, the Minnesota Legislature amended the Minnesota Clean Indoor Air Act (MCIAA) to restrict the use of e-cigarettes in certain places and also include use of e-cigarettes within the definition of smoking for certain types of buildings. These new regulations went into effect on July 1, 2014.

The Minnesota Clean Indoor Air Act (MCIAA) is a state law that describes where smoking is prohibited, outlines the responsibilities of employers, managers, and other persons in charge and lists exemptions that affect their workplaces and facilities. In the following areas, the use of e-cigarettes is now prohibited:

- Licensed child care, including family home daycare during hours of operation
- Health care facilities and clinics
- Government buildings owned or operated by the state of Minnesota
- Government buildings owned or operated by cities, counties, townships, and other political subdivisions
- Facilities owned by Minnesota State Colleges and Universities and the University of Minnesota
- Buildings and vehicles owned or operated by public school districts



# Common Barriers

- Lack of political will
- It's complicated
- Compromise
- Enforcement
- Enforcement
- Enforcement







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LUNG  
ASSOCIATION®**

Fighting for Air



# Legal Technical Assistance & Policy Options

Scott M. Kelly  
Staff Attorney  
Public Health Law Center

*Any legal information provided during this presentation does not constitute legal advice or representation.*

# The Public Health Law Center



**PUBLIC HEALTH  
LAW CENTER**  
at Mitchell Hamline School of Law

# Tobacco Control Legal Consortium



Attorneys supporting tobacco control policy change.

# Legal Technical Assistance



Legal Research



Policy Development



Publications



Trainings



Direct Representation



Lobby

**Public Health Law Center**  
*Improving health through the power of law*

*What is legal technical assistance?*

Law can present both barriers and opportunities for public health initiatives. Local, state, federal, and tribal laws can impact public health policy development in many ways — both expected and unexpected. The Public Health Law Center provides tailored legal technical assistance that can make the difference between success and failure in using law and policy to improve public health across a community. While the Public Health Law Center is the home of cornerstone national legal technical assistance programs for tobacco control (the Tobacco Control Legal Consortium) and public health law (the Network for Public Health Law), the Center also provides specialized assistance to promote healthy eating and physical activity policies for all settings where we live, work, study, shop, and play.

**CONTACT THE PUBLIC HEALTH LAW CENTER**  
Contact the Center today at 800.272.7688 or [public.health@duke.edu](mailto:public.health@duke.edu)  
To see how the Center can help you improve health through the power of law.

# Minnesota-Specific Resources

## Minnesota Tobacco Point-of-Sale Policy Toolkit



### Raising the Age to Sell Tobacco: Establishing a Minimum Clerk Age

## Minnesota Tobacco Point-of-Sale Policy Toolkit



### Compliance and Local Enforcement Programs

## Minnesota Tobacco Point-of-Sale Policy Toolkit



### Policy Options to Address Tobacco Product Samples and Sampling

## Minnesota Tobacco Point-of-Sale Policy



### Retail License Fees

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 calculating retail tobacco licensing fees. It is one in a series of resources providing Minnesota-specific information on local retail tobacco licensing and point-of-sale options.

#### Background

Licensing is a tool that local governments use to regulate businesses to help ensure compliance with the law. Cities and counties incur costs when administering and enforcing those regulations. A retail tobacco license fee allows cities and counties to recover their costs by placing the financial burden on those creating them – the retailers and their customers. When the fee isn't sufficient,

community residents are essentially subsidizing the sale of tobacco.

Retail license fees vary from community to community, with most between \$100 and \$5 a year. They are supposed to be different. One size does not fit all. The "correct" fee for one community may be too high or low in another. Underestimating costs may make a licensing program ineffective, but establishing fees that significantly exceed the costs may be an unfair source of revenue. Local conditions will determine what the appropriate fee should be.

License fees should be carefully constructed and reviewed regularly.

#### Costs to Consider

The license fee can include all direct and indirect expenses related to issuing the licenses and supervising, inspecting, and regulating the license holders and their employees. In most communities these expenses will include:

#### What's a Fee Schedule?

Some communities do not include the actual license fees in the tobacco licensing ordinance. Instead, they are included within a "fee schedule," a separate ordinance that can contain all of the fees charged for city/county licenses and permits.

By removing fees from the individual ordinances, a city or county can reduce the administrative burdens associated with ordinance changes. Multiple fees can be amended at one time. Only one ordinance needs to be published.

## Minnesota Tobacco Point-of-Sale Policy Toolkit

## Minnesota Tobacco Point-of-Sale Policy Toolkit



### Violations and Penalties

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 determining the appropriate penalties for violations. It is one in a series of resources providing Minnesota-specific information on local retail tobacco licensing and point-of-sale options.

#### Background

We expect people to follow our tobacco laws. But when they don't, there can be consequences. Effective licensing penalties encourage compliance and reduce the need for costly enforcement actions. Penalties should be reasonable, and an enforcement program must be administered responsibly. For more information on enforcement programs, see *Compliance and Local Enforcement Programs*.

Administrative penalties can include fines, license suspensions and revocations, and education. The appropriate combination of penalties will depend on the interests, resources, and experience of the community.

The maximum penalty for a petty misdemeanor is a \$300 fine.

A misdemeanor is a \$1,000 fine and/or 90 days imprisonment.

A gross misdemeanor is a \$3,000 fine and/or one year imprisonment.

#### Criminal Consequences

Minnesota law prohibits and penalizes certain activities:

- **Sales to minors:** Selling tobacco to someone under 18 years of age (a "minor") is a misdemeanor. A second violation within five years is a gross misdemeanor.
- **Furnishing to minors:** Furnishing tobacco products to a minor (e.g. an adult purchasing tobacco on behalf of a minor) is a misdemeanor. Subsequent violations are gross misdemeanor offenses.
- **Possession, use, or purchase by minors:** The possession, use, purchase, or attempted purchase of tobacco products by a minor is a petty misdemeanor. Penalties do not apply to minors who purchase or attempt to purchase tobacco during supervised compliance checks.
- **Identification:** Using false identification to misrepresent age, or lending identification to a



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This publication was prepared by the Public Health Law Center at Mitchell Hamline School of Law, St. Paul, Minnesota. It was funded by, and developed in partnership with, the Minnesota Department of Health as part of its Tobacco Prevention and Control point-of-sale initiative.

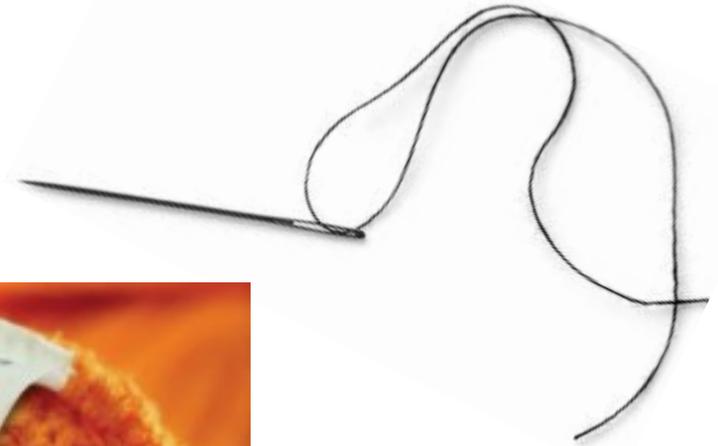
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# Tailored Approach



# Foundational Pieces

- Broad & Comprehensive Licensing
- Prohibited Locations
- Self-Services Restrictions
- Child-Resistant Packaging
- Compliance Checks & Enforcement
- Administrative Penalties



# Additional Options

- Samples & Sampling
- Advertising Regulations
- Minimum Price Laws
- Minimum Pack Laws
- Flavored Restrictions
- Increased Penalties
- Price Discounts
- Age Restrictions
- Higher License Fees
- Licensing Caps
- Ineligible Locations
- Higher License Fees
- Self-Service Restrictions
- Mandatory Training
- Density Restrictions
- Proximity
- Zoning – Land Use Regulations



# Options Inside Options



# Single Cigars – “Loosies”

## Definition

The common term used to refer to a single or individually packaged cigar or cigarette . . . The term “loosies” does not include individual cigars with a retail price, after any discounts or price promotions are applied and before any sales taxes are imposed, of more than \$\_\_\_\_\_ per cigar.

## Restriction

It shall be a violation for any person to sell or offer to sell any:

Loosies as defined in Section \_\_\_\_.



# Minimum Pack Size

No person shall sell, offer for sale, or otherwise distribute any cigar that is not within an original package containing a **minimum of \_\_\_\_\_ ( ) cigars.**



# Minimum Size or Price

No person shall sell, offer for sale, or otherwise distribute any cigar in an **original package containing fewer than \_\_\_\_\_ ( ) cigars, *unless* that package has a sales price**, after any discounts or price promotions are applied and before sales taxes are imposed, of **at least \$\_\_\_\_\_ ( ) . . .**

Minimum prices & market rates may both apply



# Minimum Pack Price

No person shall sell, offer for sale, or otherwise distribute **any cigars for a sales price**, after any discounts or price promotions are applied and before sales taxes are imposed, of less than \$\_\_\_\_\_ ( )...

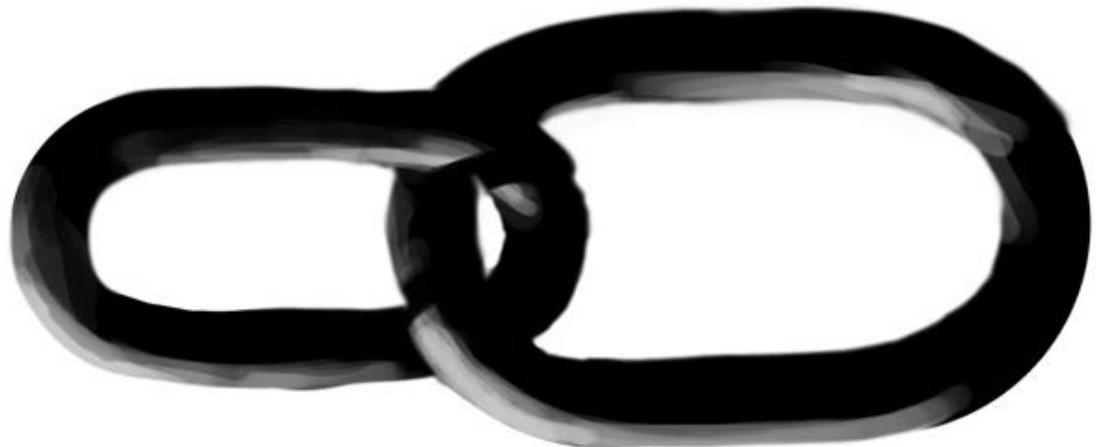
Minimum pricing can be:

- Per Cigar
- Per Package



# Minimum Pack and Price

No person shall sell, offer for sale, or otherwise distribute any cigar that is not within an original package containing **a minimum of \_\_\_\_\_ ( ) cigars and for a sales price**, after any discounts or price promotions are applied and before sales taxes are imposed, **of less than \$\_\_\_\_\_ ( ). . .**



# Results



[www.publichealthlawcenter.org](http://www.publichealthlawcenter.org)

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Staff Attorney

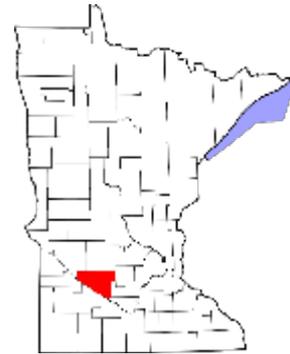
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# Creating Community Level Change: A Success Story

Leah Schueler – SHIP

Hannah Dockendorf – SHIP

Annie Tepfer – Drug Free Communities



# Assessment



Tobacco Ordinance  
not updated since  
1998



POS Tobacco Audit  
of all licensed  
tobacco retailers  
Single Cigars sold at  
\$.99 or 2/\$1.49  
Cheaper than a  
candy bar



Up to 40 % Tobacco  
Compliance Check  
failure  
Retailers need  
training/education

# Capacity Building & Planning

## Develop a Tobacco Committee

RAPAD Drug Free Communities Coalition  
Public Health  
County Attorney  
SHIP- Statewide Health Improvement Program  
Cancer Survivor  
Parent  
Law Enforcement  
Youth Leaders  
Veteran  
Community Members  
Regional American Lung Association Rep.

Consulted with Public Health Law  
Model Tobacco Licensing Ordinance.  
Best resource available to help rewrite  
ordinance with correct legal language and  
expertise

Consulted with  
American Lung Association  
Brought tremendous information and  
helped present to county board

# Menu of Policy Options

Choose items from the “Menu” that you would like to see enacted in your community. The menu is not exhaustive but is meant to get you thinking and conversations started. These three items will function as your required starter course

- Model Policy- Public Health Law Center
- Increase Penalty Structure and Required Compliance Checks
- Licensing fee that fully covers all program costs, including administration and enforcement

## Number, Type & Location of Tobacco

Cap # of tobacco retailers \*

Ban tobacco sales near youth locations \*

Restrict tobacco retailer proximity to other retailers

Ban tobacco sales in pharmacies \*

Require licensee' regularly train employees\*

Prohibit sampling of tobacco in shops \*

## Other-Point-Of-Sale Policies

Ban sale of all flavored tobacco products

Limit the sale of flavored OTC to adult-only facilities

Minimum pack size for little cigars

Ban sale of candy/jerky products simulating tobacco

Increase the age of the tobacco seller \*

## Restrictions on Promotions & Discounts

Ban price discounting & multipack offers

Ban tobacco coupon redemption

Minimum price on cigars \*

**Yellow-** Negotiated with County Commissioners

**Red-** Menu choices that moved forward

# Tobacco Licensing Ordinance

## Implementation

No indoor tobacco  
sampling/vaping  
moratorium

Tobacco Committee  
Gather community  
support for proposed  
ordinance changes

Proposed changes to  
ordinance presented to  
County Board

Debate policy options  
with County Board  
What are we willing to  
negotiate on?

\*Public Hearing set  
\*Testimonies given  
\*POS data presented  
\*County Board votes

Develop Tobacco  
Retailer Training/  
Distribute new  
ordinance and licensing  
info

# Updated Ordinance Passes



- Minimum price per cigar at \$2.10 in packages of less than seven
- Sales prohibited by Pharmacies
- Annual education requirements for all employees of tobacco licensee
- 1000 feet proximity to youth-oriented facilities
- Increased Administrative penalties for failing compliance check
  - 1<sup>st</sup> offense-\$400 Administrative Fee
- No vaping/sampling of tobacco products indoors

**Winners – Renville County Youth**

# Retailer Training



Public Health,  
RAPAD, & SHIP  
Retailer Training  
Power Point.

Training covers:

- Federal, State, and Local Tobacco laws
- Proper IDs
- Penalties
- Fines
- Etc.

<http://www.renvillecountymn.com/PublicHealth/Tobacco Sales Training Renville County.pdf>

# Retailer Outreach: Timeline

- August 2015 – Public Health Director mails entire ordinance in paper form to all tobacco retailers
- November 2015 – License applications include retailer education training (via Power Point) and attestation on changes to the ordinance
- March 2016 – Letters to all retailers reminding them of cigar pricing requirements
- March 2016 – RAPAD completes Educate and Congratulate tobacco compliance checks
- 7 out of 21 retailers sold (33% failure rate)
- Packages of cigars continued to be sold below \$2.10 each

# Lessons Learned

- Send Ordinance updates to Licensee and store managers
- Retailer training inconsistent across the county
- Provide ordinance to corporate office of chain retailers  
(i.e. Casey's)
- Be prepared for tobacco representatives to contact you
- Face-to-face communication with retailers is essential
  - New managers hired
- Go slow, take your time,  
ask experts a lot of questions



# Next Steps: Flavoring Campaign

- Gas Toppers
- Radio Ad
- Billboard
- Post Cards
- Library Mouse Pads
- Newspaper Ad
- Banner



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# Questions & Discussion



**GRACIAS**  
**ARIGATO**  
**SHUKURIA**  
**JUSPAXAR**  
**DANKSCHEEN**  
**TASHAKKUR ATU**  
**YAQHANYELAY**  
**SUKSAMA**  
**EKHMET**  
**THANK**  
**YOU**  
**BOLZIN**  
**MERCICI**  
**BIYAN**  
**SHUKRIA**  
**GRAZIE**  
**MEHRBANI**  
**PALDIES**  
**MAAKE**  
**KOMAPSUMNIDA**  
**LAH**  
**MINMONCHAR**  
**MAKETAI**  
**UNALCHEESH**  
**YUSPAGARATAM**  
**TINGKI**  
**HATUR GU**  
**EKOJU**  
**SIKOMO**  
**SPASSIBO**  
**SNACHALHUYA**  
**NUHUN**  
**CHALTU**  
**WAREEJA**  
**MAITEKA**  
**HUI**  
**ATTO**  
**ANHA**  
**MERSI**  
**SPASIBO**  
**DENKAUJA**  
**NENACHALHYA**  
**UNALCHEESH**  
**TAHTAPUCH**  
**MEDAWAGSE**  
**BAIWA**  
**MERASTAWHY**  
**GAEJTHO**  
**AGUYJE**  
**FAKAARE**  
**GOZAIMASHITA**  
**EFCHARISTO**  
**FAKAARE**  
**MINMONCHAR**