Tobacco Retail Licensing Policy: A Health Equity Impact Assessment

Executive Summary

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Why a Tobacco Retail Licensing Policy?

Oregon has the highest illegal sales of tobacco to minors in the nation[1], with one in four retailers in Multnomah County illegally selling tobacco to minors in 2014[2]. Since nine out of ten regular smokers report starting to use tobacco before the age of 18[3], it's clear we are not doing enough to prevent future generations of youth from easy access to addictive nicotine and tobacco products.

Oregon and Multnomah County elected officials are considering taking common sense action to help reduce the sales of tobacco and e-cigarettes to minors through a tobacco retail licensing policy. Upstream Public Health (Upstream) collaborated with an advisory team of diverse community members and public health staff (see fourth page for a list of Workgroup members), from April to September of 2015, to conduct a Health Equity Impact Analysis (HEIA) on the impact of a potential tobacco retail licensing policy on Multnomah County communities. The project team and Workgroup reviewed research and data, including information gathered from retailers and youth, to understand TRL health equity impacts. This document summarizes the findings and presents priority recommendations to increase health equity and minimize harm.

Inequities in Tobacco Use Persist

The Health Equity Impact Assessment finds that tobacco is the number one cause of preventable death and chronic disease in Oregon[4]. Tobacco companies have historically, and unethically, targeted residents in our most vulnerable neighborhoods by using advertising methods and promotions specifically intended for communities of color and low-income communities – contributing to persistent inequities in tobacco use. For example, more than 1 in 3 people with earnings less than $15,000 a year still smoke. More than 1 in 3 Native American and African American residents are smokers. Residents with mental health and substance use challenges are nearly twice as likely to smoke. Tobacco use contributes to health inequities in heart disease rates, stroke, type 2 diabetes, and various types of cancer[5]. It exacerbates lung disease, cardiovascular and respiratory illness, and can increase the risk of reproductive and developmental health outcomes like premature births and low birth weights[12].

Youth are Vulnerable to New Products and Tobacco Retail Licensing Can Prevent Future Inequities

Initiation of smoking behavior is related to easy access to tobacco retailers and the exposure to tobacco advertising that accompanies them[6–13]. In Multnomah County, more than 1 in 3 tobacco retailers are located within 1000 feet of schools[14]. There are many neighborhoods where children live with a higher than average number of retailers nearby (see Map 1). There are also more tobacco retailers per capita in neighborhoods where more people of color live, which reflect national trends[14].

The tobacco industry has effectively advertised and promoted small cigars, electronic cigarettes, and smokeless tobacco to youth[3]. Many cheap non-cigarette products are being sold in bright packages in candy-like flavors that are attractive to youth[15,16]. Oregon teens more than tripled their use of all non-cigarette products, including e-cigs, from 7% in 2011 to 17.8% in 2013[17,18].Nicotine can affect adolescent brain development and is addictive[12,30]; it is critical to educate youth about tobacco industry

A tobacco retail licensing policy that includes inhalant delivery systems (e-cigarettes) requires retail owners who sell tobacco and/or electronic cigarettes to purchase a license (paying a license "fee"), similar to when they sell alcohol or food. Licensing systems have penalties when retailers sell to minors.

practices and health consequences of tobacco and nicotine use.

The Latino, Asian, and Pacific Islander communities are relatively young – with at least 1 in 3 under the age of 18[20,21] – increasing the risk of a new generation of youth using nicotine and tobacco. Given the disproportionate focus the tobacco industry has had on communities of color and youth[3,16,22–25], a well-implemented TRL policy could prevent tobacco initiation rates among youth of color. Currently, 1 in 10 youth in Oregon, ages 12-17 are smokers. If Oregon's 9.4% youth smoking rate were reduced just a small amount to 7.5% of youth smoking, that would mean 27,690 fewer children growing up with chronic disease related to tobacco, 9,700 lives saved and $484.6 million in health care costs saved[26].

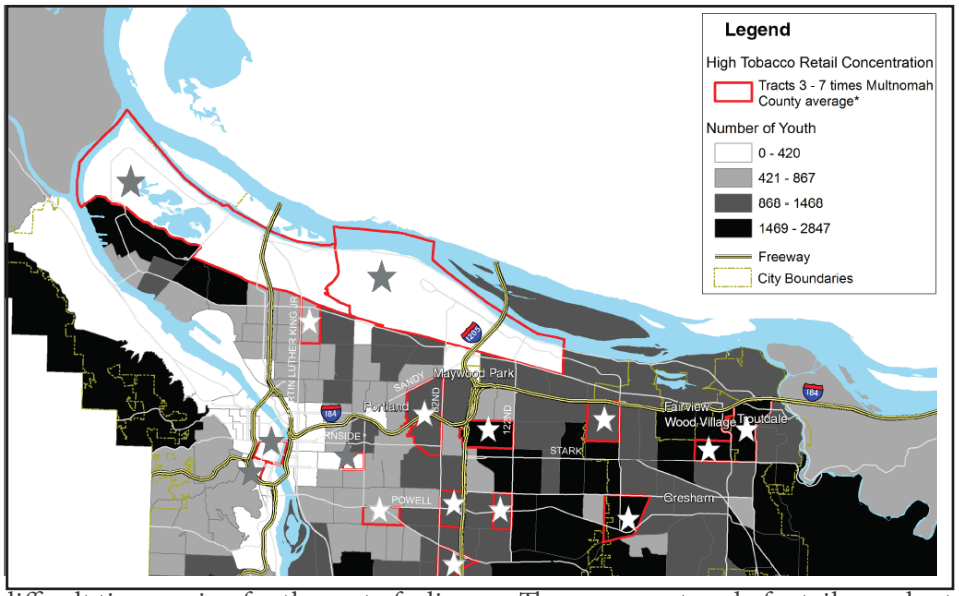
Tobacco retail licensing policy (TRL) has emerged as an effective strategy to reduce rates of tobacco sales to minors[27–29]. The most effective licensing systems involve a sustainable funding source, such as an annual fee, to maintain the licensing program and include the option to suspend or revoke a license. With these elements in place, retailers are more likely to ask for identification, and sales to minors fall[27,30–33].

Effective Retail Licensing Requires Sustainable Funding and Needs to Avoid Burdening Our Smallest Retailers

Workgroup participants were concerned that independently owned small retailers would have a difficult time paying for the cost of a license. They were also concerned that clerks – especially those who do not speak English as a primary language – may not be adequately educated about the new laws and could be fined for selling to minors. While two studies indicate that a tobacco retail license does not impact business revenue[34,35], two of the retailers we interviewed explained that tobacco brings customers through the door who then buy other items. Three retailers we interviewed, who each reported tobacco making up between 5 and 12% of their total sales said they would raise the costs of products for a $300 licensing fee. A fourth retailer, whose tobacco related sales were about 2% of net profits, said they would likely stop selling tobacco at any tobacco licensing fee level. This aligns with a trend of retailers voluntarily stopping sales of tobacco[36,37]. Public agencies need to create financial economic development supports, such as incentives, to assist smaller businesses that want to stop selling tobacco and serve healthier products that are less profitable than tobacco.

The Workgroup was also concerned that small retailers of color, or those that serve communities of color, might be targeted for enforcement more than their white counterparts. Studies show that enforcement officers have engaged in racial profiling on drug related arrests in Portland[38] and across the nation in relation to youth possession of tobacco[39–41], which provide reason for concern and preventive action. The Workgroup feels that small corner stores are more than a place to buy tobacco

Map 1: Tobacco Retailers in Relation to Youth



* Multnomah Couty average is (3) tobacco retailers per census tract. Retailer Data Source: Tobacco Retail Assessment 2014 - a collaboration among Multnomah County Health Department, Upstream Public Health and the Oregon Health Equity Alliance (OHEA); Population Source: American Community Survey 5-year estimate 2009-2013.

– they are a place to meet friends and purchase everyday goods like food or laundry detergent; considering the important role small corner stores can have in a community, the Workgroup feels these retailers need to be protected from potential targeting. A well-implemented TRL policy should acknowledge, and work to prevent, the possibility of racial profiling of both youth and retailers.

Smokers Who Want to Quit Need More Support Beyond a Tobacco Retail License

A TRL policy has a mixed impact on people who are addicted to nicotine and want to quit smoking. On one hand, studies show that if retailers decide to stop selling tobacco and there are fewer retailers located near a smoker's home, this can support a smoker's decision to stop[42,43]. Studies also show that, for many people, an increased price of tobacco discourages smoking[44,45]. On the other hand, there is a gap in understanding of how increased prices affect those who have a hard time quitting in research on smoking cessation[46]. In addition, people who do not have phones, do not have homes, or may not speak a language that is offered by the Quit Line cannot access cessation programs that fit their needs. The CDC recommends that Oregon invest $39.3 million in tobacco prevention and cessation program funds. Oregon only spends $9.9 million – just over 1/4th of the recommended amount, and this primarily covers prevention programming, not cessation[26]. While a traditional TRL policy may be effective at reducing underage youth access to tobacco products, youth and adults already experiencing tobacco and nicotine addiction will still need increased access to culturally responsive tobacco cessation programs.

Priority Recommendations

Based on the existing conditions data, literature review, key informant interviews, and the advisory Workgroup's focus to prevent a widening set of racial and social inequities in the future, the Workgroup and HEIA project team developed nearly 40 recommendations to maximize health equity in relation to how our neighborhood access to tobacco may change based on a tobacco retail licensing policy. **Here, we summarize eight priorities:**

Use retail licensing fees for enforcement, education, and training for community members. Elected officials who bring forward a TRL should set the price of the license fee high enough to cover the enforcement of the licensing system, including education, training, and monitoring.

Implement a strong enforcement system. The TRL system should have the ability to suspend and revoke the license within a specific timeframe, which should be determined with input from small retailers, including retailers of color, during rule making.

Ensure retail owners, not clerks, are responsible for paying fines and fees. TRL needs to be written in a way that makes owners, not clerks, responsible for fees and fines.

Retail owner trainings on tobacco licensing rules should be culturally and linguistically accessible. All agencies that do tobacco related compliance checks should develop a universal training on retail laws related to sales to minors for retailers that is culturally responsive, free, and can support clerks, managers, and owners in meeting law requirements and ensure all staff are aware of laws.

Support small business owners who decide to top selling tobacco. Public agencies should provide economic develop strategies to support businesses who want to shift away from selling tobacco. Ideas include grants, tax credits, trainings, or access to lower-cost financing options.

Prioritize continued involvement of impacted communities. Elected officials who pass a TRL policy should fund a commission to participate in the rule making process and to monitor how tobacco retail licensing is impacting communities. The commission should include at least 1/3 of the seats representing individuals most impacted by the policy – including small retailers, retailers of color, youth, and people of color – to help build power and capacity with community residents most impacted by this issue. Participants should receive a stipend to sustain and support their engagement.

Provide youth and other impacted groups with

education about the harms of tobacco. Public agencies that implement TRL should develop education to youth, immigrant groups, youth of color, and other impacted groups about potential harms and show how the industry is currently marketing to youth with flavors and prices.

Ensure equitable enforcement of the TRL policy. Elected officials who pass a TRL policy should identify sources of data that can help track unintended consequences such as inequitable enforcement that could affect small retailers, people of color, and youth.

Author's note:
This analysis utilized the Multnomah County Equity and Empowerment lens applied to a policy. This tool starts with asking the purpose of a TRL policy and how it could affect power, place, process, and people. From this context, "environmental equity" is proximity to tobacco advertising and products where people live and go to school. The concept of "economic equity" is related to community member's ability to maintain economic stability. Finally, "social equity" is related to the equitable distribution of resources and opportunities to all, regardless of cultural background or social standing, such as access to public programs and services.

Rationale for a Health Equity Impact Assessment:

Upstream Public Health, a public health nonprofit, focuses much of its work on developing innovative strategies to remove barriers that prevent people from attaining equity in health outcomes. Upstream is on the steering committee of the Oregon Health Equity Alliance (OHEA). OHEA, a statewide partnership of diverse health equity advocates, public health entities, and organizations that serve constituents facing health inequities, made tobacco prevention a major focus of their five-year plan. As part of this effort, members of OHEA worked with Multnomah County Health Department to conduct a tobacco retail assessment and understand what was being sold and where in our communities. During the retail assessment, Upstream and partners learned of multiple state bills to introduce a tobacco retail license. Upstream and partners wanted a better understanding of what a policy could mean in terms of health equity for our Multnomah County communities. Upstream received a grant from the Oregon Health and Science University Knight Cancer Institute Community Partnership Program to conduct this HEIA.

Upstream convened a workgroup whose members represented, or work with, many of the groups the tobacco industry has long targeted to maintain an addiction to tobacco and nicotine products. The Workgroup was therefore in a unique position to deeply examine a potential licensing policy and its health equity impacts on their own communities. Their voices and perspectives have been critical to our process and final recommendations to create a balanced policy that prevents youth access to tobacco and nicotine products, while supporting small retailer economic vitality and positive mental health in our communities. Non-public agency members of the Workgroup received a stipend to participate. The project team and Workgroup co-developed over 40 questions related to the policy's potential racial, social, environmental, and economic health equity impacts. They looked at a range of issues, from how the policy might impact youth use of tobacco and nicotine products, to mental health impacts and how we can avoid potential harms on the smallest businesses – especially those owned by people of color.

Advisory Workgroup Members	
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