

# Using Science to Inform Public Policy: A Case Study on Tobacco Retail Regulation in Buffalo, NY.

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September 27, 2011

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**U.S. Food and Drug Administration**  
Protecting and Promoting *Your Health*

# The Family Smoking Prevention and Tobacco Control Act

*Federal Regulation of Tobacco*

# State and Local Government Authority

- States and communities have the power to:
  - Change the legal age of sale of cigarettes
  - Restrict the time, place and manner, though not the content, of cigarette advertising and promotion
  - Limit the number and size of tobacco ads at retail outlets
  - Restrict or eliminate display of ‘power wall’ cigarette displays

# Retail Environment

Before display ban

After display ban



# Retail Environment



**WARNING**



**SMOKING CAUSES  
LUNG CANCER**

**Quit Smoking Today.  
For help, call 311 or  
1-866-NYQUITS**

**NYC**

# Localities can now restrict tobacco marketing

- Limit number of outlets
- Limit where ads are placed in retail setting
- Eliminate buy-one-get-one-free offers
- These actions may be challenged based on 1<sup>st</sup> Amendment
  - But somebody should try
  - Work together
  - Need legal support

Figure 1. Relative Median Number of Tobacco Retailers by Median Income Quartiles

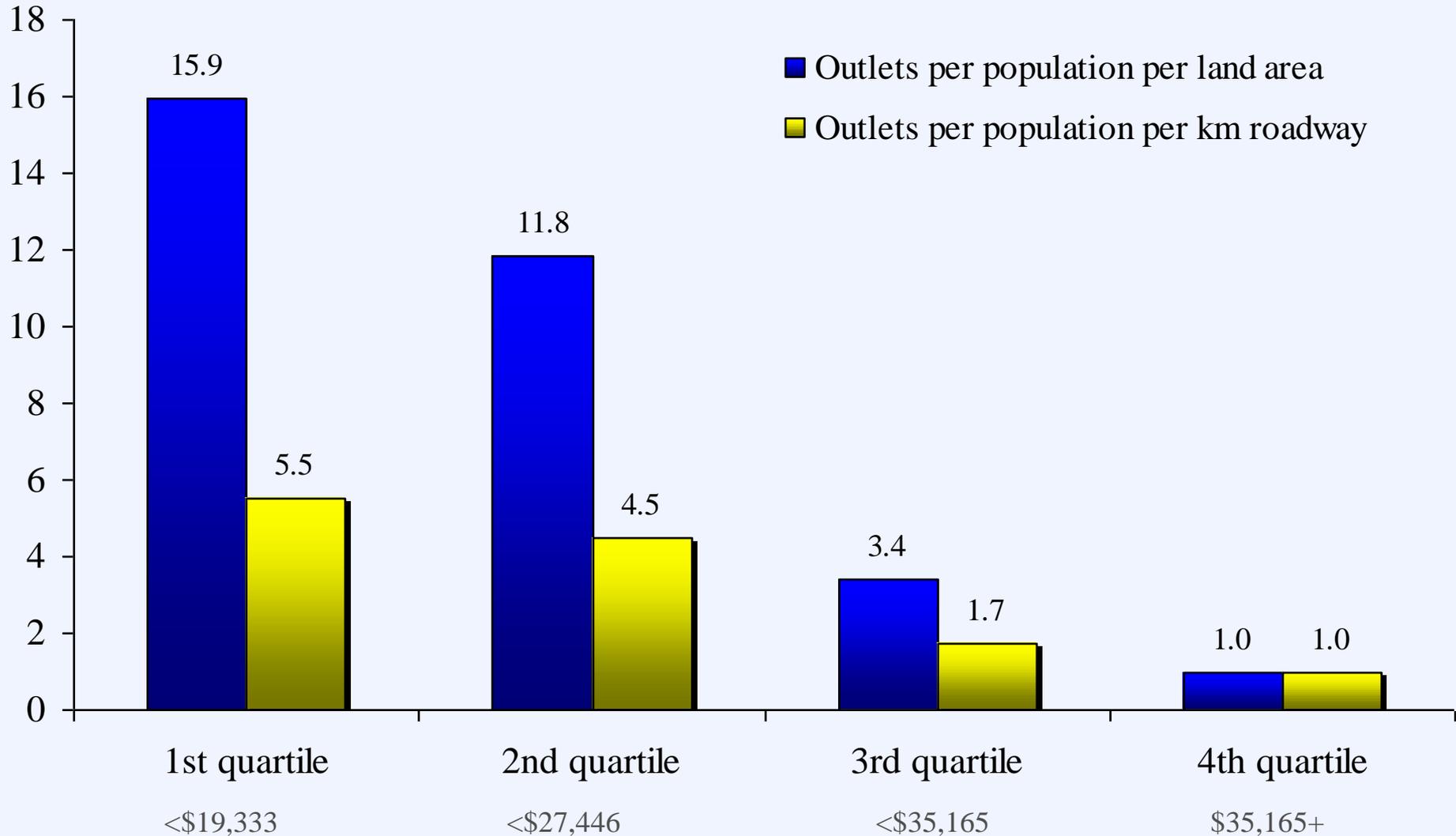
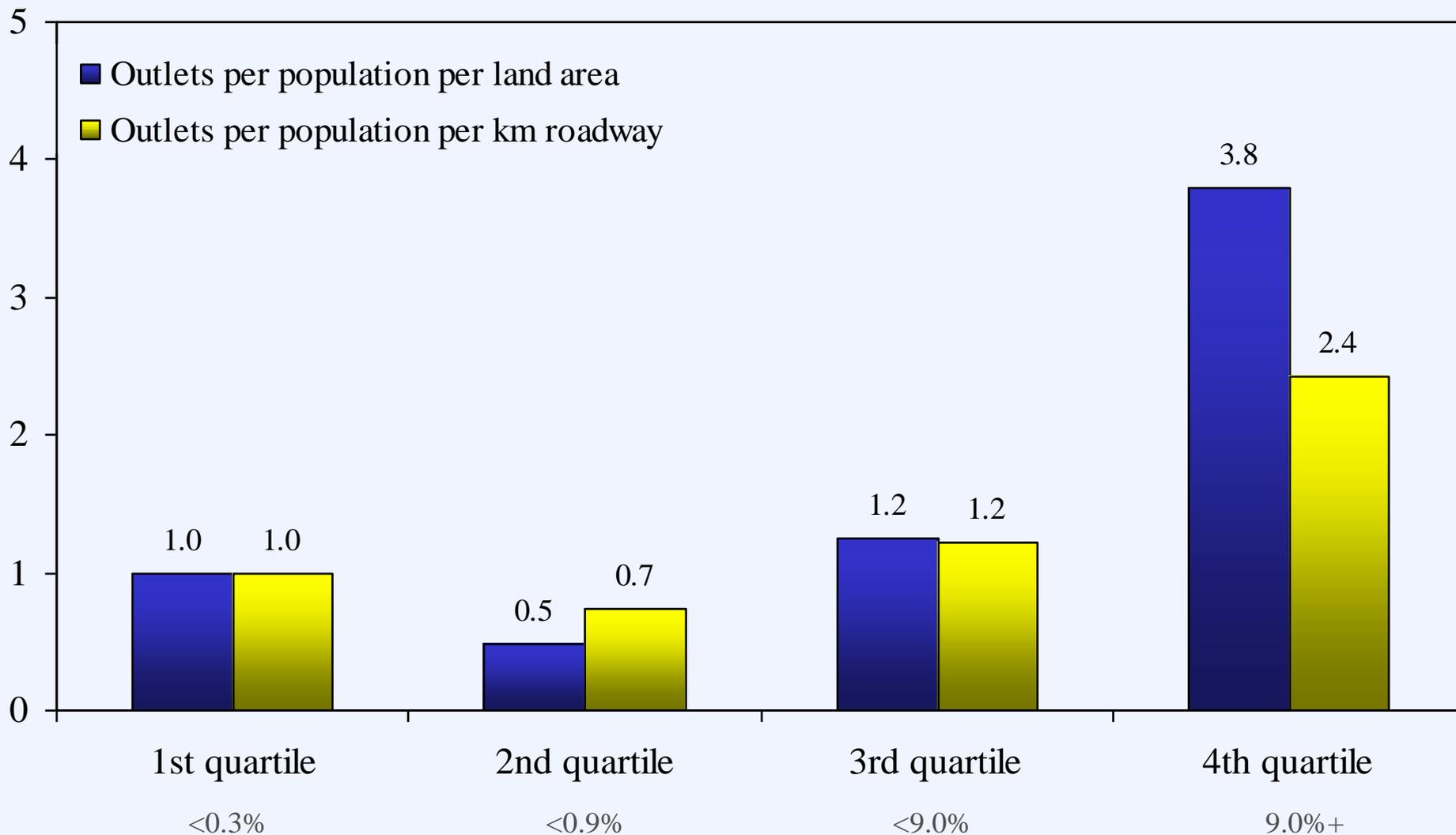


Figure 2. Relative Median Number of Tobacco Retailers by Percent Black Quartiles





Demone Smith, Buffalo  
City Councilmember

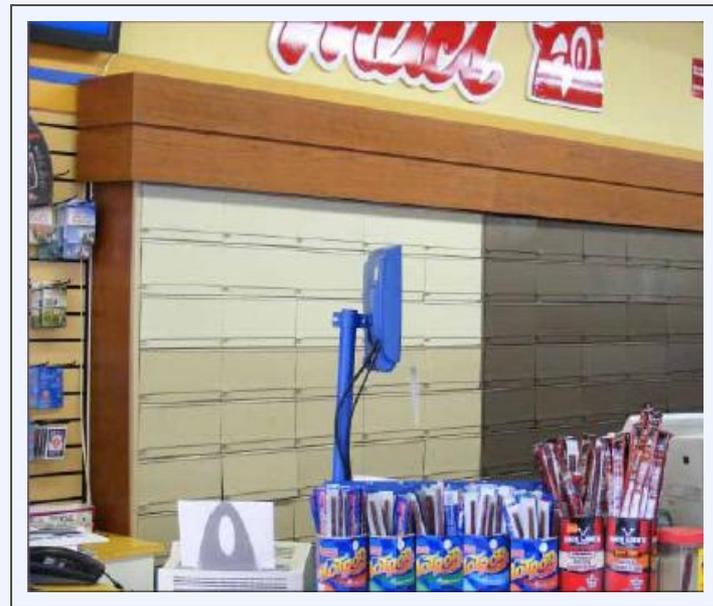


# The Responsible Tobacco Retailing Act

*A policy example from the City of Buffalo, NY*



Current Branding



Responsible Retailing

# Why is the RTRA necessary?

- Tobacco products are addictive and harmful yet their marketing continues to dominate the retail setting.
- High tobacco product exposure to children
  - Increases brand attention and recognition
  - May motivate youth experimentation
- Marketing prompts impulse purchases
- Over-concentration of tobacco-selling outlets normalizes tobacco use
- Deadly, addictive products should be sold responsibly





# The Case That Was Made To Justify the Need for the RTRA

# Tobacco Use in Buffalo Is A Huge Problem

- Tobacco use is the leading preventable cause of death in Buffalo <sup>1</sup>
- Annually in Western New York, cigarette smoking results in <sup>2</sup>:
  - 1,600 premature deaths
  - 19,800 years of potential life lost
  - \$330 million lost in productive costs

1. U.S. Centers for Disease Control and Prevention: Targeting the Nation's Leading Killer at a Glance, 2009.

2. Western New York Adult Tobacco Use Survey, 2008. Department of Health Behavior, Roswell Park Cancer Institute

# Tobacco Use Disproportionately Affects Minority Populations

- Outlets, marketing is more prevalent in low-income census tracts<sup>3</sup>
- High exposure in low-income neighborhoods leads to greater risk of tobacco-related deaths and diseases<sup>4</sup>
  - Increases health and economic disparities between high and low income neighborhoods
- Corroborating evidence using local data

3. Cigarette Sales to African American and White Minors in Low-Income Areas of Baltimore. *AJPH*, 1997; 87(4):652-654.

4. Effects of neighbourhood socioeconomic status and convenience store concentration on individual levels of smoking. *Journal of Epidemiology & Community Health*, 2005; 59(7):568-573.

# Tobacco Retail Outlet Population Density (per 10,000 persons) and Income City of Buffalo, Erie County, NY

## Legend

City of Buffalo, Limits

Tobacco Retail Outlet

## Census Tracts, Buffalo, NY

### Quartiles based on Median Household Income

Q1: \$0 - \$17,203

Q2: \$17,204 - \$23,025

Q3: \$23,026 - \$28,750

Q4: \$28,751 - \$52,500

## Data Findings:

### Tobacco Retail Outlets per 10,000 population

Q1: 17.2 tobacco outlets / 10,000 people

Q2: 16.8 tobacco outlets / 10,000 people

Q3: 11.9 tobacco outlets / 10,000 people

Q4: 6.7 tobacco outlets / 10,000 people

### Risk Ratio: Comparing Q1, Q2, Q3 Income Quartiles to Q4:

Q4 (Ref): Risk Ratio = 1.0

Q3 : Q4 : Risk Ratio = 1.8

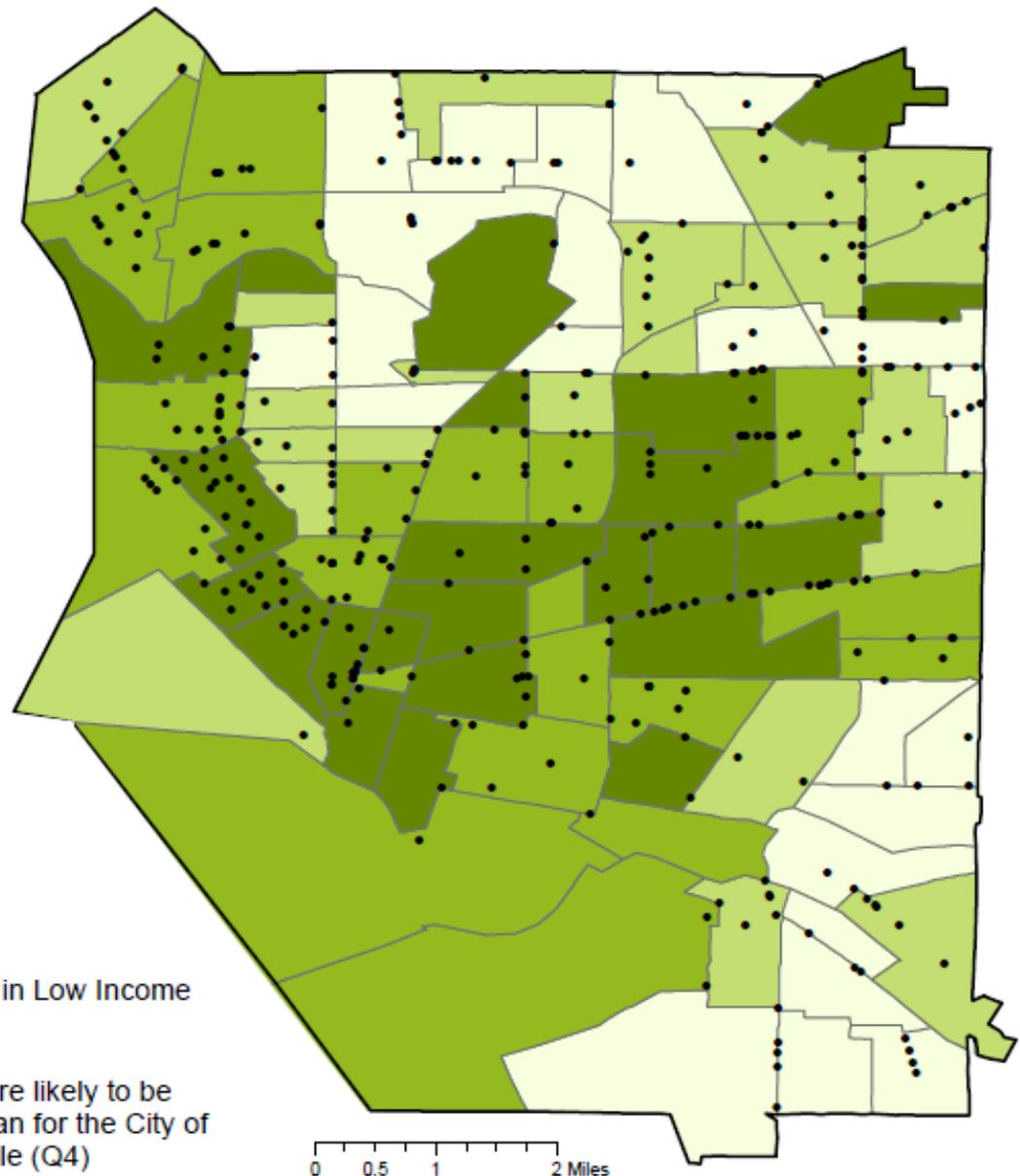
Q2 : Q4 : Risk Ratio = 2.5

Q1 : Q4 : Risk Ratio = 2.6

## Main Findings:

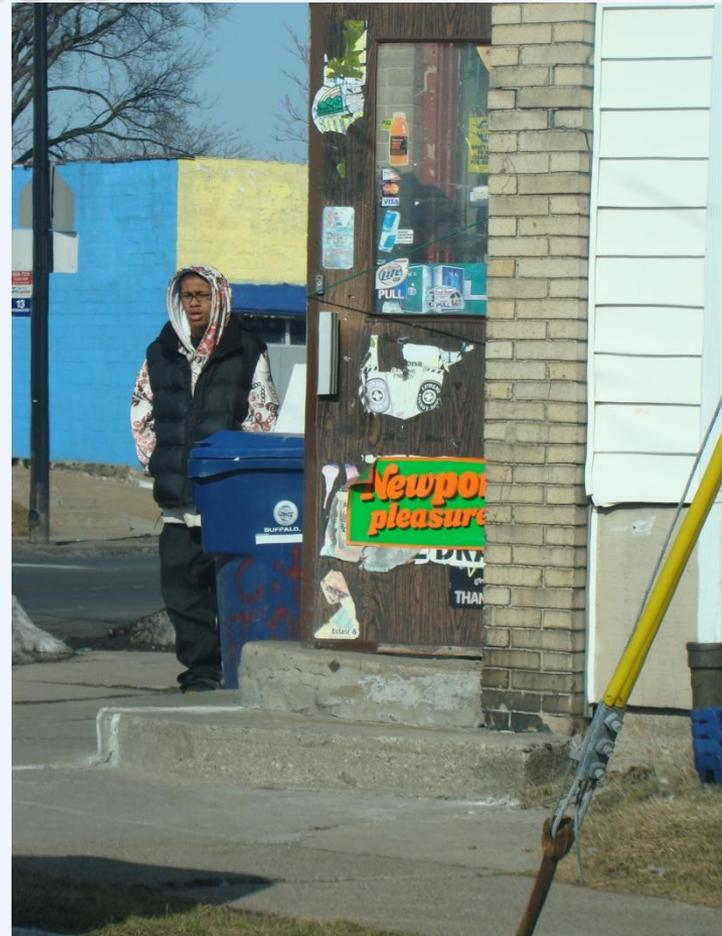
Tobacco Retail Outlets were more densely concentrated in Low Income Census Tracts than High Income Census Tracts

Tobacco Retail Outlets were approximately 2.5 times more likely to be located in a census tract with an income below the median for the City of Buffalo (Q1, Q2) compared to the Highest Income Quartile (Q4)



# Tobacco Marketing Gets Kids Hooked

- High tobacco ad exposure increases youth smoking<sup>5</sup>
- Young people are 3X more vulnerable to advertisements than adults<sup>6</sup>
- 33% of smoking experimentation among youth is directly linked to tobacco ads and promotional activities<sup>6</sup>



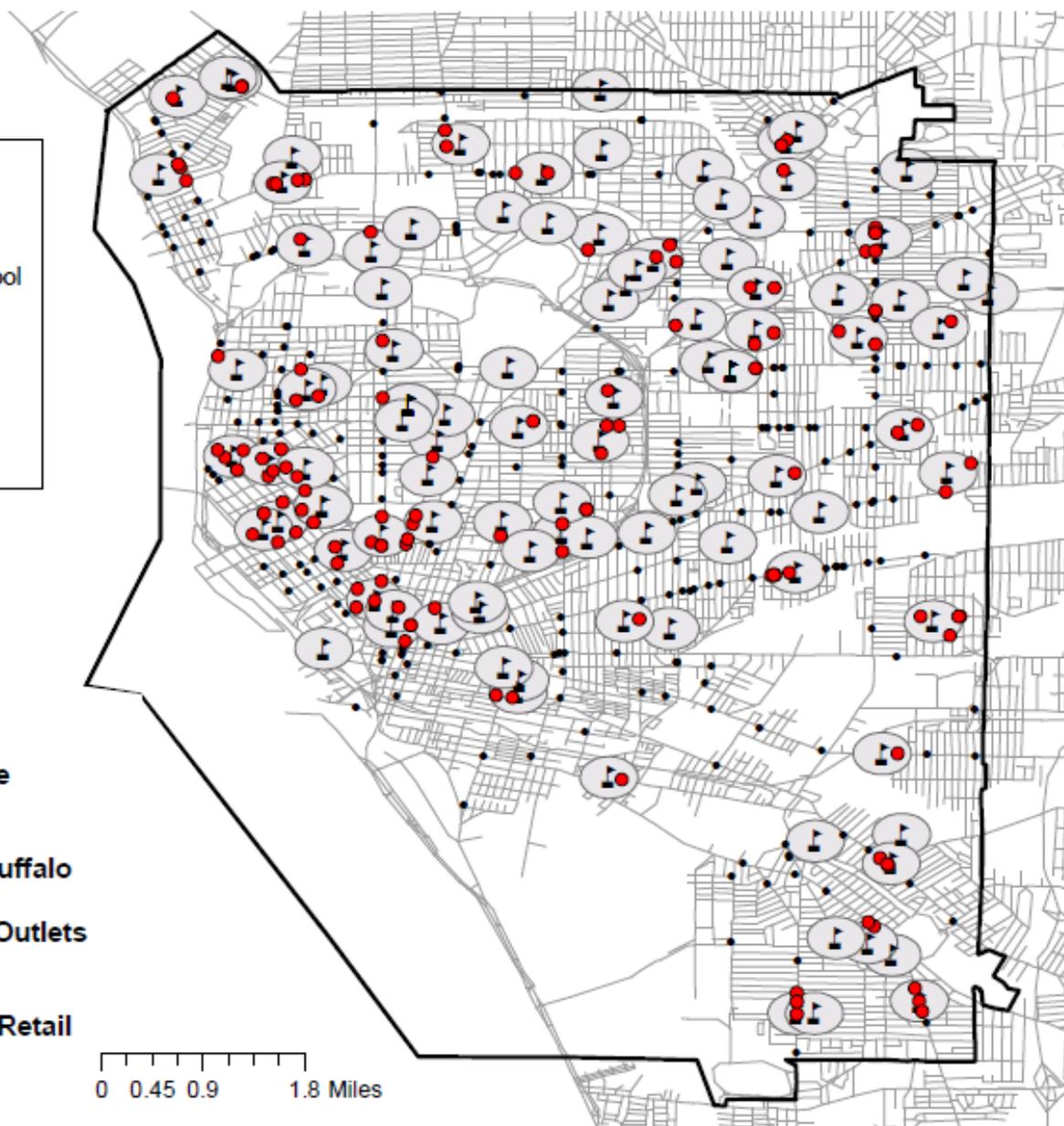
5. Retail Tobacco outlet density and youth cigarette smoking, a propensity-modeling approach. *AJPH*, 2006 ;96(4):650-654.

6. Promising Practices Guides. Reducing Retail Tobacco Advertising in New York State, New York State Department of Health

# All Tobacco Retail Outlets and Buffalo Schools with 1,000 ft buffer zone: City of Buffalo, Erie County, NY

## Legend

- City of Buffalo, Limits
- Tobacco Retail Outlet within 1,000 ft of a school
- All Tobacco Retail Outlets
- School - within Buffalo City School District
- 1,000 ft buffer around school
- Street



## Main Findings:

371 Tobacco Retail Outlets are located in the City of Buffalo

104 Schools are located within the City of Buffalo

33.4% (n=124) of all Buffalo Tobacco Retail Outlets are within 1,000 ft of a Buffalo City School

64.4% (n=67) of all schools have a Tobacco Retail Outlet within 1,000 ft of the school grounds

# Why is it more important to. . .



COVER THIS?



THAN THIS?

# Overarching Goals of RTRA

- Help reduce tobacco use and its harm as quickly and effectively as possible
- Fill the gaps in existing laws by establishing responsible retailing practices
- Provide resources for enforcement of new regulations

# Specific Goal #1

- 1) Require existing tobacco retailers to obtain renewable annual licenses

## Specific Goal #2

- 2) Limit the number of licenses available to brand-new tobacco-selling businesses
  - Brand-new businesses restricted from selling tobacco products at:
    - healthcare facilities, pharmacies, bars, restaurants, youth centers, game rooms, businesses which cater to children/young adults, or within 1,000 ft of a school
  - By 2014, tobacco product sales will be banned at all of these establishments

# Specific Goal #3

3. Establish responsible retail marketing practices for all tobacco products:
  - Ban of:
    - Out of package sales (“loosies”)
    - Free samples, coupons, below-market sales
    - Candy-flavored tobacco product sales
    - Blunt wrap sales (often used with marijuana cigarettes)
    - Tobacco products vending machines
    - Large outdoor tobacco product ads near schools
  - Other Regulations
    - Tobacco ad space cannot exceed that for all other products
    - Health education and warning signage required wherever tobacco products are sold

## Specific Goal #4

4. Allow for routine inspection of retail outlets to ensure compliance

# Funding the RTRA

- Licensing and inspection program:
  - Funded by a permit fee charged to tobacco manufacturers
  - Imposed for each tobacco product brand and brand style sold in the City of Buffalo
  - No licensing or other fees for Buffalo retailers
- Appropriate penalties will be waged for violations of the Act

# Current Status of the RTRA

- Very supportive bill sponsor
- Public Hearing June 2010
  - Most speaking in support (n=15)
  - Those against argued they were already responsible and didn't need more regulation (n=3)
- City concerned about spending money on legal defense
  - Supporters working to establish outside legal counsel and funding
- Opponents hire former US Congressman and former Buffalo mayor to lobby against the bill
- RTRA demonstrates the best and worst of the challenges that lie ahead on this issue

# Concluding Remarks

- Reducing tobacco retail advertising is an effective and new area community partners can work on
- Credible data can help enable / inform policy action
- Opportunities and challenges lie ahead on this issue

# QUESTIONS