



Episode Details:

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Title: Episode 15: Tobacco Retailer Licensing

Description: Tobacco retail licenses (TRLs) are one of the most lasting and effective strategies in tobacco control. In addition to letting states and localities know who is selling tobacco, licensing is an evidence-based way to reduce tobacco use; it also offers a versatile regulatory platform that allows jurisdictions to implement additional policies that can further reduce tobacco use and reduce disparities in the retail environment. This episode offers a mini boot camp in TRL basics; we'll take a look at what they are, why they are useful, and how your locality can ensure success when implementing one.

Transcription:

I'm Allie Rothschild and you're listening to the Counter Tobacco Podcast.

This episode, we're going to look at one of the most lasting and effective strategies when it comes to tobacco control. All but a dozen states have one of these and many localities do as well....we're talking tobacco retailer licenses. This episode will be a bit of a boot camp on the basics of tobacco retailer licenses. We'll cover what they are, why they're useful, and how your locality can ensure success when implementing one.

So first off, let's discuss what exactly a tobacco retailer license, or TRL as its also called, is. A TRL is a license that's issued by the government to a business permitting it to sell tobacco products. It's one of just a wide range of licensing systems that are used on a federal, state, and local level. A range of other businesses, like pharmacies and restaurants, as well as professions (like architecture, medicine, and law) are required to have a license or a permit to run; and by the way, both of these terms - licenses and permits - are interchangeable as long as they are referring to a government issued document that allows a person or a business to engage in a specified operation.

In general, licenses are used by the government to regulate business operations. The government chooses who can and must get a license to operate, whether licenses can be transferred between people and locations, if licenses can be renewed, and if so, how often renewal must happen. Businesses that seek licenses - whether they are new or existing businesses - have to abide by all the laws detailed in the license ordinance. If they don't abide by these laws or if certain standards aren't upheld, the license can oftentimes be suspended or revoked, and the business may have to pay a fine.

Additionally, every tobacco retail establishment needs its own license. This means that even if there are multiple stores with the same owner, each establishment is required to have its own individual license. Also, every e-cigarette and vape shop needs its own license as well. Some states and localities still have separate definitions for tobacco products and e-cigarettes so keep in mind that in some jurisdictions these products may require different licenses.



Hopefully this gives you a good idea of what a license, and what a TRL in particular, is. So, let's move on to discussing why TRLs are so highly recommended for tobacco control purposes. There are five reasons I want to focus on: One - TRLs allow for the tracking of tobacco sales and retailers – at a basic level, it allows us to know who is selling tobacco products. In order to effectively manage and run a licensing system, there needs to be some kind of record of all the businesses that hold a license. Therefore, having a TRL means that retailers selling tobacco can be tracked in an organized and official manner. The list can go beyond just tracking the names of retailers and their location though. Local agencies that manage the list can also keep track of what type of business are selling tobacco products (such as whether they are a convenience stores or a grocery store...), and (with the help of a mapping tool) where these retailers are located in relation to youth-centric areas like schools and parks. The list generated for licensing purposes can also be used to track compliance checks like inspections and undercover buys, and can help keep track of which retailers are having compliance issues and which need additional outreach and education on the policies detailed in the licensing ordinance. Which brings us to reason #2...

Two - Tobacco retailer licensing can help reduce sales to minors and reduce youth tobacco use and initiation. Federal and state regulations prohibit the sale of tobacco to youth, but that doesn't necessarily mean federal and state agencies always have the resources to prioritize enforcing these measures. In reality, they often only visit a sample of retailers to check compliance. TRLs at the local level allow for enforcement at the local level - but not just for local laws. Under a strong TRL, violations of any tobacco control law whether local, state, or federal, is a violation of the license. A local TRL can make certain that every retailer in a jurisdiction is visited at least once per year. With these regular visits and the threat of license suspension or revocation if they don't follow the law, retailers are more likely to stay in compliance. Evidence from several states show that strong tobacco retailer licensing laws can help reduce sales to underage youth. A Minnesota study found that daily smoking among young adolescents dropped by 28% in 14 communities once a comprehensive TRL was implemented. At the same time, the number of youth underage purchases dropped from 39% to 5%. In California, localities with strong TRLs found that youth were 33% less likely to have initiated cigarette use and 26% less likely to initiate e-cigarette use over a year and a half period compared to localities that had either no license or had a license with a fee that was *not* high enough to cover the cost of enforcement. As is evidenced, strong enforcement of policies like minimum legal sales age and also flavor bans can heavily reduce youth use. This is why it is recommended that local jurisdictions institute TRLs even if a state TRL is already in place.

Three – A strong TRL is self-funding, meaning the annual fee is set at a level that covers the cost of administration and enforcement of the license. This means it provides a continuous, sustainable source of funding for compliance checks, undercover operations, and maintenance of the list of tobacco retailers.

Alright, number four – TRLs can house multiple tobacco-related regulations that together can effectively reduce the density, type, and location of tobacco retailers. For example, provisions can be included in the licensing ordinance that set a cap on the number of licenses in a locality based on population size or geographic area, establish a minimum distance requirement between new and existing tobacco retailers, or require that retailers be located a minimum distance away from schools and other places centered around youth. All three of these stipulations, in particular, can significantly reduce the disproportionately high density of retailers that exist in disadvantaged communities. In San Francisco, the establishment of a licensing scheme focused on reducing the density of tobacco retailers resulted in 73 fewer tobacco retailer licenses within one year of license implementation. The overall greatest reduction in density occurred in districts that had the highest retailer density ; unsurprisingly, these districts also happened to be the districts with the most low-income residents and people of color. Many communities have also used licenses to restrict tobacco retailers from within 1000 feet of schools which is a great policy to push for



since some research has shown that schools with fewer retailers nearby have lower smoking rates in their student population. Additionally, research out of MO and NY has actually predicted that prohibiting tobacco retailers from selling tobacco products near schools could nearly eliminate income and race-based disparities in retailer density between neighborhoods. TRLs can also be used to restrict the type of businesses that are permitted to sell tobacco products; so for instance, the government can make it so certain businesses like pharmacies can't obtain TRLs. Licenses can also include policies that address a wide variety of other tobacco control strategies. For instance, licenses can include stipulations that businesses can't sell flavored tobacco products or offer discounts or promotions or redeem coupons.

All of this brings us to number five – TRL is a tool that can help address tobacco-related health inequities. It's no doubt that certain populations and neighborhoods are disproportionately targeted by the industry. We have a few previous episodes that go into quite a bit of detail on this topic if you care to learn more. But, an important thing to know is that the industry's more targeted marketing efforts in these communities and populations has led to higher rates of use and consequently higher rates of tobacco-related morbidity and mortality. TRLs can be used to reduce disparities in how tobacco products are marketed and sold in these targeted communities. Because the policies that can be included in a licensing ordinance have the power to counteract industry point-of-sale tactics, TRLs can have an extremely large impact in reducing disparities and attaining equity in these communities and populations specifically.

Now, there's a few things to keep in mind when considering a TRL.. First, prior to even beginning on the implementation of a TRL, it's a great idea to either get a legal analysis done or to inquire with a legal TA center, the state attorney general's office, or a city or county attorney to confirm that a TRL is something that is legally feasible in your locality, to make sure there is no preemption (which is where state laws preempt or supersede local laws that regulate retail environments) and to get assistance with crafting a strong, legally sound policy.

Second, it's important to think through the logistics of implementing and enforcing a license. There's no one right answer to what this looks like, but here are some examples of questions you may want to think through: Who will administer and renew licenses? Is there some sort of administrative system already in place in your locality that can take on management of a TRL? What agency will collect the fines and fees generated from licensing? What agency can truly dedicate time and prioritize enforcement? Lastly, it's important, if you do choose to move forward with a TRL, to remember that licensing systems require dedicated staff and resources. Staff will need to confirm retailers meet the requirements of a license and will need to consistently monitor for license expiration and renewal. They will also need to communicate with and educate retailers, manage funds, and keep track of retailers that violate the terms of the license....which is why it's so important that the annual licensing fee be set at a level that covers these costs. That being said - TRLs can be extremely effective forms of tobacco control that improve compliance with federal, state, county, and local policies and successfully reduce tobacco retail availability and density.

Now before I wrap up, I just want to briefly touch on the negative consequences associated with high tobacco retail availability and density. Having high retail density in a community is associated with increased exposure to industry advertising, marketing, and promotions at the point of sale. It gives the impression that tobacco is widely available and accessible in a community and perpetuates social norms about tobacco use. Retailer density is often higher in low income and minority neighborhoods, contributing to social and environmental inequities and fueling disparities in tobacco use and the associated negative health outcomes. Higher retail density also contributes to higher rates of youth and young adult tobacco initiation and tobacco use as well as rates of use in pregnant women. Additionally, for those attempting to quit smoking, high retail density and the greater access and exposure to tobacco that comes with it can encourage impulse purchasing of tobacco products, cue cravings, and ultimately undermine quit



attempts. I point all of this out because TRLs are a really great tool that communities can use to pushback on all of this!

So , what I hope you walk away with after listening to this episode is that comprehensive TRLs can be a successful and sustainable strategy to curb tobacco use, reduce retailer density, diminish disparities, and promote health equity. Every locality and community's TRL will look a little different but they all have the potential to be extremely effective. The show notes of this episode will include some great resources and model ordinances from ChangeLab Solutions, the Public Health Law Center, and the Public Health and Tobacco Policy Center. You can also send an email to (hello@countertools.org) if you are looking for technical assistance in this area. That's a wrap on TRLs. Thanks so much for listening to the Counter Tobacco podcast! I look forward to you joining me again next time!