

IV Enforcement

Justification

Enforcement of tobacco control policies enhances their efficacy both by deterring violators and by sending a message to the public that the community leadership believes the policies are important.¹ The two primary areas addressed by local and State policies that require enforcement strategies are restrictions on minors' access to tobacco and restrictions on smoking (clean indoor air). As other policy changes such as local restrictions on advertising and promotion are adopted, they also will need to be enforced.

Minors' Access. Numerous published studies have shown that the combination of enforcing laws that restrict tobacco sales to minors and educating merchants can reduce illegal sales of tobacco to minors.^{1,3} Access laws should be actively enforced at the local, State, and Federal levels through unannounced compliance checks in which minors attempt to purchase tobacco products. For tobacco control laws and regulations to be adequately enforced, universal licensure of tobacco outlet sources is necessary. A graduated system of civil penalties on the retailer, including temporary revocation of the tobacco license in areas where tobacco retail licenses are required, has been shown to be an effective enforcement strategy.¹ Fees from licensing of tobacco vendors can be used to fund enforcement activities and to develop and maintain active, large-scale programs.¹ States currently without licensure provisions are encouraged to require licensure of retail tobacco outlets and to revoke licenses for repeated sales to minors.²

All States are required by the provisions of the Federal Synar Amendment to 1) have and enforce State-level minors' access laws to decrease the rate of sales to persons under the age of 18 to less than 20%, 2) conduct annual statewide inspection surveys that accurately measure the effectiveness of their enforcement efforts, and 3) report annually to the Secretary of Health and Human Services. Failure on the part of the States to achieve announced performance targets may result in a significant loss of Federal block grant dollars. Additionally, the Food and Drug Administration (FDA) has begun to enforce the Federal restriction on sales to persons under the age of 18 by conducting enforcement compliance checks in States through contracts with State agencies. The FDA initiates large-scale merchant education programs before the enforcement activity begins. Education programs by Federal, State, and local authorities are necessary to build support among retailers for enforcing sales restrictions.¹ These programs should include discussion of tobacco's health effects, a topic avoided in tobacco industry-sponsored programs such as "We Card."¹

The small body of evidence examining the effects of active enforcement on youth smoking suggests that it is an important and essential element of a comprehensive effort to reduce young people's use of tobacco.^{3,4} However, young people may turn to social sources (e.g., older friends and family members) of tobacco products as commercial sources are reduced. Therefore, it is critical that minors' access restrictions be combined with a comprehensive tobacco control program that reduces the availability of social sources and limits the appeal of tobacco products.^{3,5}

Examples of enforcement activities include

- Conducting frequent retailer compliance checks (four per outlet per year, funds permitting) to identify retailers who sell tobacco to minors.
- Imposing a graduated series of civil penalties on the retailer, including license revocation if possible.
- Eliminating tobacco vending machines and self-service displays in stores accessible to young people.

In addition, providing comprehensive merchant education, including information on health effects, can deter retailer violators.

Clean Indoor Air. The health of nonsmokers is protected by the enforcement of public and private policies that reduce or eliminate exposure to environmental tobacco smoke (ETS).⁶ Studies have shown that enforcement of work-site smoking bans protects nonsmokers and decreases the number of cigarettes that employees smoke during the workday.^{6,7} Enforcement of clean indoor air laws is generally passive: complaints by the public are investigated by State or local officials who base enforcement on a graduated series of civil warnings and penalties.⁶ Before smoking restrictions are implemented, educating the public, employers, and employees about the health effects of ETS and the need for these restrictions can build support for the restrictions and increase compliance. Examples of enforcement activities include

- Establishing and publicizing telephone hotlines for reporting violations of clean indoor air ordinances and laws and investigating reports received.
- Reporting violations noted by State officials performing health, environmental, and other routine inspections.

Budget

Funds can be awarded to agencies responsible for enforcing tobacco laws and ordinances and to community organizations to implement State and local educational programs related to tobacco laws. Florida has taken this type of centralized approach by using State Alcoholic Beverage Control officers to conduct compliance checks

with locally recruited youth in all regions of the State. Current FDA contracts with States to implement the FDA youth access regulations average \$400,000–\$600,000 per State per year (or about \$80 per compliance check). Enforcement of youth access restrictions, retailer licensure provisions, and other nonsales policy areas, such as clean indoor air restrictions, should be included in the recommended budget estimates. In addition to any funding received from Federal sources, States should plan on spending between \$0.43 and \$0.80 per capita for the enforcement of youth access restrictions, retailer licensure provisions, and nonsales policy areas. State costs will vary depending upon the number of retail outlets selling tobacco, the proportion of outlets in rural areas, and the proportion of outlets found to be noncompliant and requiring follow-up visits. It also is recommended that States budget between \$150,000 and \$300,000 annually for interagency coordination and integration of enforcement programs.

Core Resources

California Environmental Protection Agency (CalEPA). Health Effects of Exposure to Environmental Tobacco Smoke. Sacramento, CA: CalEPA, Office of Environmental Health and Hazard Assessment, 1997.

Centers for Disease Control and Prevention. Making Your Workplace Smokefree: A Decision Maker's Guide. Atlanta, GA: U.S. Department of Health and Human Services, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 1996. (<http://www.cdc.gov/tobacco/etsguide.htm>).

DiFranza JR, Celebucki CC, Seo HG. A model for the efficient and effective enforcement of tobacco sales laws. *Am J Public Health* 1998;88:1100–1.

Food and Drug Administration Internet Web site contains merchant and public education information. (<http://www.fda.gov>).

Food and Drug Administration. Regulations restricting the sale and distribution of cigarettes and smokeless tobacco products to protect children and adolescents—final rule. *Fed Regist* 1996;61:41,314–75.

Institute of Medicine. Growing up tobacco free: preventing nicotine addiction in children and youths. Washington, DC: National Academy Press. 1994.

National Institute of Environmental Health Sciences. Report by the National Toxicology Program's Board of Scientific Counselors. (Voted to list ETS as a carcinogen) December 1998.

Substance Abuse and Mental Health Services Administration. Final regulations to implement section 1926 of the Public Health Service Act regarding the sale and distribution of tobacco products to individuals under the age of 18. *Fed Regist* 1996;13:1492–1500.

Substance Abuse and Mental Health Services Administration. Synar Regulation: Tobacco Outlet Inspection-Guidance. Rockville, MD: SAMHSA, Center for Substance Abuse Prevention, 1997.

U.S. Department of Health and Human Services. Preventing Tobacco Use Among Young People: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 1994.

United States Environmental Protection Agency (USEPA). Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. Washington, DC: USEPA, Office of Research and Development, Office of Air and Radiation, 1992. Publication No.: EPA/600/6–90/006F.

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- 2 Working Group of State Attorneys General. No sale: youth, tobacco, and responsible retailing. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. December 1994.
- 3 Chaloupka R, Pacula RL. Limiting youth access to tobacco: the early impact of the Synar amendment on youth smoking. Working paper, Department of Economics, University of Illinois at Chicago, 1998.
- 4 Forster JL, Murray DM, Wolfson M, et al. The effects of community policies to reduce youth access to tobacco. *Am J Public Health* 1998;88:1193–8.
- 5 Rigotti NA, DiFranza, JR, Chang Y, et al. The effect of enforcing tobacco-sales laws on adolescents' access to tobacco and smoking behavior. *N Engl J Med* 1997;337:1044–51.
- 6 Brownson RC, Eriksen MP, Davis RM, et al. Environmental tobacco smoke: health effects and policies to reduce exposure. *Annu Rev Public Health* 1997;18:163–85.
- 7 Eriksen MP, Gottlieb NH. A review of the health impact of smoking control at the workplace. *Am J Health Promot* 1998;13:83–104.