Tobacco products kill half a million Americans each year and virtually all smokers begin their lifelong nicotine addiction as teens.

Tobacco Retail Licensing (TRL) reduces initiation to nicotine and tobacco through improved compliance with Minimum Legal Sales Age (MLSA) and other important tobacco sales regulations.

TRL has become a vital regulatory tool that enables states and localities to monitor tobacco sales, fund compliance efforts, and create effective penalty and suspension structures for repeated violations.

A TRL is not the same as a tobacco tax permit that many states already employ. A true tobacco retail license is tied to retailer compliance with all applicable sales, marketing, and display laws.

By requiring a TRL, a municipality or state can also regulate location, density, and type(s) of tobacco retailers permitted to operate in their jurisdiction. TRL may also aide implementation of other provisions such as flavored product restrictions, product discounts, tobacco-free pharmacies, mail-order/internet delivery regulation, and point-of-purchase restrictions.

Implementation of a Comprehensive Tobacco Retail License (TRL) will:

- Establish a comprehensive list of all retailers of nicotine and tobacco products in the jurisdiction.
- Fund enforcement of tobacco sales regulations at no cost to the taxpayer.
- Prevent illegal sales of nicotine and tobacco products.
- Provide weight to current sales laws by imposing a threat of suspension for repeated violations.
- Reduce productivity loss, health insurance costs (including Medicaid), related illness and death.
- Advance public health through prevention and substantially increase health equity.
The Detailed Case for Tobacco Retail Licensing

**TRL will reduce youth usage and help reverse the youth e-cigarette epidemic.** Teenage use of e-cigarettes has skyrocketed in recent years. While there has been a decline in the past year, over 3.5 million U.S. middle and high school kids are currently using e-cigarettes. Manufacturers, through predatory marketing, slick product design, and kid-friendly flavors, have lured millions of teens into nicotine addiction.

- **TRL** provides the enforcement infrastructure for “Tobacco 21 laws.” Age of sale restrictions only work if there is a credible threat of regular, unannounced compliance checks in every location, every year.
- **TRL** enables enforcement of flavor bans and point-of-sale marketing restrictions.

**TRL supports the Federal “Tobacco 21” law and supplements state enforcement.** As of December 20, 2019, federal law made it illegal to sell nicotine or tobacco products to any person under age 21, without exception or exemption. As a condition of their Substance Abuse and Mental Health Services Administration (SAMHSA) block-grant funding, states must demonstrate that their retailers are compliant by remaining below a 20 percent retailer violation rate (RVR) on FDA compliance checks. However, FDA enforcement alone is inadequate and supplemental local enforcement is critical to being able to meet that threshold.

- **TRL** retailer lists provide an accurate survey base for compliance checks performed by FDA contractors.
- **TRL** violation statistics allow for focused enforcement in areas with higher than normal retailer violation rates.
- **TRL** funds statewide enforcement at no cost to the taxpayer.

**TRL can reduce health inequities created by tobacco industry practices.** The U.S. has steadily expanded tobacco protections over the past several decades, but these protections (which most Americans now take for granted) are less likely to cover disadvantaged persons and communities-- including people on low incomes, people of color, and people who identify as lesbian, gay, bisexual, or transgender (LGBT), who are more likely to experience a range of health problems related to the use of tobacco. The tobacco industry promotes its products more within certain communities; as a result, rates of tobacco use and related health problems are much higher for these communities compared to the general population. Further, those living in economically-disadvantaged neighborhoods are exposed to more tobacco retailers, more advertising, and steeper product discounts. This means we need to decrease the influence of the tobacco industry and put health for all persons over profit.

- **TRL** provides a complete list of all tobacco product sellers, and can provide data about density and retailer type as well as the racial, ethnic, age-group and economic makeup of the neighborhoods where tobacco retailers operate.

**TRL levels the playing field for all business owners.** Almost every state and many cities require a license to hunt, fish, keep a pet, operate a tattoo parlor, hair or nail salon, sell liquor, sell marijuana and more, but many still don’t require a license to sell addictive and deadly tobacco products.

- **TRL** provides meaningful steps toward suspension and revocation for rogue retailers who repeatedly violate sales laws.
- **TRL** sets a baseline standard around which all retailers must operate.
Best Practices in Tobacco Retail Licensing

A Comprehensive Tobacco Retail License:

✓ Includes a comprehensive definition of “tobacco products” that includes cigarettes, cigars, and smokeless tobacco, pipes, rolling papers, electronic smoking devices, related liquids and other related devices, written to capture all known and future products.¹¹

✓ Stipulates that no person shall sell or offer to sell or distribute any tobacco product without having obtained a non-transferable License from the city, county, or state.

✓ Establishes penalties for selling or distributing tobacco products without a License.

✓ Requires that the License be renewed annually.

✓ Sets an annual License fee and allows it to be periodically adjusted. Fee must be adequate to cover License administration, education/training, and enforcement. (Note: an annual fee of lower than $300 is generally inadequate to fund a licensing program; many jurisdictions have fees that are much higher).¹²

✓ Designates a civil enforcing agency to carry out License administration and enforcement.

✓ Establishes a civil (not criminal) penalty structure for violations, including graduated monetary fines and mandatory License suspension or revocation for repeated violations.¹³

✓ Ensures that penalties and fines are imposed on the tobacco retailer or licensee and not the youth purchaser or non-management employee.¹⁴

✓ Prohibits the issuing of a new License to a tobacco retail establishment that is less than 1,000 feet of any youth-oriented facility.¹⁵

✓ Prohibits the sale of tobacco products to persons under the age of 21.

✓ Restricts deliveries of internet/mail-order sales to licensed tobacco retailers.

✓ Requires verification of age with a government-issued photo ID for any purchaser appearing to be under the age of 30.¹⁶

✓ Mandates a minimum number of unannounced compliance checks be conducted for each licensed retailer every year. Recommend (2) compliance checks per retailer, per year.¹⁷

✓ Requires that all tobacco retailers post signs stating that sales to persons under the age of 21 are prohibited.

✓ Requires that retailers train their employees as a condition of receiving a License.

✓ States that any violation of local, state, or federal law is a violation of the License.
Sample Ordinances and Topics in Tobacco Retail Licensing

(Note: This document and the links below can also be found on https://tobacco21.org/ under “Advocacy Materials”)

I. State-by-State Tobacco Retail Licensing Laws

University of Maryland – 50 State Survey

Centers for Disease Control – CDC STATE System Tobacco Legislation - Licensure

II. The Basics of Tobacco Retail Licensing

ChangeLab Solutions – Show Me Your License: TRL Playbook

III. Calculating Tobacco Retail Licensing Fees

Public Health Law Center - Point of Sales Licensing Fees

ChangeLab Solutions - Webinar - Calculating License Fees

IV. Zoning to Address Location, Density and Proximity of Tobacco Retailers

Public Health Law Center - Using Licensing and Zoning to Regulate Tobacco Retailers Location, Location, Location

Campaign for Tobacco-Free Kids and ASPIRE – 30 City Study Tobacco Retailers

ChangeLab Solutions - Tobacco Retailer Density

Counter Tools – Disparities in Point of Sale Advertising and Retailer Density Proximity of Tobacco Retail Stores to Schools

V. Health Inequities and Tobacco Retail Licensing

PEW Research Center - Tobacco Retail Licensing Policy: A Health Equity Impact Assessment

ChangeLab Solutions – Place-Based Strategies to Advance Health and Equity

VI. Sample TRL Ordinances

Public Health Law Center - Sample Ordinance - Minnesota Cities

Sample Ordinance - Florida Counties

ChangeLab Solutions - Sample Ordinance California Comprehensive TRL with Plug-Ins
Information and Resources

For information on components of a comprehensive tobacco retail license or assistance in creating or modifying a TRL program for your city, county or state, please access the following resources:

Preventing Tobacco Addiction Foundation/Tobacco 21
5600 Dublin Road | Dublin, OH 43017
Website: https://tobacco21.org/

Public Health Law Center
875 Summit Avenue | Saint Paul, MN 55105
Website: https://publichealthlawcenter.org/
Tobacco Retail Licensing and Commercial Tobacco Topics:
https://publichealthlawcenter.org/topics/commercial-tobacco-control

ChangeLab Solutions
2201 Broadway #502 | Oakland, CA 94612
Website: https://www.changelabsolutions.org/
Tobacco Prevention and Tobacco Retail Licensing:
https://www.changelabsolutions.org/tobacco-prevention

Counter Tools
11312 US 15-501 North, Suite 107-144 | Chapel Hill, NC 27517
Website: https://countertools.org/
Tobacco Retail Licensing:
https://countertools.org/?s=tobacco+retail+licensing

Campaign for Tobacco-Free Kids
1400 I St NW #1200 | Washington, DC 20005
Website: https://www.tobaccofreekids.org/
Tobacco Products and Health Harms: Flavored Tobacco Products
End Notes:


4 National Youth Tobacco Survey: E-cigarette Use Among Middle and High School Students, U.S., 2020. Centers for Disease Control, September 9, 2020 (early release). Teresa W. Wang, PhD; Linda J. Neff, PhD; Eunice Park-Lee, PhD; Chunfeng Ren, PhD; Karen A. Cullen, PhD; Brian A. King, PhD. https://www.cdc.gov/mmwr/volumes/69/wr/mm6937e1.htm?s_cid=mm6937e1_w


Cover photo: https://www.6sqft.com/the-urban-lens-documenting-gentrifications-toll-on-the-mom-and-pops-of-greenwich-village/

Tobacco Retail Licensing: An Essential Tool to Reduce Youth Usage and Foster Health Equity – A Guide to Best Practices in Tobacco Retail Licensing (TRL) was authored by the Preventing Tobacco Addiction Foundation and does not represent the views or opinions of the organizations referenced in this document.