

Point of Sale Tobacco Control Strategies

2015 Chronic Disease and Risk Reduction Summit

January 22-23, 2015

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Tobacco Control Legal Consortium



Tobacco Control
Legal Consortium



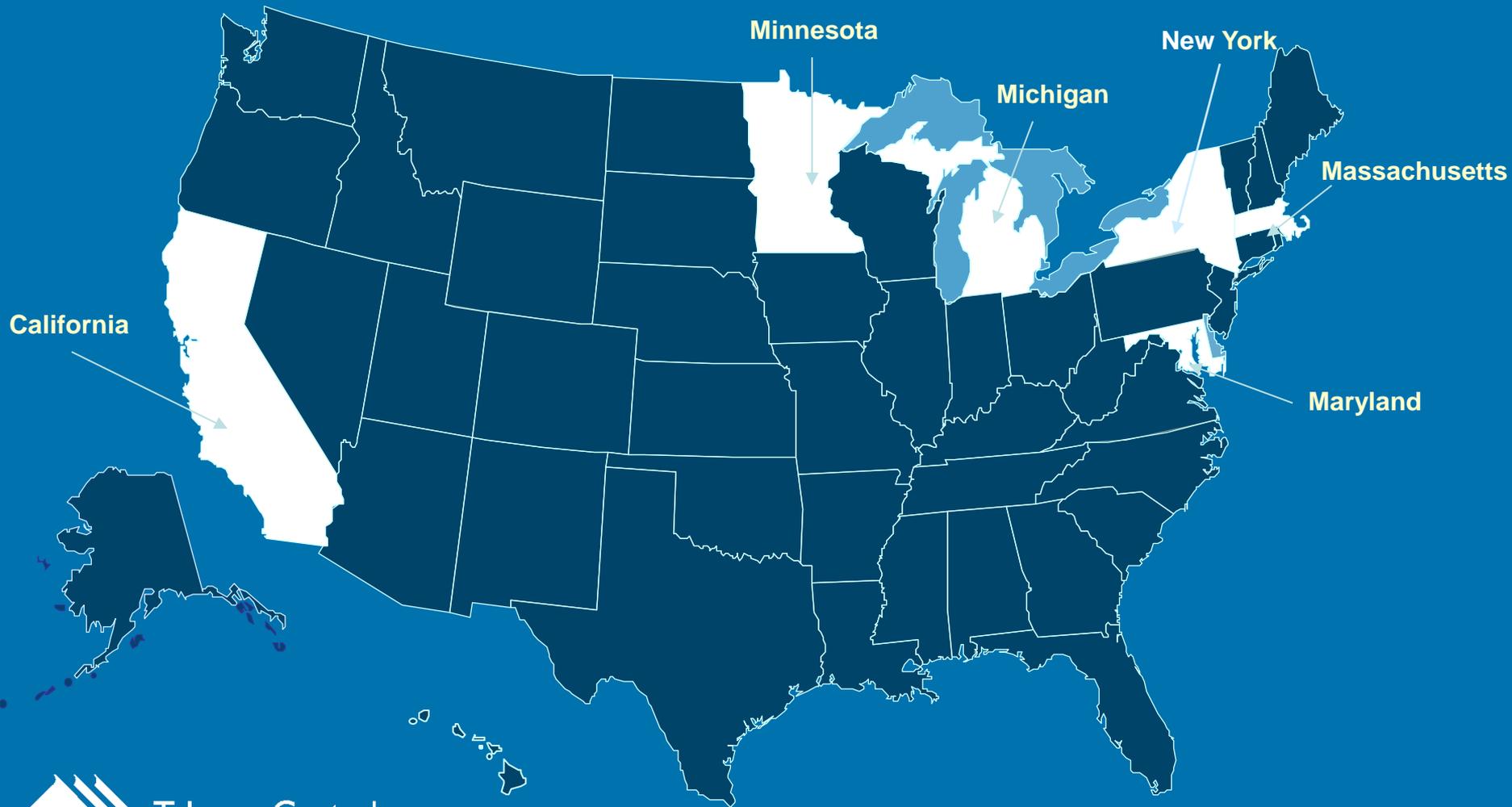
The Tobacco Control Legal Consortium

A national legal network supporting tobacco control policy change.



Tobacco Control
Legal Consortium

Tobacco Law Centers



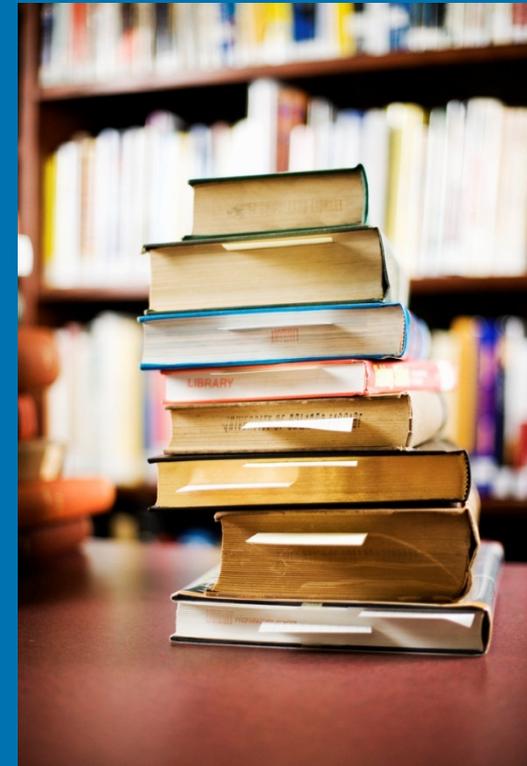


Who We Serve:

- Public health advocacy organizations and community coalitions
- Public health officials
- Elected officials
- City and county attorneys
- Private attorneys and individual citizens

What We Do:

- Policy development
- Litigation support
- Legal research, analysis, and interpretation
- Education and training



~~Representation~~

~~Lobbying~~



Tobacco Control
Legal Consortium

Topics

- Federal law and preemption
- Local Authority
- Strategies
- Examples
- Resources
- Q & A



Federal Law

Family Smoking Prevention and Tobacco Control Act (2009)



Federal Law

Family Smoking Prevention and Tobacco Control Act

- Preserves authority of state and local governments to regulate in certain areas
- Only preempts local action in a few areas
 - Product standards
 - Warning notices





Preemption

Nothing in this act shall prevent any city or county from regulating smoking within its boundaries, so long as such regulation is at least as stringent as that imposed by this act.

No city or county shall adopt any ordinance, resolution or regulation, and no agent of any city or county shall take any administrative action, governing the purchase, transfer, ownership, storage, carrying on one's person or transporting of firearms or ammunition, or any component or combination thereof

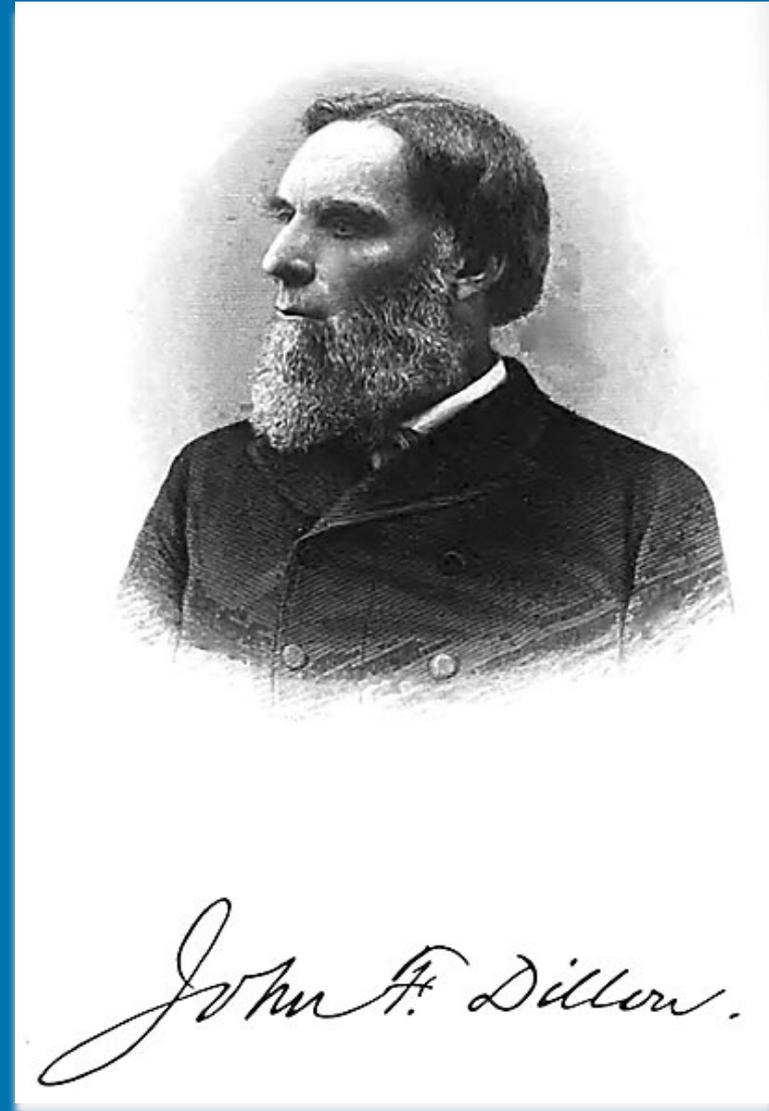
Local Authority

Dillon's Rule

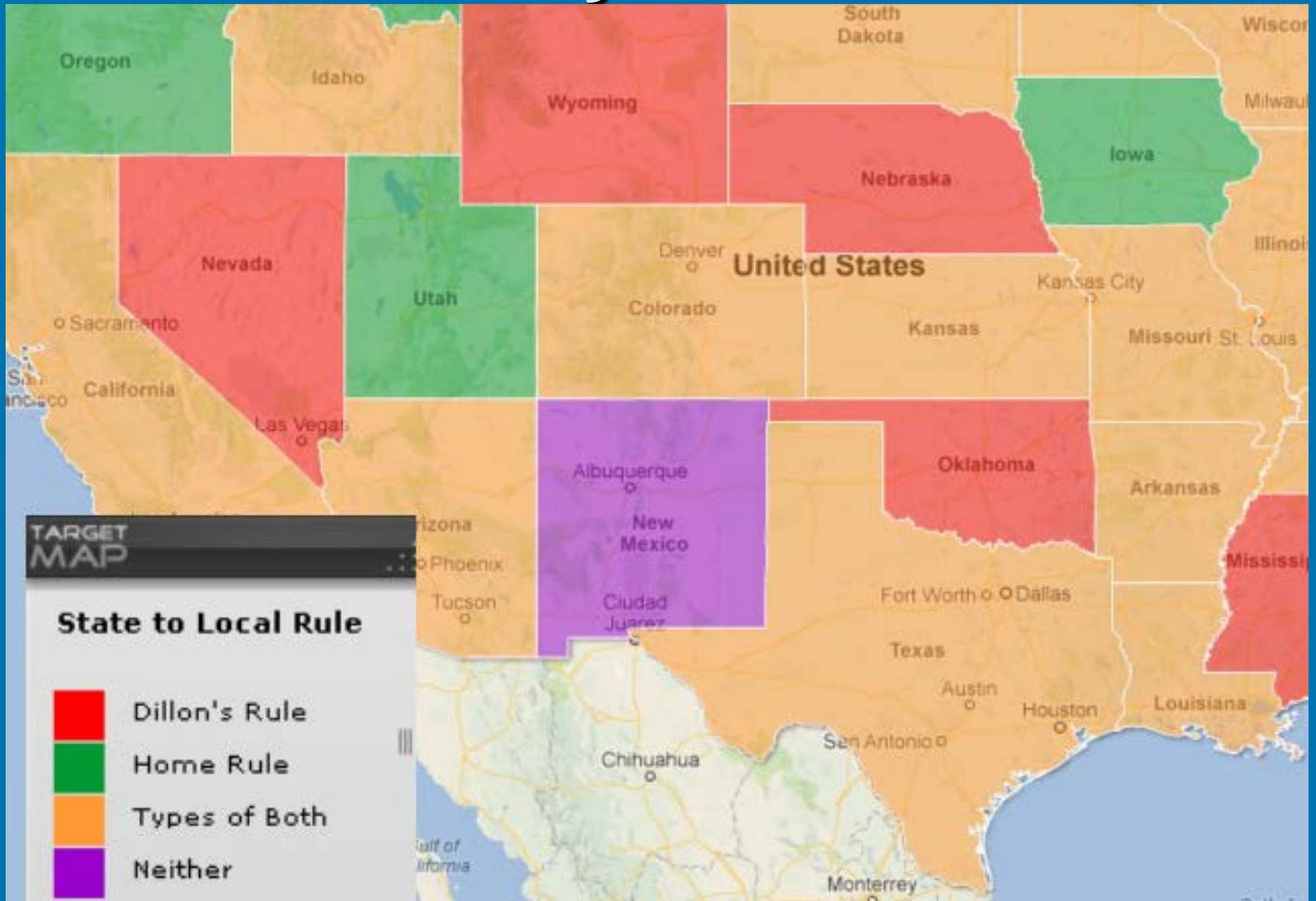
Localities only have powers expressly granted to cities and counties by the state

Home Rule

Localities have been given broad authority to act on their own (Kansas; for cities and counties)



Local Authority





Regulatory – Retail Environment

- **Licensing**
- **Restricting sale of certain products**
- **Advertising & Marketing Restrictions**
- **Retail environment**
- **Youth access updates/enhancements**



Retail Licensing

Require licenses and licensing fee to sell new tobacco or electronic devices

Guess which one does **NOT** require a license?



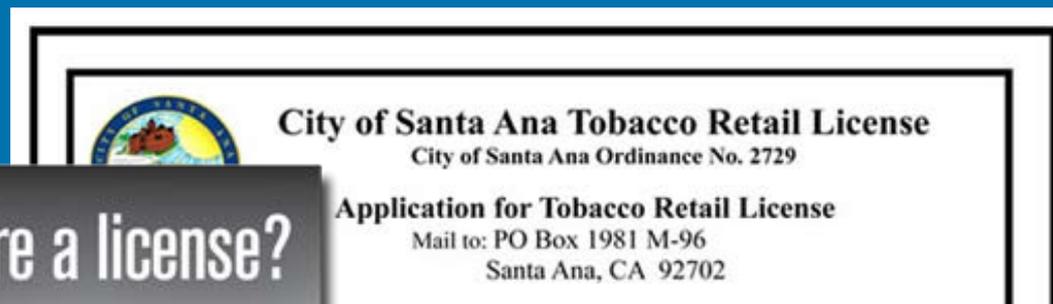
Own a dog



Sell Christmas trees



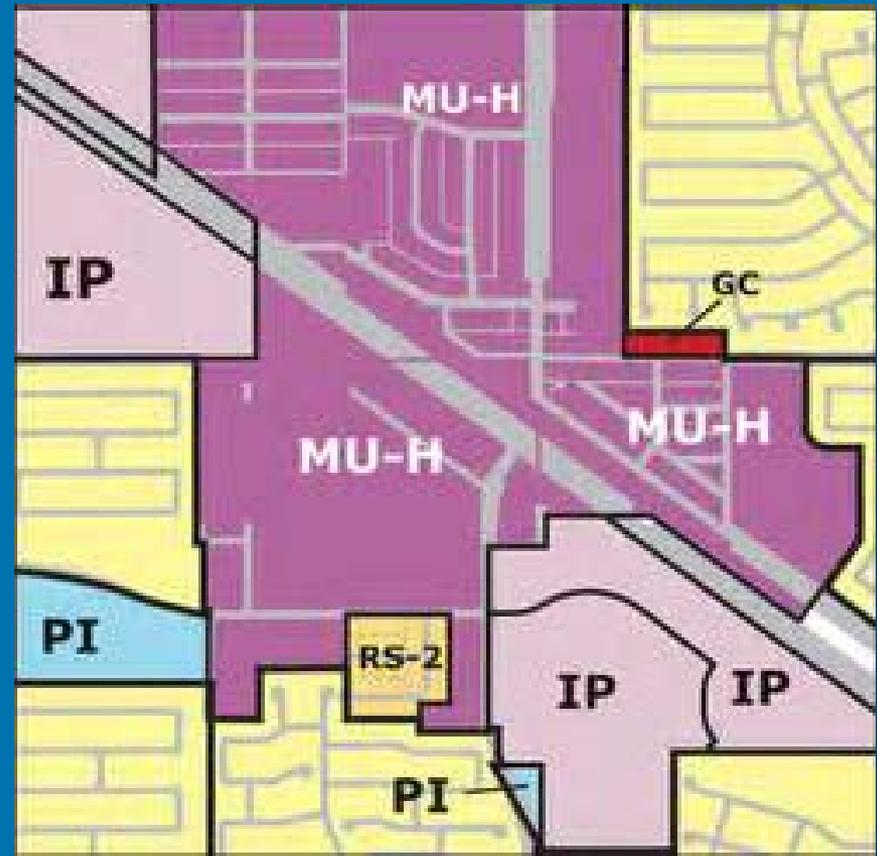
Sell tobacco



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Regulating Retail Outlets

Restriction the number of retail outlets or the location through zoning



Sales Restrictions

Pharmacies and Health
Care Service Providers



CVS
pharmacy



Sales Restrictions

Pharmacies and Health Care Service Providers



Tips & Tools

Prohibiting the Sale of Tobacco Products in Pharmacies



Fact Sheet

Laws Restricting the Sale of Tobacco Products in Pharmacies



Age Restrictions

Family Smoking Prevention and Tobacco Control Act:

Minimum purchase age of 18

Kansas Statutes:

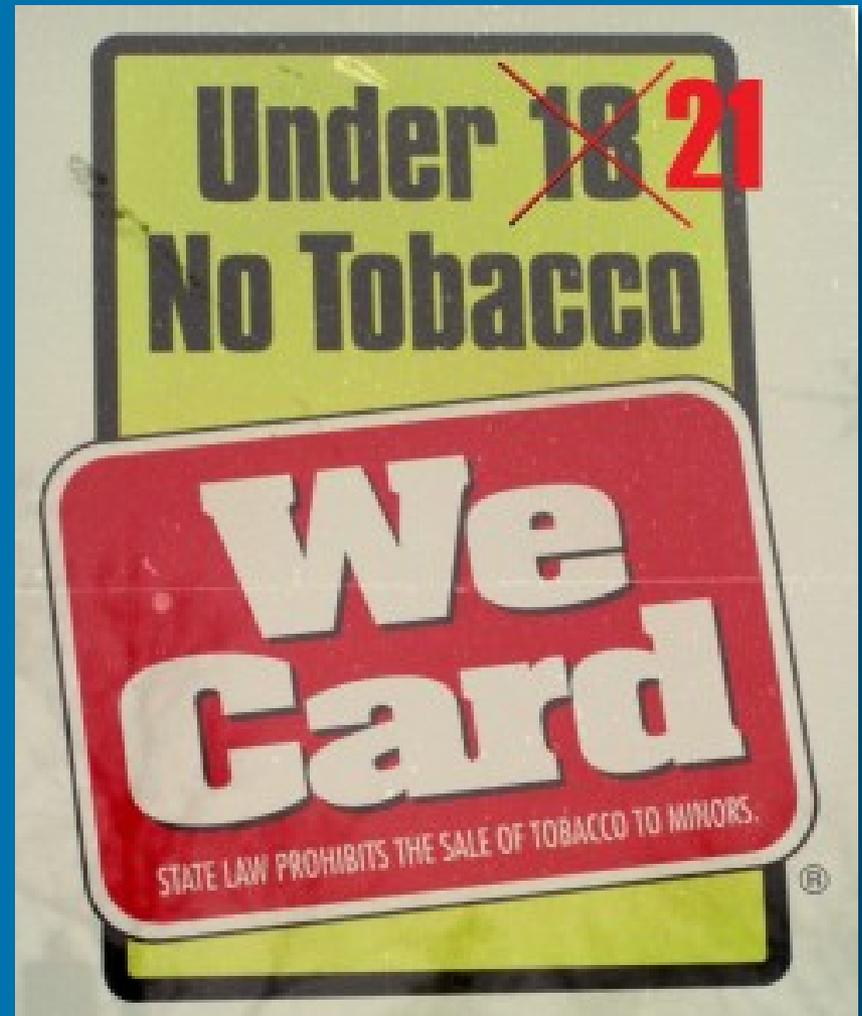
Minimum age for sales of cigarettes, electronic cigarettes and tobacco products: 18 years old.

- KSA 79-3321

Age Restrictions

Raise minimum purchasing age

Establishing / raising minimum age for handling sales of tobacco products



Age Restrictions

Resource:

CAMPAIGN for TOBACCO-FREE Kids

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[FACTS & ISSUES](#) [TAKE ACTION](#) [WHAT WE DO](#) [WHO WE ARE](#) [MEDIA CENTER](#)

Home > What We Do > State and Local issues > Increasing the Sale Age for Tobacco Products to 21

U.S. State and Local Issues

Increasing the Sale Age for Tobacco Products to 21



"Raising the legal minimum age for cigarette purchaser to 21 could gut our key young adult market (17-20) ..."
– Philip Morris report, January 21, 1986

Another strategy for reducing smoking and other tobacco use among young people is to increase the minimum legal sale age for tobacco products to 21.

Nearly all smokers start as kids or young adults, and these age groups are heavily targeted by the tobacco industry. Increasing the sale age to 21 will help to prevent young people from ever starting to smoke and to reduce the deaths, disease and health care costs caused by tobacco use.



Pricing

Establish minimum price for new tobacco or electronic products

- Reduce attractiveness of novel products





Coupons – Providence, RI

Prohibit price reductions by coupons and special offers

United States Court of Appeals For the First Circuit

The National Association of Tobacco Outlets, et al. (collectively “National Association”), contends that the Price Ordinance violates the First Amendment and that both ordinances are preempted by federal and state law. The district court held that the ordinances were neither preempted nor otherwise invalid. We affirm.

Packaging Restrictions

Minimum pack / package size for products



Restrict certain types of products

Flavored tobacco products including electronic cigarettes



Sample Pack,
All 15 Flavors!
Any Mg



Restrict certain types of products

New York City

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OBITUARIES

Appeals court upholds city ban on flavored tobacco products

Tobacco industry had sought to overturn measure that limits sale of products to tobacco bars

Product Placement / Access

Locked cases / behind the counter



Sampling

No free samples of any tobacco product or electronic delivery device

Get Your
FREE SAMPLE
Today!

botanical alternative botanical alternative botanical alternative

NOVUS NOVUS NOVUS

ONE PACK ONE PACK ONE PACK

FLAVOR FLAVOR FLAVOR

NO LIMITS NO BOUNDARIES NO LIMITS NO BOUNDARIES NO LIMITS NO BOUNDARIES

**NO OBLIGATION OFFER.
EASY CHECKOUT!**

Advertising

State / Local

- Reasonable time / place and manner restrictions



Advertising

Content neutral advertising restrictions



Shame Law

Post signage indicating violations



Caution

Prohibiting certain kinds of promotion or advertising

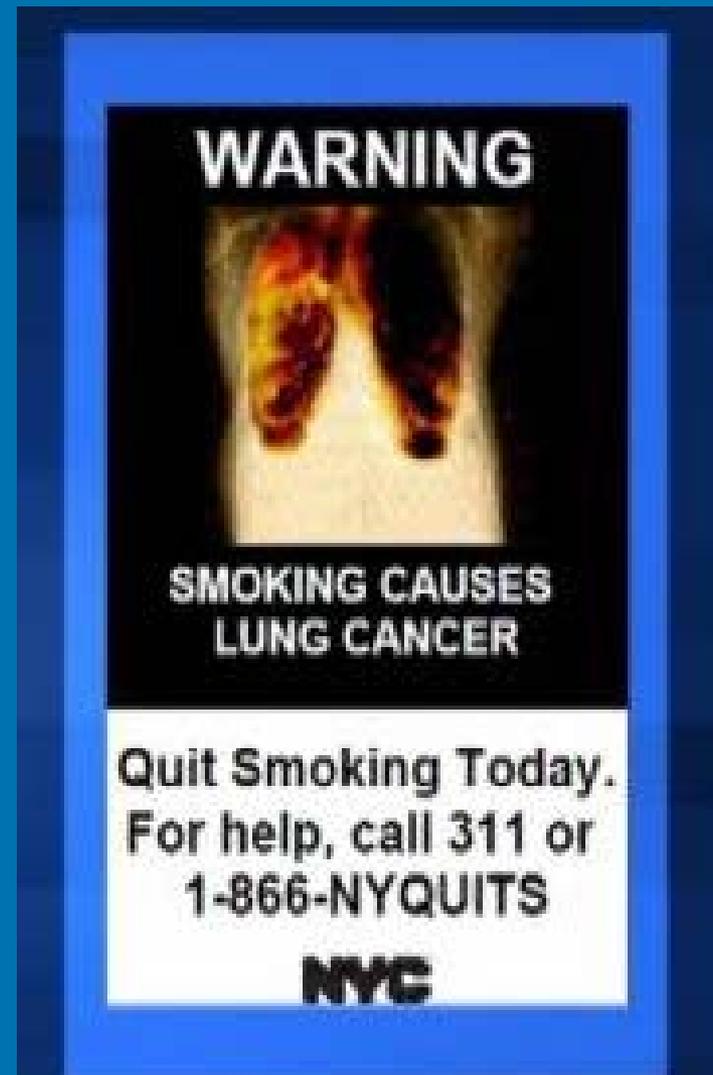
- Power walls



Caution

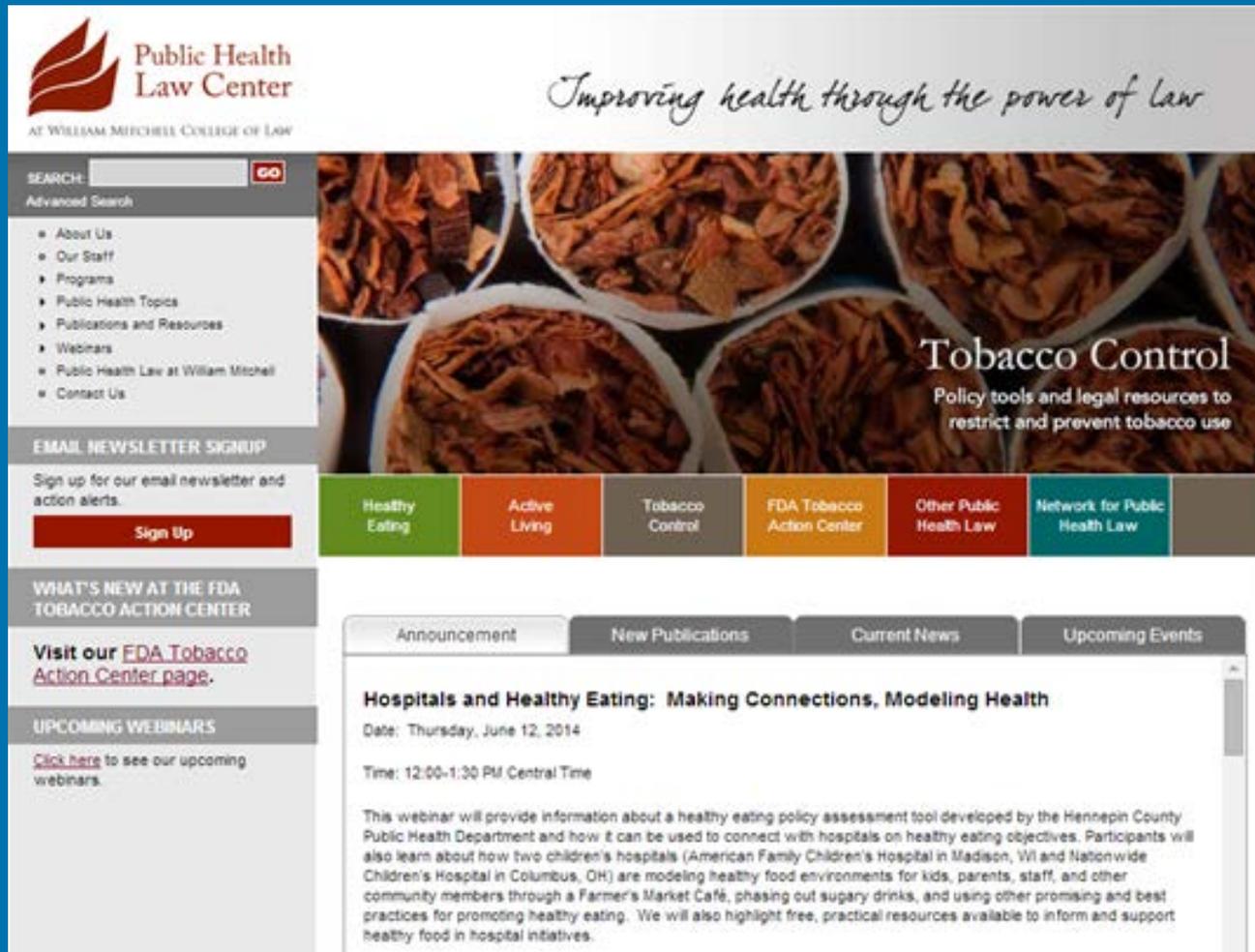
Compelling Speech

- Point of sale warnings
- Violation of federal law



Public Health Law Center

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WHAT'S NEW AT THE FDA TOBACCO ACTION CENTER

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Tobacco Control
Policy tools and legal resources to restrict and prevent tobacco use

Healthy Eating | Active Living | Tobacco Control | FDA Tobacco Action Center | Other Public Health Law | Network for Public Health Law

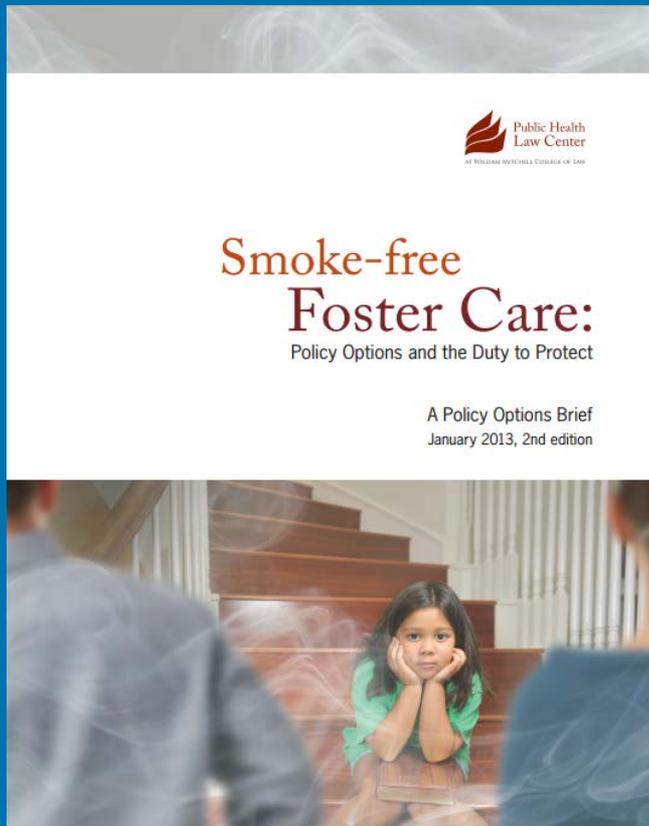
Announcement | New Publications | Current News | Upcoming Events

Hospitals and Healthy Eating: Making Connections, Modeling Health
Date: Thursday, June 12, 2014
Time: 12:00-1:30 PM Central Time

This webinar will provide information about a healthy eating policy assessment tool developed by the Hennepin County Public Health Department and how it can be used to connect with hospitals on healthy eating objectives. Participants will also learn about how two children's hospitals (American Family Children's Hospital in Madison, WI and Nationwide Children's Hospital in Columbus, OH) are modeling healthy food environments for kids, parents, staff, and other community members through a Farmer's Market Café, phasing out sugary drinks, and using other promising and best practices for promoting healthy eating. We will also highlight free, practical resources available to inform and support healthy food in hospital initiatives.

Resources

Fact sheets / Tips & Tools





Resources

Archived Webinars

E-Cigarettes: Local Options in Light of Federal Action

Date: Tue, 07/22/2014

Time: 12:00PM

Link:

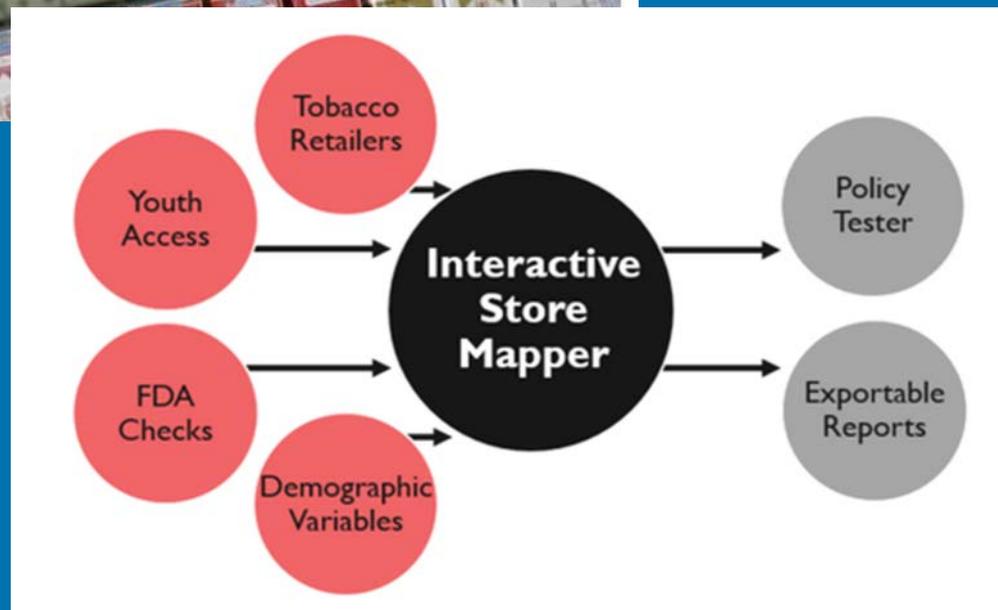
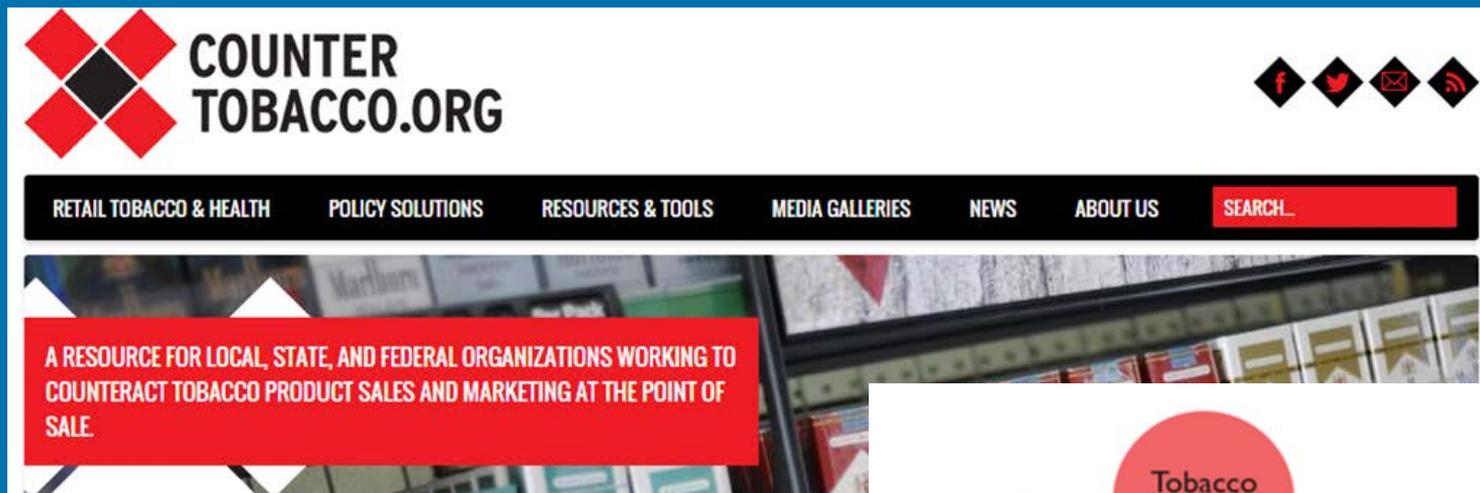
[Go To Webinar](#)

E-cigarette use has exploded in the last few years, yet public health regulation has not kept pace. During this webinar, experts from the Tobacco Control Legal Consortium, Americans for Nonsmokers' Rights, and the American Lung Association will explain how the U.S. Food and Drug Administration is proposing to regulate e-cigarettes and will describe local policy options to address the skyrocketing use and related public health impact of this emerging product.

Presenters: Cynthia Hallett, Executive Director, Americans for Nonsmokers' Rights; Thomas Carr, Director of National Policy, American Lung Association; Maureen O'Brien, Staff Attorney, Tobacco Control Legal Consortium. Moderator: Joelle Lester, Staff Attorney, Tobacco Control Legal Consortium.

CounterTobacco

Mapping & Store Audits





Contacts

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