



Tobacco Enforcement Best Practices Roundtable Northern California – March 24, 2011

Outcomes Report: Best Practices, Challenges, and Solutions

Introduction

The California Department of Public Health (CDPH), California Tobacco Control Program (CTCP) is committed to developing statewide strategies that will support local enforcement of tobacco sales laws. To this end, CTCP hosted four regional, interactive Tobacco Enforcement Best Practices Roundtables. The goals of the roundtables were:

- 1) To gather law enforcement, public health professionals, program administrators, and other enforcement personnel in order to stimulate the sharing of local challenges and successes; and
- 2) To disseminate a Summary Report highlighting the key outcomes from all four roundtables and to develop a Roundtable Planning Toolkit as a way to stimulate and support similar collaborations between public health and law enforcement in local jurisdictions.

Convened on March 24, 2011 in Grass Valley, CA, the focus of this fourth regional roundtable was on the administration and enforcement of Tobacco Retail Licensing (TRL) ordinances, Penal Code 308(a), and the Stop Tobacco Access to Kids Enforcement (STAKE) Act. Regional participants included representatives from multiple jurisdictions within these counties: Mendocino, Sutter, Sacramento, and Nevada. Several statewide enforcement agencies were represented, including: the California Attorney General's Office; California Board of Equalization (BOE); California Alcoholic Beverage Control (ABC); and California Department of Public Health, Food and Drug Branch, STAKE Act Unit. This report summarizes the best practices, challenges, and possible solutions in enforcing tobacco sales laws in this specific region. The following pages summarize the cumulative knowledge shared during small group discussions and a large group debrief. CTCP is pleased to share these outcomes with the law enforcement and public health communities.

If you have questions or comments, or would like to obtain a copy of other regional roundtable findings, please contact Mary Strode, CTCP STAKE Act Coordinator, at Mary.Strode@cdph.ca.gov or at (916) 449-5496.

Best Practices

ADMINISTRATIVE	<ol style="list-style-type: none">1) Create a subcommittee to liaison with retailers and city council.2) Revise the tobacco retailer licensing ordinance (TRL) to increase fee (in order to adequately fund enforcement operations).3) Involve the business community in the TRL ordinance process.4) Include drug paraphernalia provision in the TRL ordinance.5) Assess criminal and administrative penalties to maximize the impact on stores who sell to minors.6) Enact a “three strikes law” for tobacco sales to minors violations (i.e., third violation results in license suspension).7) Pool funds from multiple sources to fund enforcement operations. Utilize Master Settlement Agreement (MSA) money. Do not tie enforcement funds exclusively to illegal sales statistics.8) Pay close attention to changes in business ownership in order to keep retailer lists accurate.9) Educate that despite hard economic times, retailers are still making a profit on tobacco sales.
ENFORCEMENT	<ol style="list-style-type: none">1) Conduct sting operations as frequently as possible.2) Set up the base control for compliance checks away from businesses and do not inform retailers about sting operation results right away (to avoid retailer phone tree).3) Work closely with retailers and educate them about tobacco control laws.4) Send an adult undercover volunteer into the store, in advance of the youth decoy to monitor the store environment.5) Adhere to a specific, uniform decoy protocol.6) Have youth decoys work in an area where they do not live.7) Fill out inspection forms as soon as possible to maximize accuracy.8) Provide incentives to youth decoys, such as gift cards or cash.9) Public health department should inform law enforcement about consummated buys.10) Publish list of violating businesses in local newspapers.11) Collaborate with Alcoholic Beverage Control (ABC) on drug paraphernalia issues.12) Build strong relationships between public health department and law enforcement after TRL ordinance is enacted.13) Recruitment of youth decoys:<ul style="list-style-type: none">• Use cadets or high school seniors• Match with local demographics• Decoys should be youthful in appearance (to avoid retailer complaints of entrapment)• Collaborate with other programs and community groups to share decoys• Provide volunteer hours, small stipends or gift cards• Use local media to recruit youth

OTHER

- 1) Collaborate with community alcohol and drug prevention coalitions.
- 2) During food inspections, check for the posting of the tobacco retail license and tobacco age-of-sale warning signs.
- 3) Share local violation data with state enforcement agencies. Use “Tracking and Reporting Illegal Tobacco Sales to Minors: A How-to Guide for Projects Funded by the California Tobacco Control Program” as a resource (see link at bottom of page).

Challenges and Potential Solutions

CHALLENGE	POTENTIAL SOLUTIONS
Decoy operations	<ul style="list-style-type: none"> • Develop specific protocols for youth decoy operations • Collaborate with other law enforcement agencies to do multiple stings at same time and then return the favor • Recruit and advertise for youth decoys as widely as possible • Follow standardized protocols • Match decoys to community demographics and avoid using decoys that look 18 or older • Use a video to train youth decoys
Phone tree	<ul style="list-style-type: none"> • Wait 15 minutes to an hour before going back into the store after a consummated buy • Have decoys work in an area where they do not live • Set up base of operations away from businesses
Lack of resources	<ul style="list-style-type: none"> • Structure the TRL ordinance to pay for ongoing enforcement • Establish a range of fines in TRL ordinance; use monetary fines as a deterrent • Research other funding opportunities to support enforcement operations • Advocate for MSA funds to be used for enforcement
Political opposition to enforcement	<ul style="list-style-type: none"> • Use unfair business practice laws to address recalcitrant businesses that repeatedly fail to comply • Elevate the importance of youth access to tobacco - change the community’s perception about how tobacco is viewed compared to other drugs and alcohol • Utilize media and community partnerships to build public support • Engage businesses in the city to show support via letter or appearance at council meetings

Tobacco retail licensing	<ul style="list-style-type: none"> • Rural communities may want to try adopting TRL in cities before going for a county ordinance • Retailers make a large profit on tobacco sales - a small annual fee for a tobacco sales permit is a drop in the bucket • Rural communities value youth – gather good data on how illegal sales impacts youth and tie to TRL argument • Integrate “tobacco as a gateway drug” into message framing while seeking support for TRL • Engage youth involved as advocates • Promote the idea of a healthy community that is appealing to potential residents • Keep retailers informed and provide them opportunity to be part of the process • Provide retailers with samples of state and local tobacco licenses to educate them about the requirements
Reporting outcomes	<ul style="list-style-type: none"> • Use various media outlets to get the word out • Press coverage of retailer violations is an effective deterrent to illegal sales
State and local collaboration	<ul style="list-style-type: none"> • ABC can be a resource for drug paraphernalia issues • Expand communication between local and state agencies to help overcome differences in protocols, missions, geographic diversity, etc. • BOE can conduct a local or regional training for retailers

Resources

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California Board of Equalization Regional Office:
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Point of Sale Annotated Resource List
Available: www.tcsstore.org/appendix/updated.html

“Tracking and Reporting Illegal Tobacco Sales to Minors: A How-to Guide for Projects Funded by the California Tobacco Control Program”
Available: <http://www.tcsstore.org/appendix/updated.html>

General Accounting Office report: “ILLCIT TOBACCO: Various Schemes Are Used to Evade Taxes and Fees”
Available: <http://www.gao.gov/new.items/d11313.pdf>