



**Local Tobacco Retailer Licensure Roundtable:
Enforcement Best Practices**
Glendale Police Department, Glendale, CA – September 10, 2008

Local Tobacco Retailer Licensure: Best Practices, Challenges & Solutions October 2008

I. Introduction

Background:

In the summer of 2007, the California Department of Public Health, California Tobacco Control Program (CTCP) convened its Point of Sale Practices advisory group to discuss possible statewide strategies that could support local enforcement of illegal sales of tobacco laws. Through these discussions, the Tobacco Enforcement Best Practices Roundtable Project was conceptualized. The primary goals of this project are: 1) to convene four regional, interactive roundtables focused on the enforcement of illegal sales of tobacco laws in geographically diverse regions of California between 2008 and 2009, in order to stimulate the sharing of local challenges and best practices; and 2) to disseminate a summary of roundtable outcomes and a roundtable planning toolkit to California's tobacco control community as a way to stimulate and support the implementation of similar roundtables by local jurisdictions.

First Regional Roundtable:

The first regional roundtable was successfully convened in Glendale, California on September 10, 2008. The focus of this roundtable was on the administration and enforcement of local tobacco retailer licensing ordinances. CTCP is pleased to share this summary report highlighting best practices, challenges and possible solutions. These experiences and recommendations were identified through small group discussions and a large group debriefing session. Roundtable participants represented 14 diverse jurisdictions in Los Angeles County. At the time of the event, these jurisdictions were either actively enforcing a local tobacco retailer licensure ordinance or were about to begin enforcement operations.

Roundtable Outcomes:

CTCP would like to thank all roundtable attendees for coming to the table to share their successes and challenges. The exceptional turnout and high level of participation generated a wealth of useful ideas and insights. Although the dissemination of outcomes from future regional roundtables is still to come, CTCP hopes that these findings will help enhance statewide tobacco enforcement efforts. Questions or comments can be directed to Mary Strode, CTCP's STAKE Act Coordinator, mary.strode@cdph.ca.gov or 916-449-5496.



II. **COMMON THEMES: Administration Best Practices, Challenges and Possible Solutions**

Administrative Best Practices:

- Make sure your licensure fee is appropriate and revisit it annually; maintain flexibility.
- Lay out the business practices of your licensing program and have the relevant forms in place before you start your enforcement activities.
- Set up streamlined procedures to increase the efficiency of your program, e.g., see if retailer notices can be consolidated.
- Use a three-person panel for administrative hearings.
- Update your retailer list regularly and obtain community input when you update your list; verifying business ownership.
- Obtain a list of multiple violators of illegal sales laws and crosscheck it with the Board of Equalization (BOE) list of licensed retailers; this will help identify non-traditional retailers who are participating in illegal sales of tobacco and who may not have a BOE tobacco retailer license. This list can inform your enforcement efforts. Distribute it to administration and enforcement agents.
- Administering a licensing program effectively requires good teamwork; utilize a team approach.
- Participate in community collaboratives and build relationships with those outside of your program to support ongoing enforcement of your licensing ordinance, future increases in fees, etc.
- Take opportunities to educate and train partnering agencies and groups, such as City Attorneys, Boards of Supervisors, community members and retailers.
- Access readily available local and statewide resources to avoid re-inventing the wheel.

Administrative Challenges and Possible Solutions:

Challenge

Possible Solutions

Inaccurate BOE list tobacco retailers

- Cross-check BOE tobacco retailer list with other retailer lists such as those used by the CDPH Food and Drug Branch, STAKE Act Program (FDB) and local enforcement agencies;

- Solicit community input to keep your local tobacco retailer list updated.



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Challenge

Overcoming procedural inefficiencies

Possible Solutions

- Lay out the business practices of your program and have the relevant forms in place before starting enforcement activities;
- Utilize a team approach – set up a task force involving representatives from various components of your licensing program and meet on a regular basis;
- Streamline retailer notifications.

III. COMMON THEMES: Enforcement Best Practices, Challenges and Possible Solutions

Enforcement Best Practices:

- Utilize a team approach within your enforcement program: set up a task force involving representatives from different departments who are also conducting enforcement and meet on a regular basis.
- Educate retailers in your community prior to enforcement actions.
- Recognize compliant businesses: send congratulatory letters from the enforcement agency to compliant retailers following sting operations and/or have the agency that normally corresponds with community businesses send the letters so that this task becomes part of your procedural framework.
- Obtain a list of multiple violators; follow-up with violators.
- If a business says that they have stopped selling tobacco, get it in writing.
- Attorney General's Office (AG) is a great resource for information and support - connect the AG with your City Attorney.
- Issuing misdemeanors can help bring violators into compliance – work with your City Attorney.
- Bring your community on board to help identify violators, share resources, provide support for the program, and recruit youth for your decoy operations.
- Use 15-16 year-old youth for your decoy operations.



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Enforcement Challenges and Possible Solutions:

Challenge

Possible Solutions

Enforcing the ordinance among non-traditional tobacco retailers

- Obtain a list of multiple violators; follow-up with violators;
- Work with your City Attorney on issuing misdemeanor citations to violators; connect your City Attorney with the AG;
- Ask community members be your licensing enforcement program's "eyes and ears";
- Acknowledge tobacco retailer compliance;
- Utilize a team approach within your agency pertaining to enforcement operations.

Black market products

- Collaborate with the BOE.

Unreliable youth decoys; inefficient sting operations

- Utilize tangible and intangible incentives (e.g., stipends, college recommendation letters, etc.); use 15-16 year old decoys;
- Tap into community resources for youth recruitment.

Continually verifying the accuracy of local tobacco retailer lists

- Conduct local list-BOE list comparisons;
- Solicit community input to keep your local list updated.

Tobacco retailer phone tree

- No specific solutions identified.



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IV. COMMON THEMES: Information Sharing and Other Suggestions

Information Sharing:

- Share your tobacco retailer list with BOE and other local jurisdictions on a regular basis.
- Find out from BOE which tobacco retailers are violating laws in your community; contact your regional BOE representative.
- Develop a flow chart to illustrate who does what in your program; disseminate to all parties involved.
- Share resources and information with administrators, enforcers, and adjudicators involved in your program so everyone stays abreast of roles, functions, new strategies and information.
- Collaborate with other jurisdictions' retailer licensing programs – tap into them as resources and share your best practices and challenges.
- Ask community members to be your “eyes and ears” to reduce the amount of time staff have to spend determining retailer location, etc.

Other Suggestions:

- Build support for the enforcement of your tobacco retailer licensing ordinance within your own department as well as others.
- Community advocacy agencies can be a strong source of support for your program; actively collaborate with these groups.

V. BREAKOUT GROUP COMMENTS: Administrative Challenges and Best Practices (all 3 groups)

Administrative Challenges:

- Creating flexible programs within each jurisdiction.
- Earmarking license fees for enforcement.
- Accurately predicting revenue from retailer fees.
- Meeting full cost recovery guidelines.
- Reluctance of department issuing licenses to issue more licenses.
- Obtaining necessary paperwork to process retailers for licensing billing.
- Having to work within existing tax collection infrastructure to issue licenses.
- Technical difficulties with regard to tracking and monitoring systems/interfaces with different systems.
- Collaboration and communication between multiple departments so that everyone stays on the same page.



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- Having to re-educate new staff when collaborating partners retire or leave the program.
- Vaguely written appeals process.
- Inaccurate BOE list; having to use multiple retailer lists (from BOE and local sources) to determine existence and location of tobacco retailers and to verify business ownership.
- Keeping track of new tobacco retailers and those who no longer sell tobacco.
- Tobacco retailers that obtain business licenses outside of the county from cities where enforcement is not happening.
- Identifying and investigating the tobacco retailers who failed to disclose information and lied on their application.
- Retailers who say they will lose money if they don't have a license to sell tobacco.

Administrative Best Practices:

- Incorporate what has worked in other jurisdictions.
- Monitor program needs and keep the program flexible.
- Revisit licensure fees on annual basis.
- Allocate resources effectively.
- Put all tobacco retailer licensing program elements under one umbrella if possible.
- Determine who will assume particular roles within your tobacco retailer licensing program; use a flow chart.
- Be aware of the responsibilities of other city departments.
- Set up a task force with representatives from different departments involved in your tobacco retailer licensing program.
- Find a champion in the department.
- Provide enforcement personnel with administrative support.
- Set performance standards for City Clerk, Neighborhood Services, Code Enforcement and Police.
- Change your ordinance look-back period from 5 to 3 years (however, 5 years gives time to catch violators.); include a provision for an “arm’s length transaction.”
- Have your licensing fee go directly to enforcement in a 1-step mechanism: create a separate account for fee retention that will go towards enforcement only.
- Have the City Clerk collect the application fee; the license fee is only collected after the application is approved which is then forwarded to enforcement.
- Use an automatic notification process.



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- Assess multiple fees (business, tobacco, etc.) on one invoice.
- Keep an organized database of all licensed retailers to track violators efficiently.
- Update your retailer list regularly; gain enforcement input and use multiple retailer lists for reference in developing the most accurate list.
- Require tobacco retailers to reapply with correct information on their application; take the license fee and apply it to the new application.
- Count previous violations against a business at a specific location unless the business has been sold in an arm's length transaction.
- For youth decoy operations, use waiver, release and indemnity forms for minors/parents.
- Set up a 24/7 hotline to receive public complaints.
- Access a variety of websites and resources to help identify all tobacco retailers in your jurisdiction.
- Know the contact information for tobacco enforcement agencies.

VI. BREAKOUT GROUP COMMENTS: Enforcement Challenges and Best Practices (all 3 groups)

Enforcement Challenges:

- Lack of understanding among retailers about tobacco retailer licensing laws.
- Increasing efficiency of sting operations.
- Operational and recruitment challenges pertaining to decoy programs.
- Youth decoy unreliability.
- Avoiding or reducing youth decoy liability issues requires preparation.
- The use of youth decoy incentives could create a challenge in court.
- Retailer phone tree.
- Retailer recognition of officers or decoys.
- Identifying black market products.
- Enforcing sales of tobacco paraphernalia on top of illegal sales.
- Obtaining compliance from non-traditional retailers who sell tobacco such as donut shops and hair salons.
- Garnering retailer support – retailers fear loss of revenue if they don't sell tobacco.
- Unsupportive City Attorneys.
- Prosecutors want hearings in lieu of filing in court/filing as misdemeanor.
- Limited staff, particularly for enforcement; lack of resources.
- Writing reports.



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Enforcement Best Practices:

- Incorporate what has worked in other jurisdictions.
- Conduct community outreach and retailer education before conducting sting operations.
- Use a checklist of violations to gain compliance from retailers.
- Train enforcement personnel on how to conduct site visits; create a checklist of tobacco control laws that pertain to the retail environment.
- Collaborate with Code Enforcement and Environmental Health to achieve retailer compliance with laws and regulations.
- Coordinate retail outlet enforcement operations if your agency is conducting various types of sting operations; coordinate stings with the FDB.
- Communicate with the BOE and FDB to alert them to violators.
- Refer to the City of Compton's model for information on how to gain retailer support. They link an educational program with mini sting operations.
- Refer to the City of Burbank's model which includes a 3-person panel in their hearing process during adjudication.
- Invoke support from the Attorney General's Office to connect with your City Attorney.
- The City of Glendale books multiple violators of illegal sales.
- File a misdemeanor case when a violation occurs during a suspension.
- Use your City Attorney to gain compliance - send retailer compliance letters to your City Attorney.
- Review inspection protocols and procedures with your City Attorney or D.A.— work with them on any changes.
- Conduct sting operations closer to schools.
- Use 15-16 year-olds as youth decoys; use boys and girls.
- Have youth decoys obtain a California ID card for uniformity (as opposed to a driver's license); have decoys use marked money to make it obvious to the seller that an illegal sale occurred.
- Photograph youth decoys before sting operations.
- Follow agency guidelines for youth decoy characteristics; use youth decoys who match the characteristics of typical youth who buy tobacco; talk to youth in your community and ask them: "What do youth look like who buy tobacco?"
- Use incentives or other rewards to encourage participation of youth decoys.
- Garner seniors' support in making illegal sales a priority and in getting youth recruits on board.
- Collaborate with local media (e.g., community newspapers) to educate the community and expand your area of influence; this will help curb illegal sales.



VII. BREAKOUT GROUP COMMENTS: Information Sharing and Resource Needs (all 3 groups)

Information Sharing:

- Tap into resources in your jurisdiction such as Valley Community Clinic, Office of Samoan Affairs, and other community resources.
- Contact the AG to gain support for collaboration with City Attorney.
- Would like to see improved communication between the state and local enforcement agencies.

Resource Needs:

- Connect with supportive groups who can provide funding assistance, e.g. incentives.
- Need readily available educational and training resources.

Other Suggestions:

- Make tobacco retail licensing a priority for City Council members.
- Encourage youth in your community to participate in tobacco control activities, including youth decoy programs; incorporate education and training into these activities.
- Build support for your tobacco retailer licensing program within your own department as well as others.
- Involve the community in supporting ongoing tobacco enforcement and making it a priority (e.g., work with a community collaborative and/or with community members to conduct a community needs assessment).
- Use educational material from your local health department and CTCP.

VIII. Key State Agency Contacts

California Department of Public Health, California Tobacco Control Program (CTCP):

- Mary Strode, STAKE Act Coordinator, 916-449-5496
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California Office of the Attorney General, Tobacco Litigation and Enforcement
Unit:

- Alan Lieberman, Deputy AG, 916-323-3705
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California Board of Equalization Regional Offices:

- BOE website: <http://www.boe.ca.gov/info/phone.htm>