



Voices from the Field

Implementation and Enforcement of Retail
Point-of-Sale Tobacco Policies by Community
Partners in Providence, Rhode Island

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Rhode Island Point-of-Sale Tobacco Policies

In January 2012, Providence, Rhode Island became the first city in the state to adopt a set of point-of-sale tobacco policies that became known as the **Rhode Island Model Tobacco Policy (RIMTP)**. Implemented the following year, the RIMTP restricts sales of non- menthol flavored tobacco products at retail settings (except tobacco bars), prohibits the redemption of coupons or other tobacco price discounting strategies, and requires tobacco retailers to obtain a local license in addition to the state license. RIMTP was subsequently adopted by the municipalities of Johnston, Middletown, Barrington, West Warwick, Central Falls, and Woonsocket between 2015 and 2017.

Fees from licensing are used to support enforcement checks conducted by local police, with violators subject to an escalating civil money penalty schedule and possible tobacco license revocation.¹ During a two-year period (2017-2019), community partners visited local tobacco retailers to collect observational data on tobacco product availability, placement, and pricing, and to conduct retailer education sessions.² In addition, undercover police officers in some Rhode Island jurisdictions, including the city of Providence, conducted inspections at tobacco retailers to assess compliance with laws regulating minimum legal sales age (MLSA), sale of flavored non-cigarette tobacco products, and tobacco product price discounting.

Voices from the Field

Rhode Island Department of Health (RIDOH) Tobacco Control Program staff held informal meetings with community partners in 2019 to learn about their experiences with retail observations and retailer education. In addition, one enforcement officer for the City of Providence participated in a semi-structured interview covering these and other topics. These conversations provided opportunities to discuss successes and challenges, lessons learned, and recommendations for future work. This document summarizes those voices from the field, which may offer insight to an increasing number of localities across the U.S. that are working on point-of-sale tobacco control efforts.

Please note that these evaluation methods include limitations such as a non-representative convenience sample of respondents, paraphrased quotes from informal conversations with informants that were not taped or transcribed, and reports of experiences that may or may not be able to be generalized to other states and localities.

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Key Themes

Community partners felt their work was successful, especially when local youth were involved

Community partners perceived their work to be successful, and that the impact was greatest in communities where youth were meaningfully engaged. Some community partners relied heavily on their collaboration with local youth. In some instances, youth attended city or town council meetings to educate and inform stakeholders about the value of the RIMTP, while in other cities and towns, youth were trained to conduct store assessments using the RI-STARS observational survey (Standardized Tobacco Assessment for Retail Settings).^{3,4}

Youth were the ones that presented [in our town], not the adults. We educated them and they, in turn, educated the council. They are the ones being sold to, so when they speak up there is real strength.

Retailer education was an art, not a science

Every partner noted two efforts that seemed worthy of replication: 1) getting to know local retailers; and 2) providing robust retailer education, which was enhanced by having access to a variety of helpful educational materials prepared by the RIDOH. Community partners spoke about the challenges they faced in working with the individual retailers, who were sometimes hostile toward educational store visits. However, community partners emphasized that repeated, personalized, one-on-one visits were beneficial over time. Many retailers got to know the community partners by sight. One community partner took a friendly approach by pointing out potential violations to the tobacco retailer before an enforcement check occurred. Several community partners reported that they witnessed retailers make improvements immediately after suggestions for remediation were offered during a visit. Partners also underscored the importance of providing tobacco retailers helpful written guidance materials.

Retailer education [was about] developing a relationship. It was difficult, but by the third round, they knew me. They were happy in the sense that they saw me as someone who was helping them, versus enforcement.

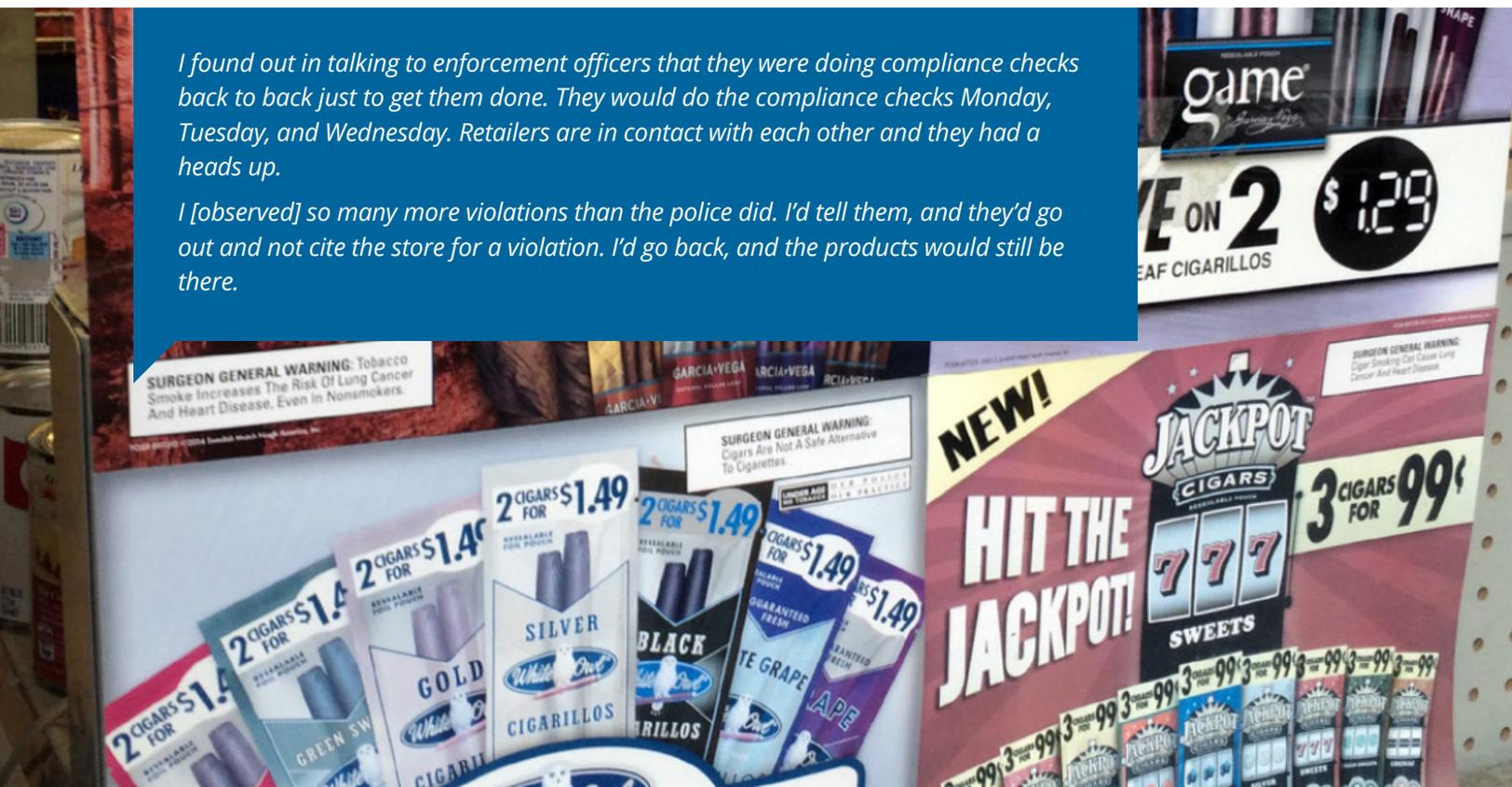
Partnership with and education of enforcement authorities is crucial

The RIMTP requires that retailers comply with the sales restrictions and licensing requirements, rather than targeting consumers for purchase, use, or possession of restricted tobacco products. As such, community partners work alongside police, educating officers about the policy and working in tandem to conduct compliance checks. Community partners reported mixed experiences in their collaboration with police on these efforts. On the one hand, community partners felt that enforcement, including citing tobacco retailers for violations, made a difference. Enforcement officers also provided excellent feedback to community partners on the compliance forms that resulted in clearer and more user-friendly versions. In addition, enforcement officers provided valuable advice on the need to re-visit stores cited for violations in each subsequent round of inspections, strengthening the message to tobacco retailers about the importance of compliance.

On the other hand, community partners suggested several ways that partnership with enforcement authorities could be improved. Some community partners felt that enforcement officers resisted being trained on how to conduct compliance checks following the RIDOH protocol and forms. Many community partners expressed disappointment with the lack of citations that enforcement officers issued for violations and offered suggestions for other ways to improve retailer compliance.

I found out in talking to enforcement officers that they were doing compliance checks back to back just to get them done. They would do the compliance checks Monday, Tuesday, and Wednesday. Retailers are in contact with each other and they had a heads up.

I [observed] so many more violations than the police did. I'd tell them, and they'd go out and not cite the store for a violation. I'd go back, and the products would still be there.



Consistent licensing requirements and policy language would be ideal

Community partners described frustrations when a local jurisdictional authority revised the original RIMTP in ways that diminished the intent of the policy, such as allowing the sale of certain flavored products. Other revisions caused duplicative responsibility for policy enforcement. For example, one town implemented a limited version of the RIMTP that resulted in enforcement officers conducting undercover compliance checks for minimum legal sales age (MLSA) violations, which are already covered by other state and federally mandated compliance programs.

Several community partners expressed a desire for statewide implementation of RIMTP. In the absence of a consistent, statewide policy, community partners noted that local policies could easily be undermined by cross-border purchases in nearby jurisdictions without the same restrictions.

POS [point of sale] tobacco policies need to be a state thing. The policy must be statewide and come from the state. Otherwise, local POS tobacco policies will always be disjointed.

If you're going to do it at the local level, do the full thing (full policy). You can't keep changing the wording of an ordinance for what tobacco retailers can or cannot sell, excluding tobacco sales to youth. Go full throttle and do the full policy. When you keep changing the policy or do only one piece of the policy and then change the wording of that piece of the policy as well, you lose credibility.

In addition, community partners and the enforcement officer noted the importance of strong licensing requirements with a coherent monetary fine structure that is rigorously enforced. Tobacco industry interference and potential litigation pose challenges.

We worked so hard to pass and enforce our city's local tobacco policy. Our enforcement officers were great. They did a great job conducting compliance checks and citing stores, with fines, for violating the policy. But now if a store doesn't have an annual local tobacco license requirement there is no fine and this part of the policy is being taken out.

When a police officer issues a citation for violation of a tobacco ordinance and the store owner goes to court there isn't always consistency in who gets fined and the amount of the fine. We need ongoing enforcement, shorter time periods between when a citation is issued and when the case is heard in court and a consistent fine structure. The fines should be separate depending on the type of violation— sale of tobacco to youth, sale of flavored tobacco product. What happens in the field needs to be backed by fines.

Tobacco industry interference and potential litigation pose challenges

Community partners emphasized that flavored tobacco product packaging and labeling were regularly changing, and therefore products could look different from one round of compliance check inspections to the next. Both community partners and enforcement officers had difficulty determining whether some tobacco products were flavored, particularly products labeled with ambiguously-named concept flavors (e.g. Jazz) that emerged on the market. The observational assessment form for flavored tobacco product violations focused on “Game Blue” cigarillos as an example of an ambiguously-named flavored product, even as new and different products were appearing in stores. So, although partners were able to track changes in the availability of the one ambiguously-named flavored product, many other ambiguously named products appeared in the marketplace, and these might have avoided detection by enforcement agents.⁵

In addition, community partners also expressed frustration at tobacco industry interference with local policies, which has resulted in litigation that sometimes stalls or halts policy implementation and enforcement. They shared their frustration that if the tobacco industry wins a court case to void a local tobacco policy in one municipality, there is sometimes a spillover effect into other municipalities that become vulnerable to similar lawsuits or choose to put policy enforcement on hold due to fear of a similar lawsuit.



There's so much more money on the other side of the game that is invested in tobacco lobbyists and products. So much money is being invested in tobacco products, especially products with concept flavors that don't identify the flavor used on the packaging.

Editor's Note

In January 2020, the Rhode Island Supreme Court ruled that municipalities do not have the authority to regulate the sale of tobacco, which falls within the authority of the State of Rhode Island (*K&W Automotive, LLC et al v. Town of Barrington*). This decision effected all localities across Rhode Island, and in February 2020 the City of Providence received a cease and desist letter regarding enforcement of its retail point-of-sale tobacco control policies.

Rhode Island communities were some of the first to pass local restrictions on the sale of flavored tobacco products. These early actions have been since followed by a rapidly growing list of cities, states and tribes that have adopted similar policies. Massachusetts became the first state in the U.S. to restrict the sale of flavored non-cigarette tobacco products in November 2019, with all restrictions in effect by June 2020. California passed a similar statewide restriction of flavored non-cigarette tobacco products in 2020, which is currently pending a referendum scheduled to be on the November 2022 ballot. In addition, 6 other states have a statewide restriction on certain types of flavored tobacco products (e.g. flavored cigars, flavored ENDS).

More information on preemption and tobacco regulation can be found at publichealthlawcenter.org/topics/commercial-tobacco-control/preemption.

Citations

¹ Rhode Island Local Tobacco Control Ordinances & Policies, tobaccofree-ri.org/local-ordinances.htm

² Pearlman, D.N., Arnold, J.A., Guardino, G.A., Welsh, E.B. (2019). Advancing Tobacco Control Through Point of Sale Policies, Providence, Rhode Island. *Preventing Chronic Disease*, 16: 180614. DOI: <https://doi.org/10.5888/pcd16.180614>

³ Henriksen, L., Ribisl, K. M., Rogers, T., Moreland-Russell, S., Barker, D. M., Esquivel, N. S., Loomis, B., Crew, E., & Combs, T. (2016). Standardized Tobacco Assessment for Retail Settings (STARS): dissemination and implementation research. *Tobacco Control*, 25(Suppl 1), i67-i74.

⁴ Feld, A. L., Johnson, T. O., Byerly, K. W., & Ribisl, K. M. (2016). Peer Reviewed: How to Conduct Store Observations of Tobacco Marketing and Products. *Preventing Chronic Disease*, 13: 150504. DOI: <http://doi.org/10.5888/pcd13.150504>

⁵ Rogers, T., Feld, A., Gammon, D. G., et al. (2020). Changes in cigar sales following implementation of a local policy restricting sales of flavoured non-cigarette tobacco products. *Tobacco Control*, 29, 412–419.

Additional Resources

Rhode Island Department of Health Tobacco Control Program, health.ri.gov/programs/detail.php?pgm_id=33

Tobacco Use in Rhode Island Fact Sheet, truthinitiative.org/research-resources/smoking-region/tobacco-use-rhode-island-2020