

CAMPAIGN CHRONICLES

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LICENSING SUCCESS THROUGH YOUTH PURCHASE SURVEYS

HOW TO LEVERAGE YPS DATA

By

Julie Bradley-Hart, Policy Coordinator

With the passage of AB 71 and increasing local efforts to pass strong tobacco retailer licensing ordinances with significant fees, local opposition is getting organized. That means we need to have solid answers to the issues opponents are raising. The best answer to all opposition is documenting the local sales rate to youth. If designed correctly, the data collected during a Youth Purchase Survey or a “sting” are a great resource to rebut your opponents’ statements. Although it expands the training required for the youth volunteers, the survey can collect important data beyond the sales rate, for example the type of store that sold, whether they had We Card stickers or STAKE Act signage,

whether the cash register prompted the clerk to check for birth date, or whether the store was in violation of any other tobacco control laws.

Below we’ve listed some of the arguments coalitions have heard in opposition to their proposals and counter arguments formulated from information collected during youth purchase surveys.

“AB 71 already deals with youth purchases, why should we do more?”:

The sales to minors provisions in AB 71 are so weak and there is no reason to believe that they will do anything to protect the youth in your community. AB 71 does not provide increased funding to enforce sales to minors laws. In fact, even if enforcement occurs, a conviction would

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LICENSING ORDINANCE PASSES IN PASADENA

By *Julie Bradley-Hart*

The Center is excited to highlight another strong tobacco retailer license ordinance. The City Council of Pasadena recently passed a comprehensive tobacco control ordinance, which includes a tobacco retailer license provision and a ban on mobile sales of cigarettes. Highlights include:

- o A \$135 fee passed as part of a separate resolution that covers the cost of administration, implementation, monitoring and enforcement of the licensure program.
- o All tobacco retailers must obtain a license annually.
- o A violation of any local, state or federal tobacco related law is a violation of the license.
- o 30 day suspension for first violation, 90 days for a second within five years, and revocation for a third violation within five years.
- o All tobacco-related advertising must be removed from public view during periods of suspension or revocation.

The ordinance also creates smoke-free city parks and establishing a conditional use permit (CUP) for significant tobacco retailers. For more information on any aspect of Pasadena’s ordinance, contact Stacey Wilmore at (626) 744-6051. For more information on other strong tobacco retailer licenses please contact the Center’s Julie Bradley-Hart at 916-442-4299.

AB 71 BANS MOBILE SALES

by Julie Bradley-Hart

The Board of Equalization stated recently that mobile tobacco sales are banned under AB 71. This clarifies some disagreement as to whether the language in the law actually banned mobile tobacco sales.

Local law enforcement can cite unlicensed tobacco retailers, including mobile vendors, that have not obtained a license under the new law. Violation is a misdemeanor punishable by either a fine not to exceed \$5,000, imprisonment not exceeding one year in a county jail, or both. Every retail location must

have a license posted by June 30, 2004.

If your coalition is working to pass a local tobacco retailer licensing ordinance, it is still advisable to follow TALC’s model ordinance and include a ban on mobile sales. AB 71 was passed with a “sunset” clause attached, meaning that without additional action from the legislature, the law will be taken off the books on January 1, 2010 and mobile sales will once again become legal.

For more information on AB 71 you may contact Randy Kline at TALC (510) 302-3303 or Julie Bradley-Hart at The Center, (916) 442-4299.

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not matter under AB 71 unless the state's illegal sales rate goes above 13 percent. However, last year when the state's sales to minors rate was established at 12.2 percent, many communities that conducted local youth purchase surveys found their rates to be much higher. If a youth purchase survey shows the sales rate in your community to be higher than 13 percent, elected officials need to know that the state law is failing to protect the youth in their community.

For more responses to counter the argument that a local tobacco retailer license is unnecessary due to AB 71 see the Center's AB 71 Q & A: <http://www.californialung.org/thecenter/legislative/ab71QA.htm>

“We should be exempted because we are such a small/big/nice/poor store”:

Selling tobacco is a privilege, not a right, and local government has an interest in regulating the sale of such a deadly product. Therefore, no one should be exempt. However, a youth purchase survey will document the reality that all types of tobacco retailers sell to youth. For example, some communities worry that mom & pop retailers cannot absorb the cost of the license as well as the chain stores. If that is the case in your community, it will be important to note that you have documented the sales rate at that type of store is too high to ignore.

“We don't sell to kids, we are law abiding retailers and have a good system in place, so we shouldn't be punished with a fee”:

If a type of retailer, like a big grocery store chain, argues that they do not sell to minors and should therefore be exempt under the ordinance, youth purchase surveys allow you to prepare a response for this too. Recently, during a public hearing on the city of Sacramento's tobacco retailer license proposal, grocery

stores and grocers associations argued that they should not have to be licensed because they do not sell to minors. In fact, the Sacramento youth purchase survey did demonstrate a zero sales rate among the grocery chains (surveys in other cities have found grocery chains continue to sell). The Sacramento coalition, however, was prepared to respond to this argument, arguing that big chain stores like Walgreen, Wal-Mart and ARCO have all been forced to negotiate settlements with the State's Attorney General due to repeated violations of the sales to minors laws.

For more information on the retailer's fight against Sacramento's proposed ordinance go to the following story from the Sacramento Bee Online: http://www.sacbee.com/content/community_news/sacramento/story/8249504p-9180253c.html

“The youth in our community do not buy cigarettes – it's not a big problem here”:

This argument falls flat when youth stand up and talk about how easy it was for them to buy cigarettes. Advocates can often dispute specific retailer arguments through first hand experience. For example, the Sacramento grocery store managers argued that they required all clerks to be trained through Philip Morris' We Card program and that they had cash registers that required the clerk to see ID. If a youth participant in the purchase survey took note of stores that sold to her despite the presence of We Card stickers or requiring that the purchasers birth date be entered into the system, that would be a powerful rebuttal.

Conclusion:

As you can see, a youth purchase survey can be extremely useful in countering many of the retailer's arguments. Its usefulness goes beyond the

overall sales rate. The survey will allow your coalition to be prepared to address why local tobacco retailer license programs must include all tobacco retailers.

For more information on designing an effective youth purchase survey, the STORE web site has many valuable resources. However, this site is password protected. If you do not have access to the STORE web site, please contact the Center at 916-442-4299 for more information.

New Organizing Materials Now Online

*By
Brian Peterson, Project Director*

We have just made new training curricula available on our website, <http://www.californialung.org/thecenter/community/index.html>. If you are at the beginning stages of a campaign and already have veteran advocates to help develop your strategy, these modules are for you. Here you'll find four separate trainings, complete with sample agendas, exercises, and training outlines. Topics include; Brainstorming Issue Possibilities, Evaluating an Issue Only, Evaluating and choosing an issue, Creating a Campaign Committee, and Planning Your Campaign. More will be added as they are developed and tested.

If you have a specific need for different training materials or if you would like assistance getting started, or help with a particular policy barrier, please give us a call.

Contact us: **THE CENTER FOR TOBACCO POLICY & ORGANIZING**
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