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# Strategies Affecting Tobacco Vendor Compliance with Youth Access Laws

A Review of the Literature

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### Executive Summary

Programs that effectively disrupt tobacco sales to minors have been shown to reduce smoking among youth. The WHO Framework Convention on Tobacco Control, as well as comprehensive tobacco control strategies, recommend legislation and enforcement restricting tobacco sales to minors. The Smoke-Free Ontario Strategy (SFOA) prohibits tobacco sales to youth under 19 years of age and requires vendors to request identification of purchasers who appear to be under the age of 25. Ontario's 36 Public Health Units are mandated to enforce this youth access law by conducting two inspections annually on each tobacco vendor. This report reviews the academic and grey literature to identify the factors that are associated with vendor compliance and to explore the strategies and practices that positively affect tobacco vendor compliance with youth access legislation.

A number of risk factors have been associated with tobacco sales to minors. Several characteristics of youth attempting to buy cigarettes have been associated with successful attempts to purchase cigarettes; these include: being older youth, girls, and those lying about their age. Similarly, several characteristics of the retail clerk have been associated with tobacco sales to minors, namely being younger clerks, male clerks, and clerks failing to ask for identification. The time and day of compliance checks can impact results: youth were more likely to purchase tobacco after 6PM and on Tuesdays, Wednesdays, or Saturdays. The impact of the type of retail store has contradictory findings: several studies have reported no association with sales to minors while other studies have reported that gas stations and convenience stores inside gas stations are more likely to sell tobacco than other types of stores. The validity of the test shopping protocol has been questioned for various reasons, including lack of familiarity with vendors and the protocol not allowing youth to lie about their age. As such, the Smoke-Free Ontario Advisory Committee has called for more realistic test shopping protocols.

Various strategies have been shown to affect tobacco vendor compliance with youth access laws. These include:

### Vendor Education

Educating tobacco vendors is necessary but not sufficient to significantly change retailer behaviour. Effective education programs should improve retailer attitudes about the law and its enforcement, but also provide retailers with the knowledge and skills needed to refuse tobacco

sales to minors. Tobacco vendors need to understand the health effects of tobacco use and the importance of preventing youth from initiating use. Training programs that also teach retail clerks how to ask for and verify identification, as well as how to say no to aggressive teenagers, have been recommended by notable organizations. Innovative strategies can be used to effectively educate vendors, including mailed toolkits, face-to-face programs, as well as online training programs and webinars.

### Active Enforcement

A number of studies and previous reviews of the literature have demonstrated that retailer compliance with youth access laws can be enhanced with active enforcement of this legislation. Tobacco retailers have reported that non-compliance occurs when they know the law is not being enforced. Passive enforcement (e.g., only responding to complaints) or self-enforcement programs are not effective. Active enforcement requires conducting regular compliance checks with tobacco vendors; however, the impact of frequency of compliance checks is unclear. Furthermore, there must be consequences for breaking the law as warnings without fines has been shown to be ineffective: high compliance rates can be obtained with modest fines in an environment with active enforcement. Best practices to enforce laws prohibiting sales to minors also recommend issuing vendor licenses and maintaining an accurate database of vendors.

### Feedback or Warning Letters and Reward and Reminder Initiatives

Although warnings without fines are generally not recommended, feedback or warning letters have shown some promising results at increasing vendor compliance with alcohol sales. In Australia, warning letters threatening prosecution and media coverage, including publicized prosecutions of repeat offenders has reduced retail tobacco sales to minors. In contrast, positive feedback initiatives such as reward and reminder programs have also demonstrated improved vendor compliance. Reward and reminder programs are better suited for smaller communities with limited support to actively enforce youth access laws. However, positive reinforcement is recommended as a component of more comprehensive programs.

### Media

Research has demonstrated that media initiatives can increase community support for enforcing youth access laws against the sale of tobacco to minors. There is limited research assessing the

direct impact of media advocacy on tobacco vendor behavior. Media and enforcement initiatives increased compliance rates among vendors receiving citations for illegal alcohol sales to minors as well as those not receiving citations; however, the effects of media initiatives are often short-lived. As such, media initiatives are recommended as part of a comprehensive strategy to reduce retail tobacco sales to minors. It is important to consider the local environment to determine effective messaging for media initiatives. Community assessments may be beneficial to determine the support of the community, thus allowing for tailored campaign messaging and implementing other initiatives.

### Comprehensive Programs or Problem-Solving/Community Engagement Approaches

The most effective interventions use a comprehensive approach, integrating education, enforcement and community involvement. Additionally, positive reinforcement has also been recommended within multi-component strategies. Similarly, a voluntary pledge against the sale and supply of tobacco to minors could be implemented in the context of a comprehensive program. A problem-solving/community engagement approach can be used to guide the development and implementation of effective comprehensive initiatives. Since the effects of interventions diminish over time, it is imperative to have continued and sustained efforts.

Comprehensive and sustained programming can increase tobacco vendor compliance and disrupt the retail supply of tobacco to minors. The implications to improve compliance in Ontario are discussed. It is important to note that tobacco vendors are not the only source of cigarettes to minors; social sources of cigarettes (from peers, siblings, parents, etc.) is another important source, particularly among younger and experimenting youth. These sources of cigarettes must also be addressed in order to significantly reduce youth access to tobacco; therefore, it is necessary to change the social norms around the acceptability of youth access to tobacco.

## Background

Youth access regulations aim to prevent youth from obtaining tobacco products from retail sources, which helps to reduce smoking initiation and current tobacco use among youth. Such regulations are recommended as a component of comprehensive tobacco control programs,<sup>1</sup> and supported internationally as outlined in Article 16 of the WHO Framework Convention on Tobacco Control.<sup>2,3</sup> Research conducted in the early years of youth access regulations suggests that compliance among tobacco retailers<sup>i</sup> must reach at least 90% before the regulation has any significant impact on youth smoking.<sup>4,5,6</sup> Obtaining these high levels of compliance requires strong enforcement.<sup>7,8</sup>

In Ontario, tobacco sales have been prohibited to those less than 19 years of age since the passage of the Tobacco Control Act (TCA) in 1994. On May 31, 2006, the *Smoke-Free Ontario Act* (SFOA) replaced and enhanced the TCA by introducing more restrictions on smoking and tobacco sales. The SFOA strengthened existing youth access prohibitions by requiring that vendors request identification of purchasers who appear to be 25 years of age or less. Ontario's Public Health Units (PHUs) are mandated to support the implementation and comprehensive enforcement of the SFOA and the youth access law in particular. PHUs are to conduct a minimum of two inspections annually on each tobacco vendor; compliance checks are a common method to determine tobacco vendor compliance (see Appendix A for SFOA directives for determining vendor compliance). PHUs also conduct other inspections, provide tobacco vendor education and consultation, and respond to public inquiries related to the SFOA.<sup>9</sup>

Tobacco retailer compliance is identified as a priority area by the Smoke-Free Ontario Scientific Advisory Committee, who has provided evidence-based recommendations for renewal and enhancement of the Smoke-Free Ontario Strategy for 2010-2015. In particular, the committee calls for revision and implementation of more rigorous (realistic) compliance protocols with tobacco retailers regarding sales to minors.<sup>10</sup>

<sup>i</sup> The terms tobacco retailer and tobacco vendor have been used interchangeably in this report to refer to those vendors who sell tobacco products at the retail level and who come into direct contact with youth who are attempting to purchase tobacco products.

## Rationale and Purpose

Under the Evaluation Guidance and Support to Ontario's Public Health Units and Tobacco Control Area Networks (TCANs) and Transfer Payment Agencies (TPAs) project, the Ontario Tobacco Research Unit was approached by the Central West TCAN with a request to conduct a review of the literature to explore strategies and practices that positively affect tobacco vendor compliance with youth access legislation.

In this report, we summarize the peer-reviewed and grey literature regarding the factors associated with vendor compliance, and identify various strategies that have been implemented and tested to affect compliance. Relevant literature related to alcohol vendor compliance strategies was also identified and reviewed to inform effective practices regarding compliance with youth access legislation.

## Methods

The following databases were searched for relevant peer reviewed studies that were published in English from 1990 to 2013: PubMed, Web of Science, PsychINFO, and MedLine. Key search terms were: (alcohol or tobacco) AND (youth access or sales to minors) AND (retail\* or vendor or merchant) AND (compliance or enforcement or education or campaign). The alcohol literature was included given similar access laws and enforcement programs. There were 100 unique articles returned from the search strategy: all abstracts were reviewed and those providing evidence regarding the key research questions were included. The references cited in relevant studies and previous reviews of the literature were also examined. This review extends on previous work conducted by OTRU to identify risk factors for vendor compliance.<sup>11</sup> In total, 40 studies were included in this review. We also searched Google for relevant grey literature. This literature search was conducted in May 2013.

## Limitations

This report does not aim to provide a comprehensive review of all the evidence on retailer compliance to youth access laws; rather, it provides an overview of established evidence about factors associated with compliance and the interventions that have been associated with reducing retail tobacco sales to minors. Best practices and comprehensive strategies have been

recommended from the United States and New Zealand; it is important to note that recommendations and best practices may include policies and procedures that are already in place in Ontario. It is also important to note that programs are likely to vary in protocols, particularly with respect to compliance check protocols and the level of implementation; therefore, different program outcomes may be identified when similar programs are implemented in other communities.

## Results

### Risk Factors Associated with Tobacco Vendor Compliance

Research has suggested a number of risk-factors associated with tobacco sales to minors. These risk-factors can be categorized as those related to:

- characteristics of the youth attempting to buy cigarettes
- characteristics of the clerk selling the cigarettes
- characteristics of the retail store
- other factors

For youth characteristics, age, lying about one's age, and sex are associated with tobacco sales to minors. Age is the most consistently reported factor associated with illegal tobacco sales. In several studies, youth aged 16 or 17 years were more likely to be sold cigarettes than youth under the age of 15 years.<sup>12,13,14,15,16,17,18,19</sup> Similarly, girls were more successful in their purchase attempts than boys,<sup>12,14,15,16,17,20</sup> as were youth lying about their age.<sup>18</sup> The age and sex of the retail clerk also predicted tobacco sales to minors: male clerks sold tobacco more often in purchase attempts than female clerks,<sup>14,16,17,21,22</sup> as did clerks under the age of 18 compared to clerks over the age of 30.<sup>13</sup> Additionally, clerks failing to request identification were more likely to sell tobacco to minors than those asking for identification.<sup>12,14,15,18,20,22</sup>

The relationship between the type of retail tobacco outlet and sales to minors varied in the literature. Two studies found that the type of retail outlet had no effect on the likelihood of selling tobacco products to minors,<sup>19,20</sup> while two other studies found that gas stations<sup>15</sup> and convenience stores located inside gas stations<sup>13</sup> were more likely to make illegal tobacco sales. Other factors were a function of the compliance check. In particular, checks that were conducted later than 6 PM,<sup>15,23</sup> and those conducted on Tuesdays,<sup>13</sup> Wednesdays,<sup>13</sup> or Saturdays<sup>13,15</sup> were

more likely to result in tobacco sales to minors than checks conducted earlier in the day or on other days of the week.

In 2006-2007, OTRU conducted a risk factor analysis from a random selection of more than 4000 tobacco vendors across the province. These results concur with some of the findings in the published literature. While controlling for vendor trade class (type of retail outlet), TCAN and survey date, tobacco sales to minors in Ontario were significantly associated with three variables: failure to ask for ID; older age of test shopper; and younger age of store clerk.<sup>11</sup> In Ontario, the strongest predictor of non-compliance was failure to ask for identification. Factors that were not associated with tobacco sales to minors in Ontario included vendor trade class, type of inspection, sex of test shopper, sex of sales clerk, day of the week, time of day, and the posting of the health warning sign, age/ID sign, Operation ID signs, We Expect Id signs, and Not To Kids signs.<sup>11</sup> Differences observed in the risk factors associated with tobacco sales to minors in Ontario and those the literature may be due to varying methods for conducting compliance checks, the penalties for non-compliance, legislative differences, as well as variations in the social and tobacco control environments of these communities.

### Effectiveness of Test Shopping as Practiced

During the course of the three SFOA compliance surveys conducted by OTRU in 2006-2007, there was an indication that the compliance protocol may not be capturing a valid estimate of compliance. The majority of Tobacco Enforcement Officers (TEOs) interviewed (n=6/10) reported that the compliance check protocol was not realistic enough to accurately capture vendor non-compliance. According to protocol, test shoppers cannot lie about their age, they are strangers (or unfamiliar) to store clerks, and sometimes they do not fit in with the area's ethnic culture; thus, some TEOs are unable to catch a vendor selling tobacco to the test shopper when the vendor is known to sell tobacco to minors.

The validity of compliance check protocols have also been questioned in the literature, citing similar reasons mentioned by Ontario TEOs. DiFranza and colleagues found that tobacco sales to minors was significantly higher when minors (i.e. test shoppers) dressed as they chose, purchased other items with the tobacco product, lied about their age, and presented valid ID if requested in comparison to the standard protocol.<sup>24</sup> Similarly, Landrine and Klonoff tested a familiarity protocol which required minors to enter a tobacco retailer four times over the course of 6 to 8 days, purchasing a non-tobacco product from the same retail clerk; tobacco purchase

attempts were conducted upon the fifth visit to the retailer resulting in significantly more sales to minors than the standard protocol.<sup>25</sup> These findings indicate the standard protocol for compliance checks likely underestimates the ability of young smokers to purchase tobacco since the protocol does not accurately reflect the purchasing pattern of young smokers. These issues and concerns are reflected in the recommendation by the Smoke-Free Ontario Scientific Advisory Committee which calls for more realistic compliance protocols with tobacco retailers regarding sales to minors.<sup>10</sup>

## Strategies Affecting Tobacco Vendor Compliance

### Vendor Education

The current evidence demonstrates that educating retailers about the law preventing the sale of tobacco to minors is necessary but not sufficient to improve their compliance. Programs that simply inform retailers about youth access laws have not been effective in preventing tobacco sales to minors.<sup>26,27,28</sup> This is also the case for compliance with laws related to the sale of alcohol. Recently, the reasons for compliance and non-compliance with the legal age limits for alcohol sales have been assessed among liquor store retailers in the United States (US). Compliance with age limits for alcohol sales was dependent on three factors.<sup>29</sup> First, vendors must be aware of the law and have a clear understanding of the rules. Second, vendors must have the ability to follow the rules, which includes having the knowledge and skills ask for identification and refuse sales to minors. Finally, vendors must have the motivation to comply; this includes generating vendor support for the law and avoidance of fines.<sup>29</sup>

Tobacco vendor compliance programs have attempted to address these factors for non-compliance with youth access laws. In their review of the literature, Blewden and Spinola identify that vendor education initiatives should improve retailer attitudes about the law and its enforcement as well as assist retailers in establishing the knowledge and skills needed to refuse cigarette sales to minors.<sup>26</sup> However, these authors further recommend that vendor education be a component of a more comprehensive strategy that includes the integration of education and active enforcement initiatives.<sup>26</sup> Similarly, reviews by Stead and Lancaster conclude that while several vendor education programs have demonstrated some improvement in compliance, interventions using a combination of strategies including education, active enforcement, and community involvement were more successful than interventions offering education alone.<sup>27,28</sup> A recent review of the literature assessing the impact of programs on youth tobacco use support

these findings: strong laws or vendor education programs fail to reduce youth tobacco use in the absence of effective enforcement.<sup>30</sup>

### Educational Programming

Guidelines and recommendations to improve tobacco vendor compliance with youth access laws have been provided by notable organizations. In the US, the Food and Drug Administration (FDA) has provided guidelines for a comprehensive tobacco retailer training program that includes the following actions:

- Clearly communicate the tobacco youth access laws, including detailed descriptions of the products that are covered under the law; in addition, retailer roles and responsibilities should be clearly stated, along with penalties for violating these laws.
- Describe the health and economic effects of tobacco use, as well as the importance of preventing youth from beginning to use these products.
- Recommend that retailers adopt and enforce a written policy against sales to minors.
- Review the age verification requirements for legal tobacco sales; this includes outlining the acceptable forms of photo identification, and verifying legal age and authenticity of identification. Training programs should include role-playing to ensure employees can effectively ask for identification and refuse sales to minors.<sup>31</sup>

The FDA recommends that training occur on an annual basis at a minimum; new employees should be trained prior to starting work and additional training should be provided if an employee has been found selling tobacco to minors. In order to facilitate retailer training, a range of training methods have been recommended, including classroom or face-to-face settings by a trainer, self-study of written materials, or online training such as webinars. The FDA is also working with state regulators to enforce youth access legislation by conducting retailer compliance checks.<sup>31</sup>

The Strategic Tobacco Retail Effort (STORE) Campaign is an initiative established by an interdisciplinary team to recommend cohesive practices for tobacco point-of-sale in California. Similar to the FDA protocol, merchant and employee training guidelines are recommended.<sup>32</sup> Other indirect and direct education strategies are included, such as generation of community involvement and rewards to retailers for improvements. The STORE Campaign also recommends a comprehensive strategy which includes supportive policies, media, community mobilization,

and strong enforcement mechanisms;<sup>32</sup> this aligns with the comprehensive strategy recommended by Blewden and Spinola.<sup>26</sup>

In the US, toolkits for best retailer practices regarding the restriction of alcohol sales to minors were mailed directly to alcohol vendors. This study did not assess the association between the toolkit and vendor compliance; however, the toolkit was perceived to be useful and almost all vendors shared the toolkit materials with their employees.<sup>33</sup> As such, toolkits may be another useful strategy to disseminate education and training materials regarding youth access laws to tobacco vendors (Appendix B provides links to these educational resources).

### Active Enforcement

Previous reviews of the literature have concluded that retailer behaviour can be influenced by active enforcement of youth access laws.<sup>26,27,28</sup> Passive enforcement (i.e. responding only to complaints) is ineffective,<sup>26</sup> as is a self-enforcement approach, such as participation in voluntary compliance programs.<sup>27,28</sup> High rates of illegal tobacco sales to minors have been reported unless retailers perceive there is a high risk of being caught and penalized.<sup>26</sup> Tobacco retailers in Northern California reported that the main reasons for non-compliance are the perception that minors can easily purchase tobacco from other local stores and knowledge that the law is not being actively enforced.<sup>34</sup>

In the United States, best practices have been recommended for enforcing laws prohibiting tobacco sales to minors. The following strategies were identified as essential for success: a legal framework that requires offenders to be prosecuted and pay fines; state/provincial level coordination and funding of enforcement activities; and a combination of strong education with strong enforcement. Additionally, licensing of tobacco retailers and maintaining a database of these retailers were recommended strategies for best practice in achieving high compliance to youth access laws.<sup>37</sup>

Prior reviews of the literature concluded that regular enforcement of youth access laws are needed in order to maintain vendor compliance.<sup>26,27,28</sup> However, the frequency of tobacco enforcement checks necessary for achieving a high level of compliance is unclear. One study found that enforcement checks conducted at least every 4 months were effective in reducing the number of illegal sales of cigarettes to minors.<sup>35</sup> In a US study on preventing youth access to

alcohol, compliance checks resulted in an immediate 17% reduction in alcohol sales to minors; this study reported that these effects deteriorated within three months post-intervention.<sup>36</sup>

In contrast, a study on state-level tobacco enforcement data from the US has demonstrated that a high frequency of enforcement does not always translate to higher levels of compliance. In this study, a state that inspected only 20% of its vendor population annually had a higher compliance rate than a state that inspected every vendor twice a year (92% in Florida vs. 82% in Massachusetts, respectively).<sup>37</sup> The difference was explained by the enforcement strategies: in Florida, all offenders were fined \$500 each by law enforcement, whereas offenders in Massachusetts were either issued a warning or a fine up to \$100 by local health boards.<sup>37</sup> Few studies have looked at the relative benefits of the various penalties for dealing with noncompliance such as warnings, different levels of fines, and revoking business licenses. Warnings alone without fines have been shown to be ineffective as compliance rates drop quickly upon subsequent compliance checks;<sup>37</sup> introducing larger penalties without active enforcement has also been an unsuccessful strategy to prevent tobacco sales to minors.<sup>26</sup> DiFranza's review of enforcing laws prohibiting tobacco sales to minors in the United States revealed that state compliance did not correlate with severity of the fine. In general, modest fines can achieve high compliance rates; however, issuing warnings for the first offence has not been associated with high compliance rates.<sup>37</sup>

### Reward and Reminder

Biglan and colleagues evaluated a community-based comprehensive intervention in the state of Oregon, based on generating social and material reinforcement for retailers not selling tobacco to young people.<sup>38</sup> This intervention mobilized community support and provided vendors with educational packages. In place of punitive enforcement, reward and reminder visits were conducted. Successful compliance checks rewarded retailers with gift certificates and a positive reinforcement letter; clerks willing to sell tobacco to minors received a letter reminding them about the law and the community support for the law. This positive feedback intervention was found to reduce tobacco sales to minors by approximately 38% during the intervention phase. Similar to enforcement strategies with punitive penalties, continued intervention is needed to maintain these positive reinforcement effects. Researchers noted that this strategy is likely best suited to smaller communities that have limited capacity or support to actively enforce youth access laws.<sup>38</sup> However, reward and reminder programs have been used as a successful multi-component intervention to reduce alcohol sales to minors;<sup>39</sup> this is a recommended component

of more comprehensive interventions in various communities to reduce tobacco sales to minors.<sup>40,41</sup>

### Feedback or Warning Letter

The effectiveness of a feedback letter intervention alone has been assessed for reducing alcohol sales to minors. Alcohol vendors who received a letter following sales to minors had significantly improved compliance with the law at follow-up compared to those who did not receive a letter; however, the overall compliance levels were low.<sup>42</sup> In Australia, Chapman and colleagues reported that a letter threatening prosecution following tobacco sales to minors, and media publicity about the undercover buying operations, resulted in a 29% reduction in sales to minors at follow-up.<sup>43</sup> These authors stress the importance of repeated testing to ensure that a vendor is compliant with the law. In addition, heavy fines and publicized prosecutions of repeat offenders are needed to keep vendors compliant.<sup>43</sup> Also in Australia, Cook reported that enforcement and publicizing prosecutions of vendors selling tobacco to minors has significantly reduced illegal tobacco sales.<sup>44</sup>

### Media

The inclusion of media components with enforcement initiatives have been evaluated with respect to compliance with youth access laws regarding alcohol sales. In New Orleans, the effect of an enforcement plus media advocacy intervention was assessed for alcohol vendor compliance with minimal drinking age laws. The media advocacy component attempted to communicate that the city was getting tough on retailers illegally selling alcohol to minors: a news conference was held by the mayor and the press provided television and newspaper coverage of officials delivering citations to a sample of non-compliant vendors.<sup>45</sup> Compliance rates increased by almost 30% one-month following the media intervention: the greatest increase was among outlets receiving citations, but there was also an increase in compliance among those only exposed to the media component. The diffusion effect of the media component was short-lived among vendors not receiving direct citations for non-compliance; however, among those receiving citations for non-compliance, some residual effects of the intervention were sustained at eight months post-intervention.<sup>45</sup>

In 2000-2001, Simcoe County and Peterborough implemented an initiative to reduce access to and supply of tobacco to minors. This included a media campaign of television and radio ads, in addition to retailer education initiatives.<sup>46</sup> The media campaign reached almost half of the target

population including almost 50% of retailers reporting exposure to the campaign. A process evaluation found that few retailers, as well as the general public, reported that the campaign provided them with new information; however, it did make them think about the issue of selling, or giving, tobacco to minors.<sup>46</sup>

The US Centers for Disease Control Media Library provides examples of media campaigns on youth access that have been implemented in the United States; Appendix B provides a link to these media campaign initiatives.

### **Comprehensive Approach (Vendor Education, Enforcement and Community Mobilization)**

Studies of tobacco retailers suggest that a more comprehensive approach produces better compliance with youth access laws. Previous reviews of the literature have reported that the most effective interventions use a combination of strategies such as education, active enforcement, and community involvement within the context of supportive legislation.<sup>26,27,28</sup>

Feighery and colleagues evaluated a comprehensive community education campaign in four Northern California communities. The intervention was directed at the community at large, law enforcement, and tobacco retailers who also received mailed educational packets.<sup>34</sup> The following year, a law enforcement intervention using test shoppers was added to the ongoing educational intervention; the names of violators and stores were publicized in the local media. The enforcement of youth access laws was found to be more effective in reducing sales to minors than community and merchant education alone. Although the comprehensive educational component had only a small impact on reducing sales to minors, it generated community support and involvement which allowed for greater sanctions by law enforcement.<sup>34</sup>

Similar findings were reported from the TRUST intervention in San Diego which was established to improve vendor compliance with youth access laws restricting tobacco sales to minors. The intervention included three 15-minute face-to-face educational presentations by local health officers over the course of the year, educating retailer owners/managers and sales clerks with specific training on how to check for identification, how to say 'no' to teens, and how to detect fake identification.<sup>47,48,49</sup> In addition to this vendor education component, community education and media strategies were also used to promote awareness and mobilize the community. Strategies included newspaper, radio and television news stories, press conferences, youth

poster contests, and a letter writing campaign to support and congratulate compliant retailers.<sup>47</sup> Following this comprehensive campaign, there was a reduction in tobacco sales to minors by almost 40%;<sup>47</sup> a significant reduction was maintained six-months post-intervention.<sup>49</sup>

As part of a more comprehensive program in Arizona, that included vendor education and warning signs, a community-based media prevention campaign was designed to change attitudes in the community and encourage members to get involved when witnessing tobacco sales to minors.<sup>50</sup> Although this media campaign had limited exposure in the intervention community, survey respondents in the intervention community reported greater satisfaction with efforts to minimize youth access to tobacco than respondents in the control community. However, it is not known if this satisfaction translates into community action against retailers who sell tobacco to minors.<sup>50</sup> Jason and colleagues conducted community assessments to identify readiness to enforce youth access laws. Communities with the most positive changes in readiness to implement youth access laws were more likely to continue enforcing these laws than those with lower scores.<sup>51</sup> Community assessments may be informative in designing tailored interventions for comprehensive, community-based programs.<sup>51</sup>

Effective comprehensive approaches to vendor compliance can be developed using Sparrow's Problem-Solving/Community Enforcement (PS/CE) approach.<sup>52</sup> This approach extends beyond conventional enforcement strategies such as warnings and fines, to identify tailored interventions to effectively address a given problem. This PS/CE approach has been used to develop and implement enforcement initiatives for compliance to smoke-free legislation in regional taxis and long-term residential care facilities.<sup>53</sup>

### Other Strategies and Recommendations

Other innovative strategies to reduce youth access to tobacco have also been suggested and implemented. Both the US FDA and the STORE Campaign have also recommended voluntary initiatives that encourage tobacco retailers to pledge to protect kids from tobacco.<sup>31,32</sup> Voluntary initiatives alone are not a recommended strategy to enhance vendor compliance with youth access laws; however, they may be worth exploring in the context of a comprehensive, community-based strategy. More recently, a tobacco-free generation proposal has been suggested to eradicate tobacco use. This proposal advocates for legislation to prevent the sale and supply of tobacco to individuals born after a certain year, such as the year 2000.<sup>54</sup> This method was used to phase out opium smoking in the early 1900's; proponents of this proposal

acknowledge that community support and adherence is required for this initiative to be successful.<sup>54</sup>

### Conclusion

Various factors are associated with tobacco sales to minors. These predominately relate to characteristics of the purchaser (older age, female, and lying about one's age) or the retail clerk (younger age, male, and not asking for identification). Time and day of the compliance check and later hours of retail operation have also been associated with sales to minors. The validity of the compliance check protocol has been questioned, resulting in calls for more realistic methods to assess tobacco vendor compliance.

Innovative strategies can be implemented to enhance vendor compliance to tobacco control youth access legislation. It is evident that legislation preventing the sale of tobacco to minors is necessary but not sufficient to achieve high and consistent compliance among tobacco retailers. A comprehensive strategy is needed to improve tobacco vendor compliance with youth access laws: components include the combination of active enforcement with effective education and community involvement. Education initiatives must inform retailers about the law and penalties for violations, as well as provide effective ways to ask for identification, verify the authenticity and age of the purchaser, and strategies to refuse tobacco sales to minors. Different channels can be used to disseminate these educational messages to retailers: classroom based training, toolkits, and online training or webinars.

While mass media initiatives should be used to engage the community, the specific goals and messaging needs to be appropriate to the local environment. Community assessments can be conducted to allow interventions to be tailored according to the community's level of support against the sale and supply of tobacco to minors. Reward and reminder initiatives alone are unlikely to generate significant change; however, using positive rewards to retailers who refuse sales to minors may be worth including in a comprehensive, community-based program. Similarly, a voluntary pledge against the sale and supply of tobacco to minors could be implemented in the context of a comprehensive program. Since the effects of interventions diminish over time, it is imperative to have continued and sustained efforts.

It is important to note that tobacco vendors are not the only source of cigarettes to minors; social sources of cigarettes (from peers, siblings, parents, etc.) are important in supplying tobacco to

young people, particularly younger and experimenting youth.<sup>55,56</sup> ; It is necessary to change the social norms around the acceptability of providing tobacco to minors in order to significantly reduce youth access to tobacco products.

### Implications: Improving Vendor Compliance in Ontario

The SFOA provides the legislative framework for implementing and enforcing tobacco vendor compliance with youth access laws in Ontario. Public Health Units should ensure they maintain accurate and updated databases of tobacco vendors in their regions. It is evident that the current protocol for conducting compliance checks does not provide a realistic picture of actual compliance. Ontario's PHUs are mandated to conduct two compliance checks per year: while it is possible that additional checks could increase compliance, it may be more advantageous to perform community assessments and conduct additional compliance checks in areas with greater risk of non-compliance and/or with those who have repeatedly failed to comply. OTRU is evaluating a pilot test for risk-based enforcement strategies – preliminary findings suggest that vendors can be accurately classified based on their risk for selling cigarettes to minors.<sup>57</sup> The most effective strategies to improve tobacco vendor compliance employ a comprehensive approach. Therefore, Ontario PHUs should consider integrating active enforcement with effective educational programming, as well as the generation of community involvement and support with a range of strategies such as media initiatives, positive reinforcement for compliance, and pledges against the sale and supply of tobacco to minors. A problem-solving/community engagement approach can be used to guide the development and implementation of effective comprehensive initiatives. Appendix C summarizes evidence-based strategies to enhance tobacco vendor compliance and existing practices in Ontario according to the SFOA; this table can be used to evaluate and inform existing and future enforcement practices by PHUs in Ontario.

## Appendix A: Smoke-Free Ontario Directive for Determination of Tobacco Vendor Compliance

## Smoke-Free Ontario Act Tobacco Compliance Protocol



Public Health Units shall support the implementation and enforcement of the Smoke-Free Ontario Act including all the requirements with respect to controls related to smoking tobacco, the sale or provision of tobacco, the display/storage, handling, and the promotion and distribution of tobacco products.

All premises that are required to be smoke-free under the Smoke-Free Ontario Act may be subject to an inspection. Enforcement schedules should be pro-active where resources allow, include risk-based modeling for setting priority among visits, and at minimum should respond to all complaints. Enforcement should be conducted during operating hours, Monday to Saturday, with some Sunday enforcement.

An effective compliance strategy employs a balance of inspection, education and progressive enforcement. Progressive enforcement means the use of more stringent charging options to reflect the frequency and severity of the level of non-compliance.

Enforcement activities include inspections and re-inspections, education visits, and inquiries into complaints. Determination of compliance will be made subject to these types of enforcement activities. For the purpose of uniformity, a response to a complaint and an education visit will be handled in the same manner as an inspection.

The enforcement agency will ensure that all tobacco enforcement officers are trained appropriately with Ministry of Health Promotion sanctioned training courses as soon as practically possible.

Public Health Units are responsible for enforcement of the Smoke-Free Ontario Act at a number of locations including: tobacco vendors, enclosed workplaces, enclosed public places, schools, home daycares, hotels, motels, residential care facilities, hospitals, tobacco wholesalers, tobacco manufacturers, bars and restaurants, condominiums, apartments, college and university residences, patios and shelters, places of entertainment, tobacconists, duty-free shops and/or similar facilities.

### Definitions

a) **Progressive Enforcement:** means the use of more stringent charging options to reflect the frequency and severity of the level of non-compliance.

**Enforcement Agency:** means a Public Health Unit, Regional Health Department, or other agency/organization mandated with enforcement of the Act.

**Enforcement Officer:** means a person appointed as an inspector pursuant to Section 14 of the Act, and also appointed as a Provincial Offences Officer pursuant to the Ontario Provincial Offences Act.

b) **Ministry:** means the Ministry of Health Promotion.

c) **Inspection:** means an examination or assessment conducted by a person appointed as an inspector pursuant to Section 14 of the Act, and also appointed as a Provincial Offences Officer.

d) **Re-inspection:** means a re-examination or re-assessment conducted by a person appointed as an inspector pursuant to Section 14 of the Act, and also appointed as a Provincial Offences Officer pursuant to the Ontario Provincial Offences Act.

e) **Employer:** includes an owner, operator, proprietor, manager, superintendent, overseer, receiver or trustee of an activity, business, work, trade, occupation, profession, project or undertaking who has control or direction of, or is directly or indirectly responsible for the employment of a person in it.

f) **Person in Charge:** means someone that exercises control over the activities that take place in and around the school including but not limited to a principal, vice-principal, or other administrative head of the school.

## Administration of Automatic Prohibitions

Public Health Units should inform the Minister of Health Promotion that an automatic prohibition order is required where two or more tobacco sales convictions are registered against any person, owner, partnership or corporation at the same premises address and the circumstances deem this action to be appropriate. A tobacco sales offence involves the following subsections of the Smoke-Free Ontario Act: (Note: registered convictions for sales to minor's offences under the *Tobacco Control Act* may be valid.)

- Section 3(1) or (2)
- Section 5
- Section 6
- Section 7
- Section 16(4)
- Section 8 or 29 of the Tobacco Tax Act

The Tobacco Tax Act is not administered by the Ministry of Health Promotion, and therefore requires information to be compiled from other sources in order to track convictions, in order to determine whether an automatic prohibition applies.

The prohibition period is determined and based on the number of convictions received in a five-year period. For example:

- Two convictions within five years at the same location is a six-month prohibition,
- Three convictions within five years at the same location is a nine-month prohibition,
- Four or more convictions in five years at the same location is a twelve-month prohibition.

Once the tobacco sales and storage order is signed by the Minister of Health Promotion, it is the responsibility of the Public Health Unit to serve and enforce the prohibition order.

## Data Collection and Handling

The Public Health Unit enforcement division/staff will collect data and maintain (in hard copy and/or electronic format) a record of every inspection and re-inspection conducted, in addition to the enforcement officer's notes.

The Tobacco Vendor inspection form established by the Ministry of Health Promotion is to be completed by the tobacco enforcement officer for every inspection and re-inspection conducted, either electronically or in hard copy.

The data collected pursuant to the Smoke-Free Ontario Act shall be provided to the Ministry of Health Promotion according to the established schedule.

## Signs

Public Health Units are required to inspect for compliance with the signage provisions applicable under the Smoke-Free Ontario Act.

### Section 6

#### Age Restriction and Health Warning Sign/Government I.D. Sign

A person who sells tobacco at retail shall post signs at any location where tobacco is sold or offered for sale or supply. The sign must be clearly visible to the person who sells or supplies the tobacco and to the person to whom the tobacco is sold or supplied.

### Section 10

As referenced in ss. 9(3), 10 of the Act and prescribed in s. 15 of the Regulation, signage shall be posted throughout the enclosed workplace, at all entrances and exits, washrooms and other appropriate locations in sufficient numbers to ensure that everyone is aware that smoking is prohibited in the building, and where there is a requirement for a smoke-free perimeter or grounds – in the surrounding area.

## Authority of an Appointed Inspector

The Ministry of Health Promotion administers the appointment of inspectors at the request of Public Health Units. These requests must be made along with supporting documentation as to the person's qualifications, training or planned training, and involvement with the enforcement of the Act.

An enforcement officer may, at any reasonable time, enter any enclosed public place or enclosed workplace in which smoking is prohibited to determine whether the Smoke-Free Ontario Act is being complied with, and for this purpose, may make such examinations and inquiries as are necessary.

Any person who contravenes any provision of the Smoke-Free Ontario Act or who hinders, obstructs or otherwise interferes with an enforcement officer in the conduct of his/her duties is guilty of an offence and, upon conviction is subject to a fine as provided in the Provincial Offences Act or the Smoke-Free Ontario Act. (ss.14 (6))

However, no enforcement officer may enter a workplace that is also a private dwelling without the consent of the occupant, or without obtaining a warrant.

## Appendix B: Links to Resources on Tobacco Vendor Compliance

## **US Food and Drug Administration**

### [Tobacco Products \(Main Page\)](#)

- [Regulations and Guidance](#)
- [Tobacco Retailer Training Programs](#)
- [FDA Tobacco Compliance Webinars](#)
- [FDA Center for Tobacco Products Clearinghouse](#)
- [Other Retailer Education Materials](#)
- [Pledge to Protect Kids from Tobacco Products](#)

## **California Strategic Tobacco Retail Effort**

### [STORE Campaign Overview](#)

- [Merchant Education](#)
- [Enforcement](#)
- [Outreach and Media](#)
- [Tools](#)

## **US Department of Health and Human Services. Centers for Disease Control and Prevention**

### [Media Campaign Resource Center](#)

Campaign Theme: “Youth – Access”

## **Simcoe County Media Initiative**

### [Media Initiative to Reduce Youth Access and Supply of Tobacco](#)

## **Tools of Change: Proven Methods for Improving Health, Safety and Environmental Citizenship**

### [Reward and Reminder Programs with Media Initiatives](#)

## **Appendix C: A Comparison of Evidence-based Strategies to Improve Tobacco Vendor Compliance with Youth Access Laws with Current Programming in Ontario**

**Table 1: Evidence-based Strategies to Improve Tobacco Vendor Compliance with Youth Access Laws and Current Practices in Ontario**

Effective Strategies	Current Practices in Ontario
<b>Effective Enforcement</b>	
Legal framework	Yes, SFOA S.O 1994, c. 10
Vendor license	Not provincially legislated (up to PHUs and municipalities)
Database of vendors	Yes (Tobacco Information System, TIS)
Active Enforcement	Yes, based on SFOA Guidelines (provided to PHUs by MOHLTC)
Regular enforcement (3-4 per year)	Minimum of 2 compliance checks per year as per SFOA guidelines; enforcement is above and beyond, number not specified
Sanctions (warnings, fines, loss of license, etc.)	Yes, progressive sanctions
Realistic Compliance Checks	No
<b>Effective Vendor Education</b>	
Comprehensive education initiatives:	
<ul style="list-style-type: none"> <li>- Providing information about the law and responsibilities of retailers;</li> <li>- Communicate health and economic effects of tobacco use;</li> <li>- Provide knowledge and skills to ask for and verify identification;</li> <li>- Provide skills to refuse sales to minors</li> </ul>	SFOA requires vendor education; however, no activities or methods are identified (up to PHUs and municipalities)
<b>Media / Media coverage</b>	
Encouraging public support and involvement:	
<ul style="list-style-type: none"> <li>- Filing complaints against vendors selling tobacco to minors and to support those who properly refuse sales to minors;</li> <li>- Media initiatives to the general public;</li> <li>- Positive reward/reinforcement;</li> <li>- Pledges against the sale and supply of tobacco products to minors;</li> <li>- Community assessments for readiness/level of support to prevent the sale of tobacco to minors; messages for initiatives are then tailored accordingly</li> </ul>	Not provincially legislated (up to PHUs and municipalities)
<b>Comprehensive Strategies:</b>	
Active enforcement, effective education, and community engagement within an environment with a supportive legislative framework	Not provincially legislated

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