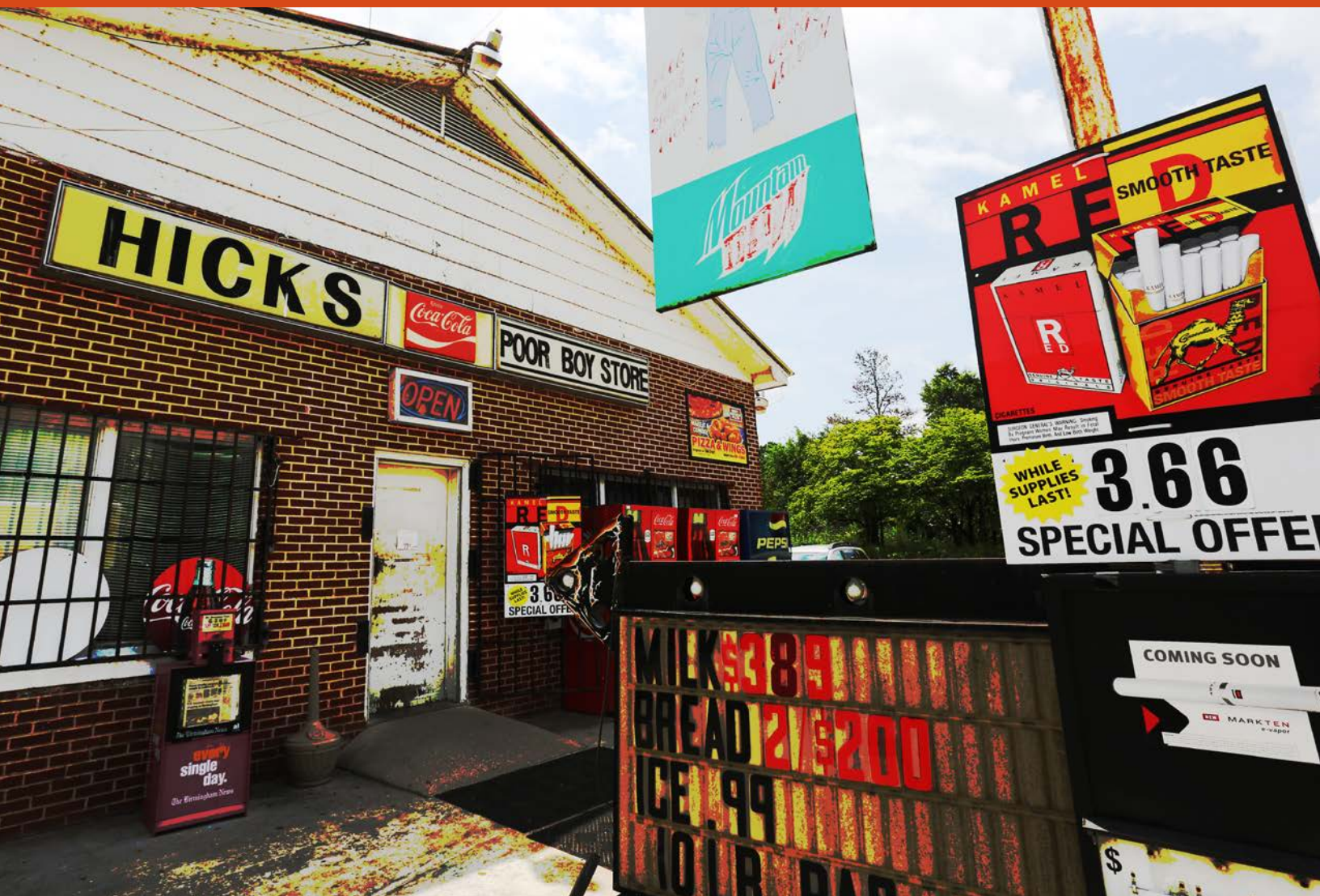


POINT-OF-SALE TOBACCO PRICING POLICIES

Equity, Public Health, and Legal Considerations



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Raising the price of tobacco products is one of the most effective strategies for reducing initiation of tobacco use, decreasing tobacco consumption, and increasing cessation of tobacco use!

Research suggests that for every 10% increase in the price of cigarettes, adult smoking decreases by 3–5% and youth smoking decreases by 6–7%;² some studies find even greater reductions.³ However, the tobacco industry knows that cheap prices help to lure new users and keep current users hooked, so they spend billions of dollars each year on price discounts and coupons to reduce prices.⁴ Price discounts are the tobacco industry's single largest marketing expenditure – typically 70–80% of their spending on marketing and advertising.⁵ Although increasing excise taxes has long been the primary way to raise tobacco prices, many local jurisdictions do not have the legal authority to enact additional tobacco taxes, and the deep discounts and coupons offered by tobacco companies can diminish the impact of such taxes. Additional pricing policies can complement excise tax increases and counteract pernicious industry practices that keep prices low.



Photo: Gary Tramontina

MINIMUM FLOOR PRICE LAWS

Minimum floor price laws (MFPLs) set a price per unit of a tobacco product and prohibit the sale of any tobacco product (eg, a package of cigarettes) for less than that set price. These minimum floor prices should be set above the free market rate and adjusted annually for inflation.⁶ MFPLs can provide an alternative policy approach for jurisdictions where increased excise taxes are not legally or politically viable. To increase the impact of MFPLs, localities and states can use the following strategies:

SET A MINIMUM PRICE FOR ALL TOBACCO PRODUCTS. Evidence shows that when prices for one type of tobacco increase, users often switch to other, less expensive tobacco products. For example, if a policy only increases the cost of cigarettes, current cigarette smokers may switch to cheaper little cigars and cigarillos, which often closely resemble cigarettes. By establishing a minimum price for all tobacco products, the policy can discourage people from substituting one tobacco product for another.⁷ Jurisdictions should set minimum prices high enough to discourage youth and others who have never used tobacco or nicotine from initiating use and to encourage current tobacco users to reduce their use or quit entirely.⁸

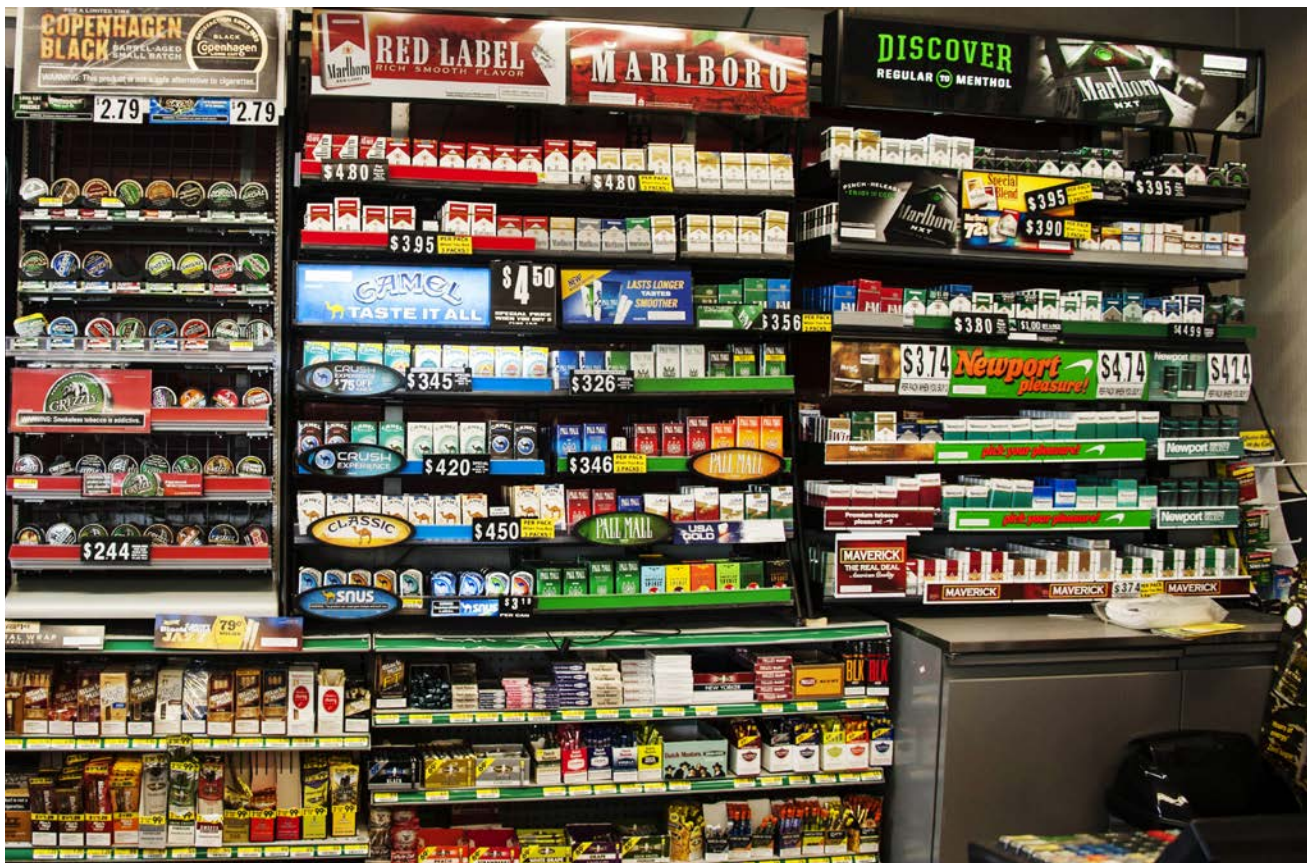


Photo: Kathryn Stein, courtesy of Counter Tobacco

PAIR MFPLS WITH MINIMUM PACK SIZES. Although federal law requires cigarettes to be sold in packages of at least 20 cigarettes, the federal government and most state governments do not impose similar requirements for other tobacco products. As a result, products such as little cigars and cigarillos are often sold individually for less than \$1. For these products, tying minimum prices to minimum package sizes can increase the policy's effectiveness and make enforcement easier. For example, a jurisdiction could establish a price per cigar regardless of how many are sold in a pack (eg, any single cigar must be sold for at least \$5, any 2-pack for at least \$10, etc) or require little cigars and cigarillos to be sold in packs of 20. This approach increases the initial cost of those products and provides clear increments for calculating the applicable minimum price. Initial policy evaluations show that this type of policy can also decrease overall retail availability and disparities in retail availability of single cigars.⁹

PROHIBIT THE REDEMPTION OF COUPONS, PRICE DISCOUNTS, AND PROMOTIONS. A strong MFPL should also prohibit price discounts and promotions (eg, buy one, get one free; multi-pack discounts; and other retail value-added offers) as well as redemption of coupons for tobacco products.¹⁰ These provisions further strengthen the policy by preventing discounts on more expensive products and products that may not be subject to a minimum floor price (eg, electronic smoking devices). Jurisdictions without a MFPL can also prohibit the redemption of coupons, discounts, and promotions through a separate policy, as has been done in cities such as Providence, Rhode Island, and Oakland, California. However, implementing the two strategies together prevents the tobacco industry from undermining the policy by lowering the retail price of a product to compensate for the lack of discounts.



Photo: US Government Accountability Office

- 1 Roll-your-own cigarette (made by hand with roll-your-own tobacco)
- 2 Roll-your-own cigarette (made in a commercial roll-your-own machine with pipe tobacco)
- 3 Factory-made cigarette
- 4 Small cigar
- 5 Filtered large cigar
- 6 Traditional large cigar



MAXIMIZING IMPACT: BENEFITS OF STRONG MINIMUM PRICE LAWS



REDUCE RACIAL AND GEOGRAPHIC TARGETING AND DISPARITIES.

Strong MFPLs can prevent price manipulation by geographic area or by brand, thereby reducing tobacco industry targeting of people of color and other underserved communities. For example, cigarettes are often cheaper in low-income communities, communities with greater populations of African American residents, and communities with more school-age youth.¹¹ Studies show that menthol cigarettes, little cigars, and cigarillos in particular are less expensive and more frequently discounted in African American neighborhoods.¹² Similarly, little cigars and cigarillos often cost less in communities with more young adults.¹³ Establishing minimum floor prices for each type of tobacco product across a jurisdiction can prevent much of this predatory targeting.



REDUCE INCOME-BASED DISPARITIES IN SMOKING RATES.

Smoking rates among low-income populations are significantly higher than among those with higher incomes,¹⁴ in large part due to the tobacco industry's targeted marketing and discounting practices in low-income communities. Beyond offering steeper discounts in low-income neighborhoods, tobacco companies have historically exploited other channels to target these populations – for example, distributing coupons for cigarettes in the same envelope with SNAP benefits (formerly known as *food stamps*).¹⁵



Increasing the price of tobacco products can help reduce income-based disparities in tobacco use by encouraging low-income tobacco users to consume less tobacco or quit entirely.¹⁶ Moreover, MFPLs may produce disproportionate *benefits* for low-income populations; research shows that low-income individuals are more likely to smoke the discount brands most affected by such policies.¹⁷ In fact, some models indicate that MFPLs would reduce cigarette consumption by up to 67% more than a comparable tax increase and that the greatest reductions in consumption would occur among low-income populations.¹⁸

It is important to keep in mind, however, that low-income individuals who smoke may face greater barriers to quitting and that the increased cost of tobacco products may contribute disproportionately to their financial hardship if they are unable to do so. Communities implementing a MFPL or other policies that increase the cost of tobacco products should also increase the availability of cessation interventions and conduct targeted outreach to low-income communities to ensure that they are aware of and able to access available resources.

Establishing a nationwide minimum price of \$10 per package of cigarettes would reduce cigarette sales by 5.7 billion packs per year and result in 10 million people quitting smoking.



ENCOURAGE AND FACILITATE QUIT ATTEMPTS. Studies have found that people who purchase discount brands or use coupons or other price discounts to lower the cost of tobacco products make fewer attempts to quit tobacco use and are less likely to reduce their tobacco consumption.¹⁹ One model estimated that smoking rates would drop by 13% if price promotions were prohibited nationwide.²⁰ Another model estimated that establishing a nationwide minimum price of \$10 per package of cigarettes would reduce cigarette sales by 5.7 billion packs per year and result in 10 million people quitting smoking.²¹



DISCOURAGE YOUTH INITIATION. Generally speaking, youth and young adults are more price-sensitive than older adults.²² Lower prices encourage youth to initiate tobacco use and, along with coupons and other price discounts, encourage youth to move from experimentation to regular smoking.²³ A 2014 study found that approximately 13% of middle and high school students reported exposure to tobacco coupons, including 34% of those who reported current tobacco use.²⁴ Moreover, exposure to these coupons was associated with greater intention to purchase cigarettes, higher susceptibility to smoking among youth who had never smoked, and lower confidence about quitting among youth who already smoked.²⁵

OTHER POLICY OPTIONS THAT AFFECT TOBACCO PRICES



MINIMUM PRICE MARKUP LAWS, which at least 25 states have implemented, require a minimum percentage markup on retail and/or wholesale prices, with a separate price for every brand. A hybrid approach can combine minimum markup laws with MFPLs to ensure that the policy increases the price for both discount and premium brands.²⁶ To increase the effectiveness of minimum markup laws, the policy should exclude any trade discounts when calculating the minimum price and should prohibit competitor price matching.²⁷ Importantly, however, research on the efficacy of minimum markup laws is mixed,²⁸ and any jurisdiction considering a stand-alone minimum markup law should assess potential enforcement challenges and ensure that the policy provides adequate protections against continued industry price manipulation.

PRICE CAPS, which set a maximum price that tobacco companies can charge for a tobacco product, have been proposed in the literature as an approach to limit tobacco industry profits and, when combined with other policies that raise prices, reduce tobacco consumption.²⁹ Setting a maximum price reduces the prices that tobacco companies can charge in high-income markets, preventing companies from recouping the revenue lost by offering discounts in low-income markets. However, no jurisdiction in the United States has adopted a price cap policy, and any jurisdiction considering such a policy would need to assess its legal viability.

MITIGATION FEES, which set per-pack fees for cigarettes and other tobacco products, are intended to reduce tobacco use by increasing price and to generate revenues to offset the cost of cleaning up tobacco waste.

SUNSHINE LAWS – which require public disclosure of price discounting and promotional allowance payments to retailers – increase transparency about industry practices. This type of policy could also aid enforcement of other tobacco pricing laws, such as statewide minimum price laws, and provide data to help counteract targeted marketing practices.³⁰ However, jurisdictions pursuing sunshine laws should make sure that they do not violate tobacco companies' free speech rights under the First Amendment.

IMPLEMENTATION AND ENFORCEMENT CONSIDERATIONS

Jurisdictions can incorporate pricing policies into tobacco retailer licensing laws by making compliance with the pricing law a condition of the license. Because retailer licensing fees increase the cost of operating as a tobacco retailer, they may also incidentally raise the price of tobacco products. In jurisdictions without tobacco retailer licensing, pricing policies can be implemented through a stand-alone law along with a detailed enforcement plan. Regardless of how a jurisdiction chooses to structure tobacco pricing policies, they should include strong penalties for violations, to ensure compliance and maximize effectiveness.

Studies show that underserved communities have cheaper tobacco prices and more tobacco marketing.³¹ Residents in these neighborhoods may therefore face larger price increases when pricing policies are implemented. However, underserved communities generally have the highest tobacco-related morbidity and mortality and a history of being targeted by the tobacco industry.³² When accompanied by strong cessation resources, pricing strategies may therefore benefit these groups the most, reducing disparities in tobacco use and associated health outcomes.

Studies show that underserved communities have cheaper prices and more tobacco marketing.



Although pricing policies can help reduce tobacco-related health disparities, it's also important to enforce policies equitably.

Although pricing policies can help reduce tobacco-related health disparities, it's also important to enforce policies equitably, ensuring that underserved communities are not disproportionately targeted. Jurisdictions should assess how enforcement will affect different communities and populations and ensure that neither the policy nor its enforcement perpetuates existing inequities or creates new ones.

Prior to pursuing any tobacco pricing policy, communities should obtain legal support and technical assistance to make sure that they have the legal authority to adopt the policy and that the policy language will accomplish their intended effect. For example, communities should assess whether their state preempts (ie, prohibits) local governments from enacting one or more types of tobacco pricing policies.

Although pricing policies alone can reduce tobacco use and tobacco-related harm, they may be even more effective when combined with increases in excise taxes on tobacco products. Such excise taxes further increase prices and produce revenue that governments can invest in tobacco control efforts, including promotion of smoking cessation. Together, these policies can be a significant counterweight to the tobacco industry's pernicious targeting of youth and underserved communities.

RESOURCES

For more information, see the following publications:

- **Increasing Tobacco Prices Through Non-Tax Approaches**
countertobacco.org/policy/raising-tobacco-prices-through-non-tax-approaches
- **Model Comprehensive Tobacco Retailer Licensing Ordinance, including Pricing Policies**
changelabsolutions.org/publications/model-TRL-Ordinance
- **Point of Sale Policy Playbook**
changelabsolutions.org/publications/point-of-sale

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