



YOUTH ACCESS LAWS THAT PENALIZE KIDS FOR PURCHASE, USE, OR POSSESSION ARE NOT PROVEN TO REDUCE TOBACCO USE

Research shows that youth access laws successfully reduce youth tobacco use when they are well enforced and disrupt the sale of tobacco products to minors.¹ Today, all 50 states and the District of Columbia have laws that restrict the sale of tobacco products to minors.² But in addition to restricting the sale, 45 states and the District of Columbia have laws that also prohibit the purchase, use, and/or possession (PUP) of tobacco products by underage persons.³ Penalties for youth who violate a PUP law typically include a fine but may also include other penalties like community service, attending mandatory smoking education or cessation programs, or the suspension of a driver's license or permit.⁴ Only five states— Maryland, Massachusetts, Nevada, New Jersey, and New York—do not have PUP laws.⁵

Some states passed PUP laws with the intention of reducing youth smoking by making kids more personally responsible for buying and using tobacco products. Penalizing children, however, has not been proven to be an effective strategy for reducing youth smoking; and some experts argue that PUP laws could actually detract from more effective enforcement measures and tobacco control efforts.⁶

PUP laws also unfairly punish and stigmatize children, many of whom became addicted at a young age as a result of the tobacco industry's aggressive marketing to kids. In this way, PUP laws shift the blame away from the industry's irresponsible marketing and retailers' irresponsible sales, to its victims. Penalties against youth become even more unreasonable when little is done to counter the tobacco industry's targeted marketing to kids. Rather than treat children as the wrongdoers, youth access laws should focus on limiting access to tobacco products by conducting ongoing retailer compliance checks with strong penalties for sales to underage persons.

Additional Concerns about PUP Laws

- Penalizing youth can divert enforcement officials' attention from stopping retailers from illegally selling tobacco to kids in the first place. PUP laws are more difficult to systematically enforce than sanctions against retailers, especially since PUP laws rarely provide additional enforcement resources. It is easier and more effective to conduct compliance checks for retailers, who are fewer in number compared to youth and whose locations are both known and constant.⁷
- The ease of discretely possessing and using some tobacco products makes PUP laws more challenging to enforce than laws restricting sales to minors. Similarly, the perceived risk among youth of getting caught and punished is likely too low to have a meaningful impact on deterring tobacco use. In fact, there is little evidence showing that PUP laws have been enforced well enough to reduce youth smoking.⁸
- Tobacco companies and their allies have a history of supporting PUP laws as alternatives to other laws that would produce greater declines in youth smoking, such as increasing the price of cigarettes. Tobacco companies have also promoted the passage of PUP laws in order to get additional provisions enacted that make implementing or enforcing additional tobacco control measures more difficult (e.g., preemption of strong local laws/ordinances).⁹
- Despite the fact that many youth smokers are addicted, making it difficult for them to quit, few PUP laws include provisions ensuring that quit smoking resources are made available to them. Some research even suggests that penalizing youth could deter them from seeking support for cessation.¹⁰ Promoting interventions that provide cessation resources for youth interested in quitting could be a more beneficial alternative.

Youth Access Laws Should Emphasize Restricting Sales to Minors

Youth access laws that restrict sales to minors are better supported by research as a way to reduce youth smoking than laws that focus primarily on penalizing youth for purchase or possession of tobacco. While

PUP laws may have some potential if combined with laws banning sales to minors, evidence of their effectiveness still is lacking, and many concerns about how to effectively implement them remain.

Regardless of whether a state chooses to implement PUP provisions as part of its youth access law, rigorous enforcement of restrictions against sales to minors is critical to minimizing the accessibility of tobacco products and, ultimately, reducing youth tobacco use. The most successful youth access programs incorporate routine retailer compliance checks which use minors to attempt tobacco purchases.¹¹

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¹ DiFranza, JR, "Which interventions against the sale of tobacco to minors can be expected to reduce smoking?" *Tobacco Control*, doi:10.1136/tobaccocontrol-2011-050145, published online first October 12, 2011.

² Most states set the age for sale of tobacco products at 18. As of 3/28/16, Alabama, Alaska, New Jersey, and Utah set the age at 19, and Hawaii sets it at 21.

³ Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, Washington, DC: The National Academies Press, 2015, http://www.iom.edu/~media/Files/Report%20Files/2015/tobacco_minimum_age_report_brief.pdf

⁴ Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, Washington, DC: The National Academies Press, 2015, http://www.iom.edu/~media/Files/Report%20Files/2015/tobacco_minimum_age_report_brief.pdf

⁵ Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, Washington, DC: The National Academies Press, 2015, http://www.iom.edu/~media/Files/Report%20Files/2015/tobacco_minimum_age_report_brief.pdf

⁶ Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003; Jason, LA, et al., "Youth Tobacco Sales-to-Minors and Possession-Use-Purchase Laws: A Public Health Controversy," *J Drug Education*, 35(4):275-290, 2005.

⁷ Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003.

⁸ Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003.

⁹ Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003.

¹⁰ Hrywna, M, et al., "Content Analysis and Key Informant Interviews to Examine Community Response to the Purchase, Possession, and/or Use of Tobacco by Minors," *J Comm Health*, 29(3):209-216, 2004; Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003; Loukas, A, et al., "Examining the Perspectives of Texas Minors Cited for Possession of Tobacco," *Health Promotion Practice*, 7(2):197-205, 2006.

¹¹ DiFranza, JR, "Which interventions against the sale of tobacco to minors can be expected to reduce smoking?" *Tobacco Control*, doi:10.1136/tobaccocontrol-2011-050145, published online first October 12, 2011.