

Becoming a Policy Wonk on Eliminating Sales of Single Little Cigars and Cigarillos in Los Angeles County

Answers to Tough Questions from Opponents and Elected Officials

November 2011

The sale of individual little cigars and cigarillos has increased in recent years, posing a threat to efforts to protect youth from the dangers of tobacco use. To address this problem, some communities have started to work on policies that restrict how little cigars and cigarillos are sold. These products are often marketed to and used primarily by youth, and can legally be sold individually, making them less expensive. A local ordinance that prohibits the sale of individual little cigars and cigarillos and requires them to be sold in their original packaging will increase the purchase price and help protect youth from the health dangers of smoking little cigars and cigarillos.

Communities and coalitions working on little cigars and cigarillos sales restrictions will likely need to answer questions from elected officials and opponents about the effectiveness and necessity of these policies. Below are some common questions that may be asked along with suggested answers, which are meant to help effectively address opponents' arguments. For more resources on tobacco retailer licensing ordinances and sales restrictions on little cigars and cigarillos, please visit www.center4tobaccopolicy.org/localpolicies-licensing.

These products are used less frequently than cigarettes. Why is this law even needed?

These restrictions are needed because use of these products is growing. Among youth, cigar smoking is the second most common form of tobacco use after cigarette smoking.¹ Specific populations, such as African Americans and 18-25 year old males, have higher prevalence rates for these products.^{2,3} Between 1997 and 2007, sales of cigarillos increased by nearly 150% and sales of individual cigars increased by 240%.⁴ Finally, surveys have shown for years that tobacco retailers have been willing to sell cigarettes illegally to minors at high rates and there is now evidence that this is true for cigarillos as well. A recent survey of retailers in a city in Los Angeles County found that more than 20 percent of retailers were willing to sell cigarillos to minors.⁵

Two factors contributing to this increased use are that these products are available in flavors and are priced relatively low compared to cigarettes. The federal government banned flavored cigarettes in 2009, but flavored little cigars and cigarillos are still legal and pose significant health risks to users. These products are sold in a variety of flavors that appeal to youth, including cherry, chocolate and grape. With the ban on flavored cigarettes, the use of these products will continue to grow. In many retail establishments in Los Angeles County, these individuals little cigars and cigarillos are sold for around one dollar each, with \$0.49 and \$1.25 being the most common prices.⁶ Restricting these products from being sold individually will help to increase the price of these products. Increasing the price of tobacco products lowers smoking rates, particularly among youth.⁷

Aren't little cigars and cigarillos less harmful than cigarettes? Why is this an issue?

No, this is a common misconception about these products, but smoking little cigars and cigarillos can be just as harmful as smoking cigarettes. The risks of lung cancer for cigarettes and cigar use are comparable, particularly when cigars are inhaled like cigarettes.⁸ Cigar smoke contains chemicals that cause cancer and are harmful to smokers and nonsmokers. In addition, cigar smoke has a higher level of toxins than cigarette smoke.⁹ Furthermore, packages of cheap cigars are often broken apart and the cigars are sold individually outside of their original wrapping without the Surgeon General's warning. This means that consumers are not seeing the important health warning messages when they purchase these products.²

Shouldn't cities wait until the economy improves for new regulations on businesses?

No, the important public health benefits of tobacco control policies should not have to wait until the economy improves. This new regulation would not be burdensome; retailers who sell tobacco products would simply be prevented from selling little cigars and cigarillos individually. This policy is aimed at protecting youth and diverse populations from the dangers of tobacco products. This goal is good for the overall human and economic health of communities, and policies that will achieve those outcomes should not be forced to wait until the economy improves.

Why should the government get involved with how these products are packaged and sold? This is just another example of nanny state government.

No, this is an example of government exercising its authority to protect the health of its citizens. Cities and counties throughout California, as well as the state itself, have passed many laws to protect residents from the dangers of tobacco use. In fact, both California and the federal government already have laws that prohibit the sale of individual cigarettes and it is important to apply these same restrictions to little cigars and cigarillos. Also, the public is supportive of this type of policy. A recent survey of Los Angeles County voters found that 56 percent support prohibiting the sale of individual little cigars and cigarillos.¹⁰ These products are inexpensive when sold individually and marketed to youth, African Americans and Latinos. Nearly 70 percent of Los Angeles County voters think a good reason to support this law is that it would discourage the use of these products among these population groups.¹⁰

Wouldn't enforcing this law be a waste of taxpayer dollars?

No, enforcing policies that can help save lives from tobacco use is not a waste of taxpayer dollars. In fact, this policy can easily be combined with a tobacco retailer licensing ordinance which will make it easy to enforce. A tobacco retailer licensing ordinance requires all tobacco retailers to obtain a license in order to sell tobacco products. Retailers pay an annual fee that funds compliance checks and enforcement of the ordinance provisions. When a restriction on the sale of little cigars and cigarillos is included in a licensing ordinance, enforcement of that provision will be part of the overall enforcement of the licensing ordinance that is funded by the annual fee. Roughly one-third of cities in Los Angeles County already have a tobacco retailer licensing ordinance and a sales restriction on little cigars and cigarillos can be easily added to one of those existing policies or to a new licensing ordinance.¹¹

Shouldn't this be left for the state legislature to handle or for the federal government to address with the new authority given to the Food and Drug Administration (FDA) to regulate tobacco products?

There is no guarantee that the state will act on this issue and local jurisdictions should not wait for the state to act in order to enact policies that will protect youth from the dangers of tobacco products. The history of tobacco control policies in California shows that many new strong policies started at the local level and were only adopted by the state after a number of cities and counties had enacted them. There is nothing in state or federal law that prevents a local jurisdiction from enacting a policy that restricts how little cigars and cigarillos are sold. The new federal law that gives the FDA the power to regulate tobacco products makes it clear that states and local jurisdictions also have the authority to regulate the sale and distribution of tobacco products.

Are there any examples of other cities or counties passing this policy?

Yes, on November 21, 2011, the city of Huntington Park became the first city in California to adopt this type of sales restriction. The city's ordinance prohibits the sale of any single cigar (with an exemption for significant tobacco retailers) and requires all cigars to be sold in their original packaging. In addition, two communities in Maryland have adopted policies to ban the sale of individual cigars. Prince George's County passed a policy in 2008 to ban the sale of single cigars. This law was upheld in court and ruled constitutional by a County Circuit Court judge.¹² In 2009, the city of Baltimore passed an ordinance to ban the sale of individual cigars with a retail price less than \$2.50. The ordinance allows cigars to be sold in packs of five or more, or sold individually if the retail price is more than \$2.50.²

Footnotes

¹ Centers for Disease Control and Prevention. Youth risk behavior surveillance—United States, 2009 (2010, June 4). *Morbidity and Mortality Weekly Report* 59(SS5).

² *Final Regulation Banning the Sale of Single, Cheap Cigars in Baltimore City*. Baltimore City Health Department, January 14, 2009.

³ Thornton-Bullock, A and Cullen, J. (October 13, 2009). *Emerging tobacco products: New products, same targets*. NALBOH Webinar Series.

⁴ Maxwell JC. *The Maxwell Report: Cigar Industry in 2007*. Richmond, VA: John C. Maxwell, Jr. 2008.

⁵ Los Angeles County Department of Public Health, Tobacco Control & Prevention Program. Youth Purchase Survey, 2011.

⁶ Los Angeles County Department of Public Health, Tobacco Control & Prevention Program. Lynwood OTP Observational Survey, July 2011.

⁷ Campaign for Tobacco Free Kids. (2009). Raising cigarette taxes reduces smoking, especially among kids (and the cigarette companies know it). Available at: <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf>

⁸ Boffetta P, Pershagen G, Jockel KH, et al. Cigar and pipe smoking and lung cancer risk: A multicenter study from Europe. *Journal of the National Cancer Institute*. 1999; 91(8):697-701.

⁹ National Cancer Institute. (2010). Cigar smoking and cancer.

¹⁰ Los Angeles County Department of Public Health and the Center for Tobacco Policy & Organizing, American Lung Association in California. *Los Angeles County Tobacco Retail Policy Survey*, April 2011.

¹¹ The Center for Tobacco Policy & Organizing, American Lung Association in California. *Table of Strong Local Tobacco Retailer Licensing Ordinances*, March 2011.

¹² *Pr. Geo's ban on single sales OK*. Washington Post. July 12, 2010.