



**NEW YORK CITY DEPARTMENT OF HEALTH  
AND MENTAL HYGIENE**  
Thomas Farley, MD, MPH  
*Commissioner*

**FACT SHEET**  
**June 25, 2009**

## **Proposed Amendment to the New York City Health Code would Require Tobacco Retailers to Post Health Warning Signs at the Point of Sale**

### **What is the proposed measure?**

The New York City Board of Health is inviting public comment on an amendment to the New York City Health Code to require all NYC tobacco retailers to prominently display health warnings and smoking cessation information near cash registers and tobacco product displays.

### **Why require retailers to post these signs?**

Tobacco use is the leading cause of preventable death in New York City, killing 7,400 residents annually – more than AIDS, drugs, homicide, and suicide *combined*. Smokers' health behaviors are strongly influenced by their understanding of the related health risks. Most smokers want to quit, and those who perceive greater hazards are more motivated to act. Besides motivating smokers to quit, warnings like those proposed by the Health Department can help prevent young people from starting. The warnings will be posted at locations where people are deciding whether to buy cigarettes.

### **Tobacco products are legal. Doesn't this measure unfairly penalize legitimate businesses?**

Tobacco is an addictive drug that causes sickness and death, even when sold and used legally. These warnings will provide factual health information about tobacco, while also providing useful information about how to avoid or overcome addiction to it. The goal is not to hurt retailers but to protect consumers. Retailers don't have to sell tobacco. Those who choose to sell such a dangerous product have an obligation to warn people of the hazards.

### **Who will provide the signs?**

The Health Department will provide them free of charge, and they will be available in multiple languages.

### **What will the signs look like?**

They will include information about the adverse health effects of tobacco, a visual depiction of the health consequences, and information about how to get help quitting.

### **Why target youth?**

Most smokers start during adolescence, and two-thirds become daily smokers by age 19. Although city and state laws bar tobacco sales to anyone under 18, minors still report purchasing tobacco products illegally from licensed retailers.

### **If store owners fail to put up warning signs, will they be penalized?**

Yes, under the posed measure the Health Department would cite retailers for failure to post the required signage, and retailers could dispute citations at an administrative hearing. Violations would carry fines ranging from \$200 up to \$2,000 for repeated violations.

**Why not just ban tobacco ads instead?**

Until recently, New York City lacked legal authority to regulate tobacco advertising. In June, President Obama signed into law the Family Smoking Prevention and Tobacco Control Act, which gives the Food and Drug Administration the power to regulate tobacco products and allows localities to regulate tobacco advertising. The Health Department may restrict tobacco promotions in the future.

**Is a legal challenge likely? If so, on what grounds?**

It is possible that the proposal will be challenged by the tobacco industry and/or retailers, but the rule would likely survive such a challenge.

**Have other cities have done this?**

To our knowledge, no other jurisdiction within the United States has implemented a similar measure, but point-of-sale warnings are mandated by several international jurisdictions, including Ontario, Australia and New Zealand.

**Can I attend the public hearing?**

Yes. The public hearing will be held July 30, and the Board of Health is expected to vote on the measure in September. The proposal is available online at [www.nyc.gov/html/doh/html/notice/notice.shtml](http://www.nyc.gov/html/doh/html/notice/notice.shtml).

**Where can I get more information?**

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