



Comments Received by the Department of  
Consumer and Worker Protection on

Proposed Rules banning the use of residential addresses for  
Tobacco Retail Dealer and Electronic Cigarette Retail Dealer  
Licenses

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**Online comments: 1**

**Harry patel**

First thing city have to do I saw lot of stores selling cigarettes , lush , electric cigarette, flower electric cigarette without license city have to stop that close down that stores. Why you guys bather honest guy like me. I am totally disagree with this law. Lot of families running on business like me. I knew city doing because all about under age but already city have under age 21 law. Already some stores close down because of COVID -19 and you guy want more store will close down. COVID-19 not finished yet. Don't do that.

Comment added October 6, 2021 1:03pm



New York City Department of Consumer  
and Worker Protection  
42 Broadway  
New York, NY, NY 10004

**RE: Proposed rule banning the use of residential addresses for Tobacco Retail Dealer and Electronic Cigarette Retail Dealer Licenses**

Public Health Solution (PHS) is one of the largest public health service nonprofit organizations in New York City (NYC). We work to improve the health among the city's most vulnerable populations by tackling social, physical, and environmental factors that impact New Yorkers' ability to thrive. Our NYC Smoke-Free program works to protect the health of New Yorkers through tobacco control policy, advocacy, and education. We work closely with local youth to expose the deceptive marketing tactics of the tobacco industry through education, advocacy outreach and media campaigns.

Currently, allowing residential addresses for tobacco retail licenses leaves too much room to continue negative health impacts of tobacco use. In New York City, 11.9% of adults smoke cigarettes. Over 8,000 public high school students smoke cigarettes while 37, 000 smoke e-cigarettes. Tobacco and e-cigarette retail licenses issued to residential locations creates an opportunity for youth to be influenced to smoke and use tobacco products. Youth access to tobacco products makes them more vulnerable to become addicted thus causing an increase in smoking rates among youth who later become adult smokers. These already alarming numbers will continue to rise if we do not protect current policies in place that limit the sale and amount of tobacco products that are available and can easily be distributed in community districts.

Ensuring that tobacco and e-cig licenses accurately reflects the physical location of the retail outlet is corrective action to protect the health of NYC residents. In NYC, the Tobacco Retail Licensing Law (N.Y.C. Admin. Code §§17-703, 20-202 & 20-561) is aimed at cutting the amount of licensed tobacco retailers by half in each district. Cutting back on the amount of licensed tobacco retailers meant cutting back on the amount of tobacco products in our communities mainly to those most vulnerable to Big Tobacco. Allowing retailers to utilize residential addresses to apply for tobacco and e-cigarette licenses would undermine reaching the city's goal of cutting in half, in each district, the amount of licensed tobacco retailers.

Tobacco and e-cig licenses registered to residential addresses circumvent current policies with regards to health equity in some of the most vulnerable neighborhoods with higher amounts of tobacco retail outlets. We believe every New Yorker has the right to breathe clean, smoke-free air where they live, work and play. We have worked so hard on providing education to the community at large when it comes to tobacco control advocacy. Tobacco and e-cig license registered to the physical address of retail outlets will reinforce all the work that residents and youth and tobacco advocacy programs have done to combat Big Tobacco and their harmful, deadly products.

Public Health Solutions  
NYC Smoke-Free Program

**New York City Council**  
**Department of Consumer and Worker Protection**

**Written Testimony of Kevin O’Flaherty**  
**Regional Advocacy Director, Northeast**  
**Campaign for Tobacco-Free Kids**

**In Support of “Limitations on Issuance of Tobacco Retail Dealer and Electronic Cigarette Retail Dealer Licenses” (Ref 2020 RG 051)**

**New York, NY**  
**October 28, 2021**



The Campaign for Tobacco-Free Kids is pleased to submit this written testimony on the critical issue of tobacco and electronic cigarette (e-cigarette) retail dealer licensing in New York City. The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco, help smokers quit and protect everyone from secondhand smoke.

Actions taken by the Council over the past two decades have been instrumental in reducing smoking among New York City kids and adults and have made New York City a world leader in this regard. By increasing tobacco taxes, making the City smoke-free, providing resources to help smokers to quit, reducing kids' access to candy-flavored tobacco products, adopting policies to address e-cigarettes, raising the tobacco sale age to 21 and keeping cigarette and little cigar prices high, New York City has made tremendous progress in reducing youth tobacco use.

An important tool underlying many of these policy successes in New York City is tobacco retail licensing, which helps to ensure that retailers engaging in tobacco sales comply with all relevant laws or risk losing their license to sell this product. However, because of a current loophole in licensing rules, residential locations are currently allowed to operate as tobacco or e-cigarette retail dealers. Such retailers are inaccessible to inspectors, which mean that they cannot enforce various laws and rules at these locations, including that a business not sell tobacco products or electronic cigarettes to minors and young adults (section 17-706), that the business charge certain minimum prices for tobacco products (section 17-176.1) and that the business refrain from selling flavored tobacco (section 17-715). Failing to enforce these laws not only wastes a constructive opportunity to reduce youth tobacco use but also sends a message to kids and retailers that the laws do not need to be taken seriously.

Youth access laws successfully reduce youth tobacco use when they are well-enforced to ensure a high rate of compliance.<sup>i</sup> Without rigorous enforcement, youth can continue to easily access tobacco products and can communicate to their peers which locations are lax on compliance. According to the 2020 Monitoring the Future Survey, about 60% of 10<sup>th</sup> grade students say it would be easy to get vaping devices and e-liquids and half say it would be easy to get cigarettes if they wanted to.<sup>ii</sup> In addition, the 2018 National Youth Tobacco Survey found that among youth who had tried to buy tobacco products, only one quarter reported that they were denied sale because of their age.<sup>iii</sup> New York City inspectors must be able to access all tobacco and e-cigarette retail dealers in order to monitor compliance with age of sale laws.

Inspection of licensed tobacco and e-cigarette retail dealers is also important to ensure compliance with New York City laws prohibiting the sale of certain flavored tobacco products. Prohibiting the sale of flavored tobacco products is an important strategy to prevent youth from ever starting to use tobacco, since eight out of ten of youth who have ever used a tobacco product initiated tobacco use with a flavored product.<sup>iv</sup> Despite being prohibited in New York City, as well as New York State, statewide data shows that as of June 2021, nearly 20% of e-cigarette sales in New York continue to be for flavored products.<sup>v</sup> New York City inspectors must be able to access all licensed retailers to ensure that these products are off the shelves.

Research shows that making obtaining tobacco products as inconvenient, difficult and expensive as possible for kids reduces both the number of kids who try or regularly use tobacco products.<sup>vi</sup> New York

City is a leader in passing such policies. However, these laws only work if they are enforced. Eliminating the loophole in tobacco and e-cigarette retail dealer licensing rules that allows for residential locations to operate as retailers will ensure that New York City inspectors can enforce the city's tobacco control laws in all retail locations.

Thank you for the opportunity to comment on this important issue.

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<sup>i</sup> 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

<sup>ii</sup> University of Michigan, 2020 Monitoring the Future Study, *Trends in Availability of Drugs as Perceived by 10<sup>th</sup> Graders*, <http://monitoringthefuture.org/data/20data/table16.pdf>.

<sup>iii</sup> Liu, ST, et al., "Youth Access to Tobacco Products in the United States, 2016-2018," *Tobacco Regulatory Science*, 5(6): 491-501, 2019.

<sup>iv</sup> Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.

<sup>v</sup> CDC Foundation, *Monitoring U.S. E-Cigarette Sales: State Trends*, June 2021, <https://www.cdcfoundation.org/State-E-CigaretteSales-DataBrief-June2021?inline>.

<sup>vi</sup> See related Campaign fact sheets, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf> and *Enforcing Laws Prohibiting Cigarette Sales to Kids Reduces Youth Smoking*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0049.pdf>.