

Minor in Possession

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February 2019

High Alert!

STEPP considers Minor in Possession (MIP)/Possession, Use and Purchase (PUP) laws to be a serious emerging issue and we want all grantees to be on high alert.



Why are we talking about this now?

Recent proliferation - Last 4 months:

Grand Junction, Alamosa, Snowmass Village, Akron, Edgewater...

Are there others? (use chat box)

Current Minor In Possession (MIP) or Possession, Use and Purchase (PUP) Law

C.R.S. § 25-14-301 Possession of Cigarettes or Tobacco Products by Minors Prohibited.
Known as TTUPA, the “*Teen Tobacco Use Prevention Act*”.

- Possession of cigarettes or tobacco products by someone under 18 is not allowed.
 - Exempts under-aged minor operatives.
- What does possession mean?
 - having any amount of cigarettes or tobacco products on a minor's person;
 - having custody of cigarettes or tobacco products;
 - having cigarettes or tobacco products within a minor's presence or control

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- **What is a tobacco product?**

Tobacco products same definition as Colorado's furnishing statute C.R.S. §18-13-131(5) that includes:

- a product that contains nicotine or tobacco
- a product derived from tobacco
- any device that can deliver tobacco or nicotine to person inhaling from the device (ESD)
- not FDA approved cessation devices

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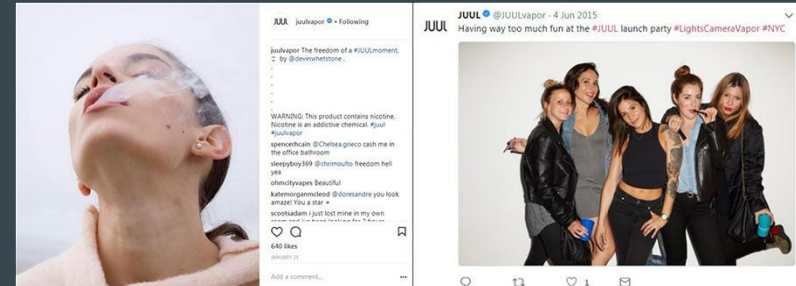
- **Are local possession laws allowed?**
 - Nothing in statute prohibits a statutory or home rule municipality from enacting an ordinance more stringent than state law.
- **What happens to kids who violate the law?**
 - Violation is a non-criminal offense.

What are the public health concerns with MIP?

1. Diverts policy attention from effective tobacco control strategies.
2. Lays the blame for tobacco use at the feet of the “victims” of tobacco marketing.
3. Reinforces the tobacco industry’s long held position that tobacco is for adults only. “Forbidden fruit”
4. Enforcement is not equal.
5. Many youth smokers are addicted and penalizing youth could deter them from seeking support for cessation.



6. Relieves the tobacco industry of responsibility for its marketing practices.



Examples of penalties under MIP/PUP

1. Fines
2. Community service
3. Attendance in mandatory cessation or education programs
4. Suspension of a driver's license or permit
5. Suspension from school

Who is Proposing MIP/PUP Laws?

Tobacco Industry and Vape Industry through trade associations

Particular retailers such as Smoker Friendly

Law Enforcement/Council members

Don't want to confront business owners

Easier to cite kids/potentially less confrontational

Community Members (but not parents!)

Others who may be well intentioned but not informed

What does public health recommend instead of MIP?

CDC recommends 5 policy strategies “To Address E-Cigarette Use Among Youth In Light Of FDA’s Decision To Delay Product Reviews For Newly Deemed Tobacco Product, (including e-cigarettes, until 2022)”

- 1) Including e-cigarettes in comprehensive smoke-free laws,
- 2) Licensing e-cigarette retailers,
- 3) Prohibiting self-service displays for all tobacco products, including e-cigarettes,
- 4) Raising the age for sale of all tobacco products to 21, and
- 5) Raising the price of e-cigarettes.

* Raise the minimum legal sale age to 21

How You as a Grantee Can Help

1

Keep your ear to the ground and notify TA and POC contact immediately.

2

Include education regarding MIP as part of your tobacco education work.

3

Speak at a council mtg and identify yourself as the local public health expert in tobacco prevention.

4

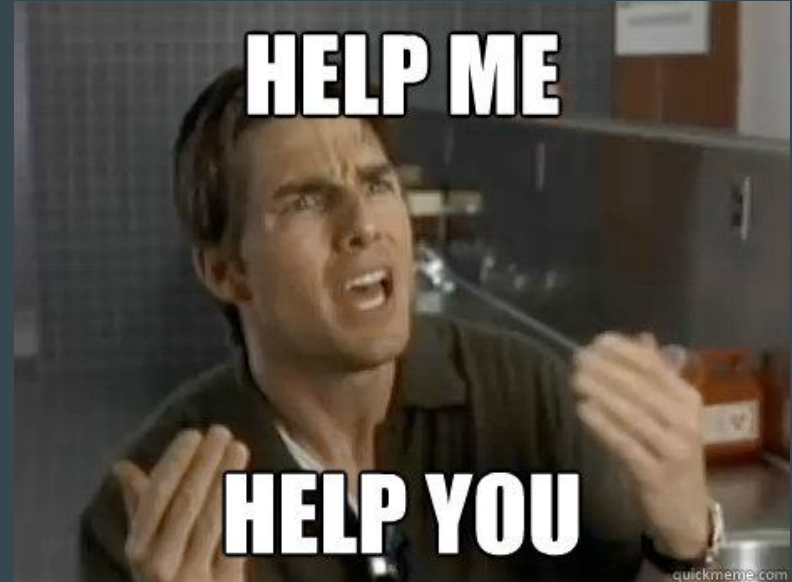
Educate LHA leaders and key influencers in your community to educate decision makers.

5

At a minimum, weaken the penalty structure or change it to be a protective factor strategy and referral to approved tobacco education program.

What Can TA Providers Do to Help Grantees?

- Craft speaking points
- Follow-up with city/town attorney or other staff
- Offer model language including additional provisions



Questions?