

Updated July 2019

## Retailer Licensing Messages

These key messages are designed to help you communicate about (a) the problem of illegal sales of tobacco products to minors and (b) the solution of licensing tobacco retailers. These messages are for internal use by local health agency staff and key coalition members only.

### About Key Messages

Key messages should serve as the foundation for all of your communications. They tell the audience the facts about your issue and articulate why it should matter to them.

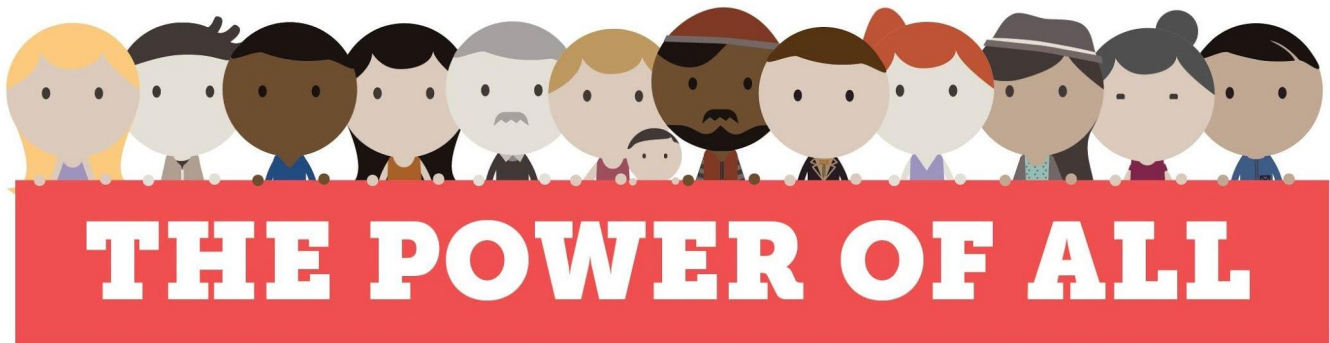
Key messages are the essence of the points you need to make, supported by evidence and illustrated with examples. They are not narrative copy for brochures, websites, and the like. Rather, they should be woven into your outreach materials, advertising, presentations and personal conversations whenever possible. Incorporating local information and data will make these messages even stronger and more relevant to key decision makers in your community.

You should refer to this document throughout the entire policy campaign process as you educate people about the problem and build support for the solution – licensing tobacco retailers in your community. These messages should be used to create talking points, fact sheets, website copy and other informational/educational items.

**Please note: This document is not a fact sheet and should not be disseminated to the public or policymakers.** There is a fact sheet, FAQs and other resources that you can disseminate in the Retailer Licensing toolkit.

In addition to using these messages in your outreach materials, you should refer to them when training local coalition/spokespeople or talking to local community leaders or groups.

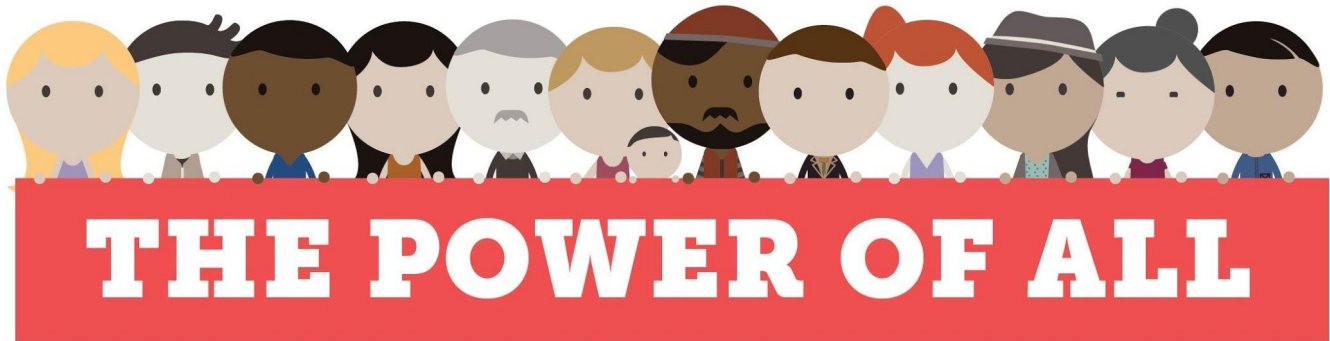
*If you have any questions about how to use these messages, contact SE2, the STEPP communications technical assistance team, [TA@se2communications.com](mailto:TA@se2communications.com).*



## Document Outline

Tip: Click the topic below you'd like to see.

1. [The Problem \(overview messages\)](#)
2. [The Problem \(detailed messages\)](#)
  - a. [Youth use and health](#)
  - b. [Retailers sell tobacco to young people](#)
  - c. [Gaps in the law that allow sales to youth](#)
  - d. [Compliance checks](#)
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4. [The Solution \(detailed messages\)](#)
  - a. [Licensing is inexpensive](#)
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  - c. [Licensing increases enforcement and reduces illegal sales](#)
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  - e. [Restricting or banning flavors reduce youth use when paired with licensing](#)



## The Problem (Overview Message)

- Colorado youth are using tobacco products at alarming rates, threatening the health of our kids, our communities and the state as a whole.
- Retailers are selling tobacco to kids, even though it is against the law. Colorado research shows that more than 68% of youth under the age of 18 who attempt to buy tobacco products can complete the transaction.<sup>1</sup> State laws designed to prohibit retailers from illegally selling tobacco are not working.
- Gaps in federal and state laws open the door to illegal youth sales. Any policies that raise the age of tobacco sales to 21 should include licensing in order to address all illegal underage sales, as well as administration and education for retailers.
- Compliance checks are essential to ensure retailers are not illegally selling to minors. However, the state currently relies on random sampling of retail outlets. Currently, only 50% of known retailers are checked every year by state-level enforcement<sup>2</sup>.
- Most tobacco users start before they turn 18.<sup>3</sup> Those between the ages of 18 and 21 are a primary source of tobacco to those under 18.<sup>4</sup> Any policies that raise the age of tobacco sales to 21 should include licensing in order to address all illegal underage sales, as well as administration and education for retailers.

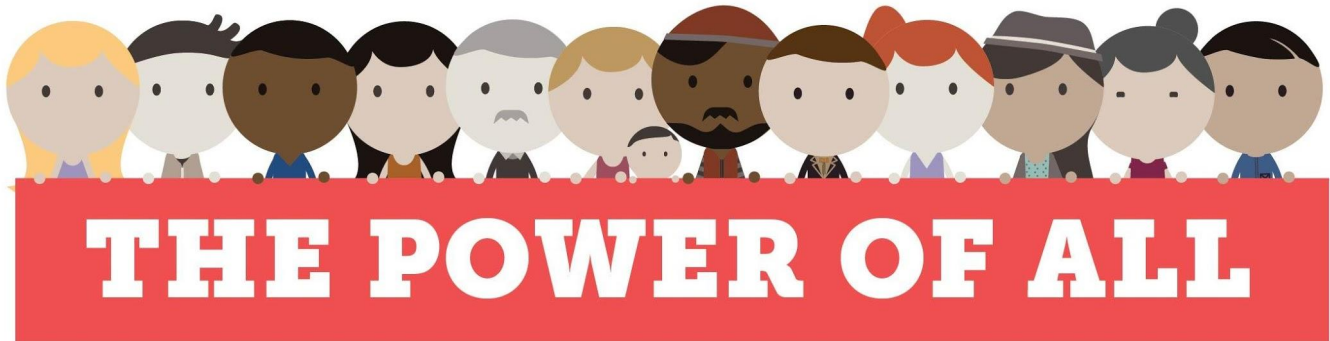
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<sup>1</sup> Healthy Kids Colorado Survey. (2015). Retrieved August 2017 from [http://http://www.ucdenver.edu/academics/colleges/PublicHealth/community/CEPEG/UnifYouth/Documents/3%20PF\\_YouthTobacco-Infographic-Digital.pdf](http://http://www.ucdenver.edu/academics/colleges/PublicHealth/community/CEPEG/UnifYouth/Documents/3%20PF_YouthTobacco-Infographic-Digital.pdf)

<sup>2</sup> Colorado Tobacco Sales Age-Control Program, sponsored by the Department of Human Services. (2016)

<sup>3</sup> U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016

<sup>4</sup> Institute of Medicine. 2015. Health Implications of Raising the Minimum Age for Purchasing Tobacco Products. March, 2015 <http://www.nationalacademies.org/hmd/Activities/PublicHealth/TobaccoMinimumAge.aspx>



- While most flavored cigarettes have been banned, other flavored tobacco products are still available and continue to attract and addict youth.<sup>5</sup> Any policies that address flavored tobacco products should include licensing to ensure sustainability and the greatest impact.

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<sup>5</sup> U.S. Department of Health and Human Services. E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016



## The Problem (Detailed Messages)

1. **Colorado youth are using tobacco products at alarming rates, threatening the health of our kids, our communities and the state as a whole.**
  - a. While youth cigarette consumption has declined in recent years, the number of youth using e-cigarettes has increased dramatically – jeopardizing progress.<sup>6</sup>
    - i. There is substantial evidence that e-cigarette use increases the risk of ever using combustible tobacco cigarettes among youth and young adults.<sup>7</sup>
    - ii. According to the CDC, Colorado high school students vape at almost twice the national average - 26.2% in Colorado vs. 13.2% nationally.<sup>8</sup>
  - b. Among Colorado high school students, the use of e-cigarettes has surpassed every other tobacco product, even cigarettes.<sup>9</sup>
    - i. Almost half of all Colorado high school students report having previously used an electronic smoking device (44%).<sup>10</sup>
    - ii. Twenty-seven percent of high school students report having used electronic smoking devices in the last month.<sup>11</sup>
    - iii. Two out of every three Colorado high school students who used electronic products like e-cigarettes had never smoked a whole cigarette before.<sup>12</sup>

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<sup>6</sup> Healthy Kids Colorado Survey. (2017). Retrieved July 2018 from <https://www.colorado.gov/pacific/cdphe/hkcs>

<sup>7</sup> National Academies of Sciences, Engineering, and Medicine. 2018. Public Health Consequences of E-Cigarettes. Washington, DC: The National Academies Press. <https://doi.org/10.17226/24952>.

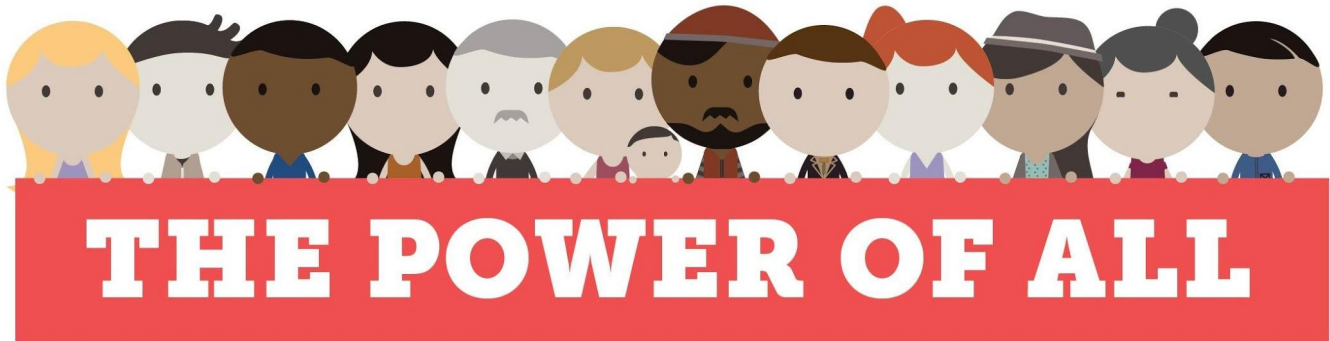
<sup>8</sup> Youth Risk Behavior Surveillance — United States, 2017. MMWR Surveill Summ 2018;67(No. SS-8):1–114. DOI: <http://dx.doi.org/10.15585/mmwr.ss6708a1>.

<sup>9</sup> Healthy Kids Colorado Survey. (2017). Retrieved July 2018 from <https://www.colorado.gov/pacific/cdphe/hkcs>

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.



- iv. Colorado high school youth were 2x more likely to have tried an electronic tobacco product than a traditional cigarette.<sup>13</sup>
- v. From 2013-2014, national use of electronic smoking devices tripled among US middle and high school students.<sup>14</sup>
- c. Nearly 90% of adult cigarette smokers first tried tobacco before the age of 18<sup>15</sup> and about 95% begin smoking before they turn 21.<sup>16</sup>
  - i. Each year, more than 2,200 Colorado kids under the age of 18 become new daily smokers.<sup>17</sup>
  - ii. Tobacco products, including e-cigarettes, contain nicotine – a highly addictive substance that is unsafe in any form.<sup>18</sup>
    - 1. Youth are more susceptible to nicotine dependence than adults.<sup>19</sup>

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<sup>13</sup> Ibid.

<sup>14</sup> CDC, Morbidity and Mortality Weekly Report (MMWR) 2014.

<sup>15</sup> Preventing Tobacco Use Among Youth and Young Adults. (n.d.). Retrieved September 20, 2016, from <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.html>

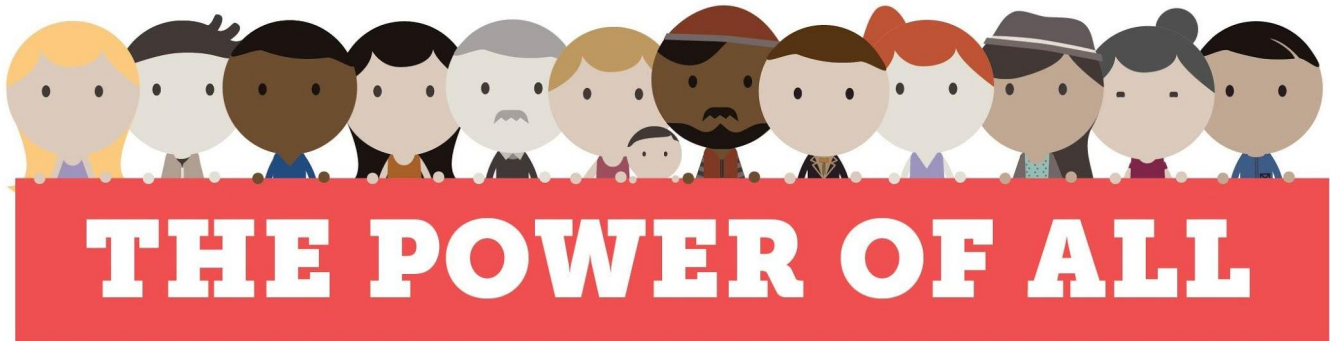
<sup>16</sup> Calculated based on data from the Substance Abuse and Mental Health Services Administration (SAMHSA)'s public online data analysis system (PDAS), National Survey on Drug Use and Health, 2016, <https://pdas.samhsa.gov/#/survey/NSDUH-2016-DS0001>

<sup>17</sup> U.S. Dept of Health and Human Services (HHS). (n.d.). New underage daily smoker estimate based on data from "Results from the 2015 National Survey on Drug Use and Health". State share of national initiation number based on CDC data on future youth smokers in each state compared to national total

<sup>18</sup> CDC, Quick Facts on the Risks of E-cigarettes for Kids, Teens and Young Adults.

[https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html)

<sup>19</sup> U.S. Department of Health and Human Services. Preventing Tobacco Use Among Young People: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 1994 [accessed 2016 Apr 14].



2. Youth that smoke are more likely to become daily smokers and smoke more heavily as adults.<sup>20</sup>
3. The majority of underage users rely on social sources—like family and friends—to get tobacco.<sup>21</sup>
  - a. Sixty-six percent of Colorado high school students report that they got cigarettes and e-cigs "some other place," most likely social sources.<sup>22</sup>
  - b. Reducing illegal sales of tobacco reduces the supply in social settings.<sup>23</sup>

**2. Retailers are selling tobacco to kids, even though it is against the law. Colorado research shows that more than 68% of youth under the age of 18 who attempt to buy tobacco products can complete the transaction.<sup>24</sup> This means the state laws designed to prohibit retailers from illegally selling tobacco are not working.**

- a. While the legal age to purchase tobacco in most Colorado communities is 18 years old, most youth think it's easy to get cigarettes and e-cigarettes. Fifty-six percent of youth think it's easy to get cigarettes, even though they need to be 18 to purchase. Fifty-eight percent of youth think it's easy to get e-cigarettes.<sup>25</sup>

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<sup>20</sup> Chassin L, Presson CC, Sherman Sj, et al. The natural history of cigarette smoking: predicting young-adult smoking outcomes from adolescent smoking patterns. *Health Psychol* 1990;9;313-19

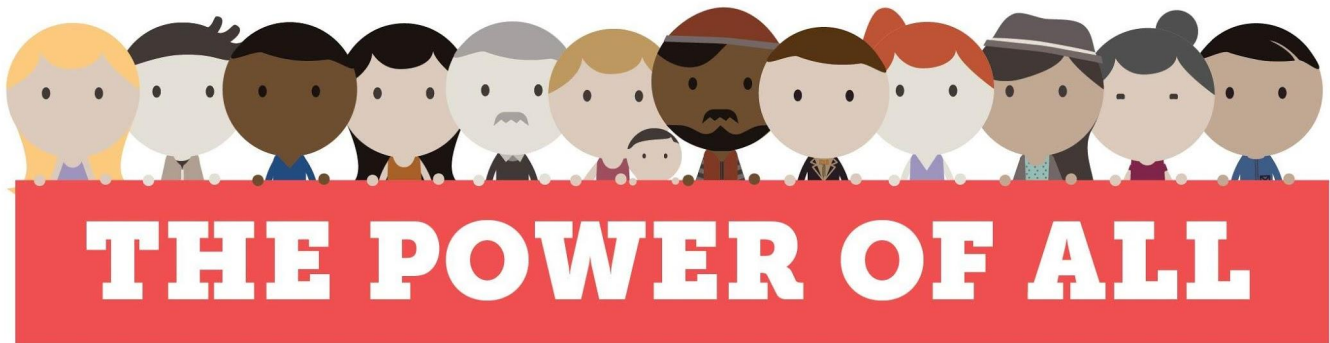
<sup>21</sup> IOM, Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products. <https://www.ncbi.nlm.nih.gov/books/NBK507163/>

<sup>22</sup> Healthy Kids Colorado Survey. (2017). Retrieved June 2019 from <http://www.ucdenver.edu/academics/colleges/PublicHealth/community/CEPEG/UnifYouth/Pages/Healthy-KidsSurvey.aspx>

<sup>23</sup> Levinson AH, Mickiewicz T. Reducing underage cigarette sales in an isolated community: the effect on adolescent cigarette supplies. *Prev Med.* 2007 Dec; 45(6): 447-53. <https://www.ncbi.nlm.nih.gov/pubmed/17804046#>

<sup>24</sup> Healthy Kids Colorado Survey. (2015). Retrieved July 2016 from <http://www.ucdenver.edu/academics/colleges/PublicHealth/community/CEPEG/UnifYouth/Pages/Healthy-KidsSurvey.aspx>

<sup>25</sup> Healthy Kids Colorado Survey. (2017). Retrieved July 2018 from <https://www.colorado.gov/pacific/cdphe/hkcs>



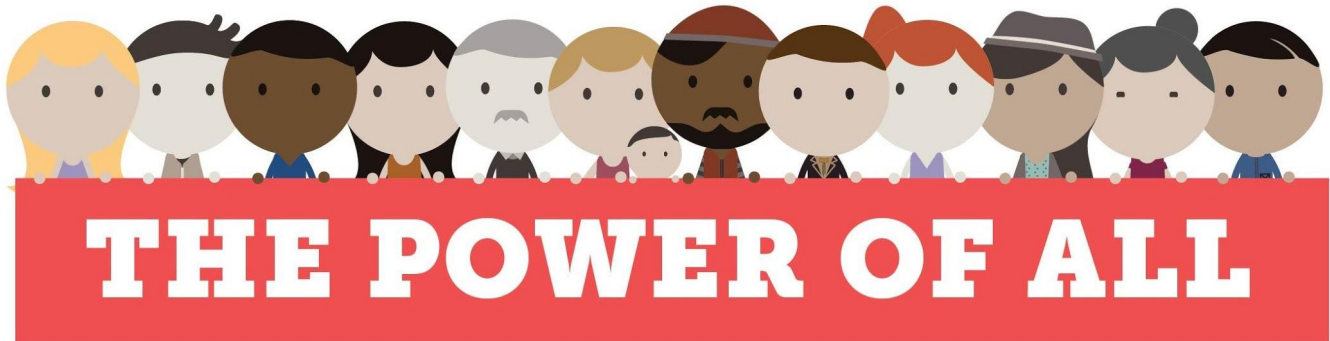
- b. Youth who perceive tobacco as relatively easy to get are more likely to become regular users.<sup>26</sup>
- 3. There are gaps in federal and state laws that open the door to illegal youth sales.**
- a. Existing Federal and State laws, including the decision to give authority to the FDA to regulate all tobacco products, currently do NOT require these essential provisions to keep our youth safe:
    - i. Requiring Tobacco retailers to have a license to sell tobacco.
    - ii. Suspension or revocation of the ability to sell tobacco by retailers that repeatedly break tobacco related laws.
    - iii. Prohibition of self-service displays of cigars and e-cigarettes.
    - iv. Prohibition of flavors for smokeless tobacco, cigars and e-cigarettes.
- 4. Compliance checks are essential to ensure retailers are not illegally selling to minors. However, many retailers are checked only once every few years.**
- a. A recent study of youth living in jurisdictions with a strong tobacco retail licensing (TRL) found a reduced prevalence of cigarette and other tobacco use, compared with participants in jurisdictions with weak TRL ordinance. In addition, an association was also found between local TRL ordinances and a decrease in the likelihood of initiation of tobacco product use.<sup>27</sup>

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<sup>26</sup> Doubeni, C. A., Li, W., Fouayzi, H., & Difranza, J. R. (2008). Perceived Accessibility as a Predictor of Youth Smoking. *The Annals of Family Medicine*, 6(4), 323-330. doi:10.1370/afm.841

<sup>27</sup> Astor RL, Urman R, Barrington-Trimis JL, et al. Tobacco Retail Licensing and Youth Product Use. *Pediatrics*. 2019;143(2):e20173536





- i. An independent study conducted in Jefferson County, Colorado found that the proportion of retailers selling tobacco to minors is much higher than official estimates suggest.<sup>28</sup>
  1. A 10% Retailer Violation Rate clearly does not mean that 90% of tobacco retailers obey the law, not even most of the time.<sup>29</sup>
- b. A study in Fort Morgan showed that the true violation rate of sales to minors was as high as 48%, more than five times the state's reported rate. This rate dramatically decreased with more frequent inspections.<sup>30</sup>
- c. Tobacco retail stores located in jurisdictions with weaker enforcement are more likely to sell tobacco to minors than retailers located in jurisdictions with more effective measures such as licensing.<sup>31</sup>

**5. Most tobacco users start before they turn 18. Those between the ages of 18 and 21 are a primary source of tobacco to those under 18.**

- a. Although 18- to 20 year-olds purchase less than 2% of tobacco products, they account for 90% of the supply to their underage peers.<sup>32</sup>
- b. If smoking continues at the current rate among U.S. youth, 5.6 million of today's Americans younger than 18 years of age are expected to die prematurely from a

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<sup>28</sup> Levinson AH, Ma M, Jason LA, et al. Assessment of the US Federal Retailer Violation Rate as an Estimate of the Proportion of Retailers That Illegally Sell Tobacco to Adolescents. *JAMA Pediatr.* 2018;172(10):966–972.

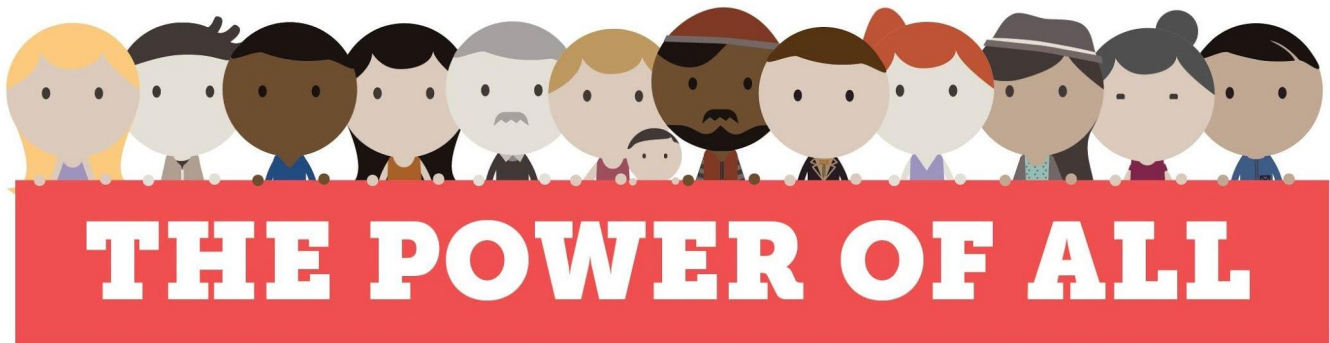
doi:10.1001/jamapediatrics.2018.2038

<sup>29</sup> Ibid.

<sup>30</sup> Levinson, A.H., Mickiewicz, T., (2007). Reducing underage cigarette sales in an isolated community: The effect on adolescent cigarette supplies. *Preventive Medicine* 45, 447-453.

<sup>31</sup> Gray, B., Chaloupka, FJ. (2003). State Policies and Community Characteristics Affect Tobacco Sales to Minors? An Analysis of over 100,000 FDA Compliance Checks," *Policy Forum* 16(1).

<sup>32</sup> Jonathan P. Winickoff, MD, MPH, corresponding author Lester Hartman, MD, MPH, Minghua L. Chen, MD, MPH, Mark Gottlieb, JD, Emara Nabi-Burza, MBBS, MS, and Joseph R. DiFranza, MD. *Am J Public Health.* 2014 November; 104(11): e18–e21. Retail Impact of Raising Tobacco Sales Age to 21 Years. Retrieved May 30, 2019.



smoking-related illness. This represents about one in every 13 Americans aged 17 years or younger who are alive today.<sup>33</sup>

- c. Members of the military have been targeted by the tobacco industry and adversely impacted by the toll of tobacco use.
  - i. Thirty-eight percent of military members who smoke started after they joined the service.<sup>34</sup>
  - ii. In 2011, the most recent year data are available, 24% of military personnel smoked, compared with 19% of the civilian population who smoked at that time.<sup>35</sup>
  - iii. Service members who use tobacco are more likely to drop out of basic training, sustain injuries and have poor vision, all of which compromise troop readiness.<sup>36</sup>
  - iv. Tobacco use reduces soldiers' physical fitness and endurance and is linked to higher rates of absenteeism and lost productivity.<sup>37</sup>
  - v. According to industry documents from the 1970s, tobacco companies targeted the military as potential consumers, stating "subjective reports have often indicated that persons entering stressful situations, e.g., starting a new job or entering the military, frequently either start to smoke or increase their rate of

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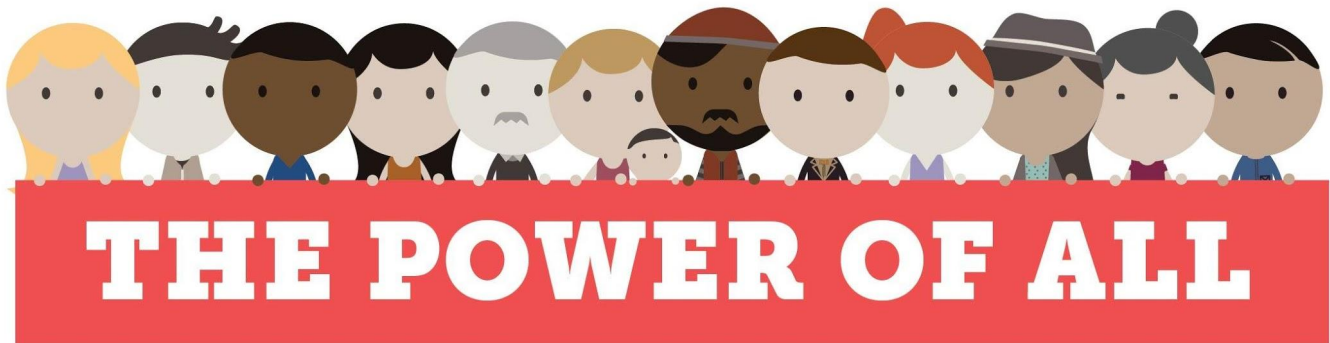
<sup>33</sup> U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014 [accessed 2018 Feb 22].

<sup>34</sup> Secretary of Defense Ash Carter April 2016 Policy Memorandum 16-001. Department of Defense Tobacco Policy. Available at <http://www.med.navy.mil/sites/nmcphc/Documents/health-promotion-wellness/tobacco-free-living/INCOMING-CARTER-Tobacco-Policy-Memo.pdf>; accessed December 20, 2016.

<sup>35</sup> Meadows, Sarah O., Charles C. Engel, Rebecca L. Collins, Robin L. Beckman, Matthew Cefalu, Jennifer Hawes-Dawson, Molly Doyle, Amii M. Kress, Lisa Sontag-Padilla, Rajeev Ramchand, and Kayla M. Williams, 2015 Department of Defense Health Related Behaviors Survey (HRBS). Santa Monica, CA: RAND Corporation, 2018. [https://www.rand.org/pubs/research\\_reports/RR1695.html](https://www.rand.org/pubs/research_reports/RR1695.html). Also available in print form.

<sup>36</sup> Institute of Medicine, Combating Tobacco in Military and Veteran Populations, 2009. <http://nationalacademies.org/hmd/Reports/2009/MilitarySmokingCessation.aspx>

<sup>37</sup> *ibid.*



smoking.” They indicated “a possible hypothesis could be the military market may be a predictor of the future or better yet, used to develop the future.”<sup>38</sup>

**6. While most flavored cigarettes have been banned, other flavored tobacco products continue to attract and addict youth.**

- a. Tobacco products from little cigars and chewing tobacco to cigarettes and e-juices come in hundreds of flavors that are attractive to youth. At least two-thirds of youth tobacco users report using tobacco products “because they come in flavors I like.”<sup>39</sup>
- b. Kid-friendly packaging and sweet e-juice flavors like mango, gummy bear and cotton candy have fueled vape products’ popularity with youth.<sup>40</sup>
- c. Flavors, from menthol to mango, can mask the harsh taste of tobacco, making it easier to get hooked on nicotine.<sup>41</sup>
- d. Of teens and young adults who have ever used tobacco, 81% of teens and 86% of young adults reported that their first product was flavored.<sup>42</sup>
- e. More than two-thirds of high school e-cigarette users are using a flavored e-cigarette.<sup>43</sup>
- f. 51% of youth e-cigarette use is mint or menthol.<sup>44</sup>

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<sup>38</sup> Truth Initiative, Tobacco Use in the Military. <https://truthinitiative.org/research-resources/targeted-communities/tobacco-use-military>

<sup>39</sup> Ambrose, BK, et al., “Flavored Tobacco Product Use Among US Youth Aged 12 – 17 Years, 2013 – 2014,” JAMA. 2015;314(17):1871-1873.

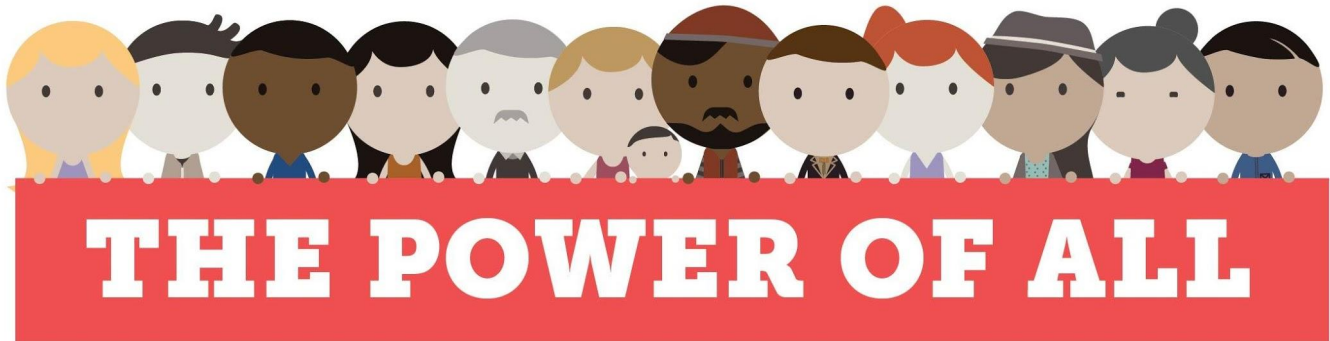
<sup>40</sup> The Flavor Trap: How Tobacco Companies Are Luring Kids with Candy-Flavored E-Cigarettes and Cigars; Retrieved from [https://www.tobaccofreekids.org/press-releases/2017\\_03\\_15\\_flavortrap](https://www.tobaccofreekids.org/press-releases/2017_03_15_flavortrap)

<sup>41</sup> U.S. Food and Drug Administration, How Cigarettes are Made and How You Can Make a Plan to Quit. Retrieved June 2019. <https://www.fda.gov/tobacco-products/products-ingredients-components/how-cigarettes-are-made-and-how-you-can-make-plan-quit>

<sup>42</sup> Ambrose, BK, et al., “Flavored Tobacco Product Use Among US Youth Aged 12 – 17 Years, 2013 – 2014,” JAMA. 2015;314(17):1871-1873.

<sup>43</sup> National Youth Tobacco Survey, 2018

<sup>44</sup> Ibid.



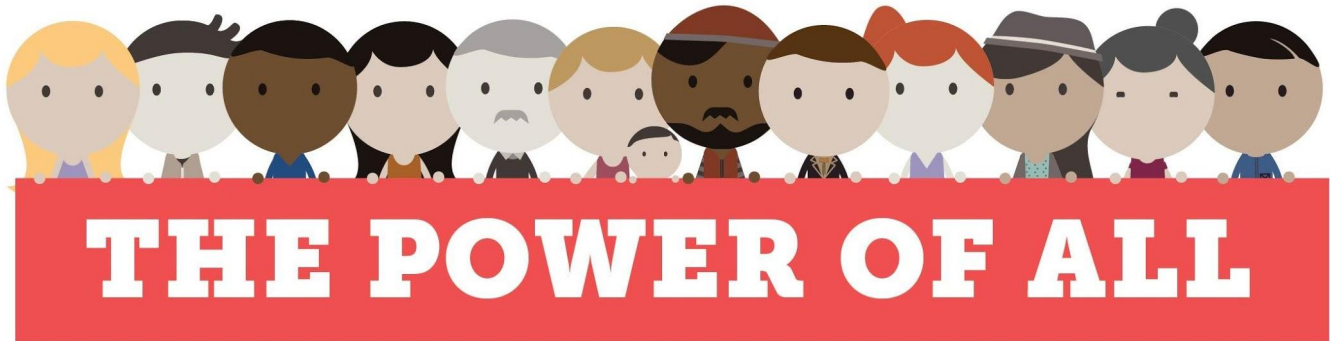
- g. Most flavored cigarettes were banned under the Family Smoking Prevention and Tobacco Control Act in 2009. However, menthol cigarettes, the flavor most used by youth were exempt, and the ban does not extend to flavored chewing tobacco and e-cigarettes.
- h. Menthol cigarette smoking is more prevalent among smokers who are young, female, part of the LGBT community, or part of a racial or ethnic minority. There is also significant menthol use among smokers with mental illness.<sup>45</sup>
- i. African-American smokers predominantly use menthol cigarettes. Nearly 9 in 10 African-American smokers (88.5%) aged 12 and older use menthol cigarettes.<sup>46</sup>
- j. The FDA issued draft guidance in March 2019 that would restrict all flavored e-cigarette sales to adult areas only, but did not set a deadline for the policy. This would exempt tobacco, menthol and mint flavored products, despite the strong evidence to support the restriction.<sup>47</sup>

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<sup>45</sup> Truth Initiative. “Menthol: Facts, stats and regulations.” <https://truthinitiative.org/news/menthol-facts-stats-and-regulations>

<sup>46</sup> Giovino GA, Villanti AC, Mowery PD et al. Differential Trends in Cigarette Smoking in the USA: Is Menthol Slowing Progress? Tobacco Control, doi:10.1136/tobaccocontrol-2013-051159, August 30, 2013 [cited by CDC 2018 Jun 12].

<sup>47</sup> Food and Drug Administration. “Modifications to Compliance Policy for Certain Deemed Tobacco Products” <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/modifications-compliance-policy-certain-deemed-tobacco-products>



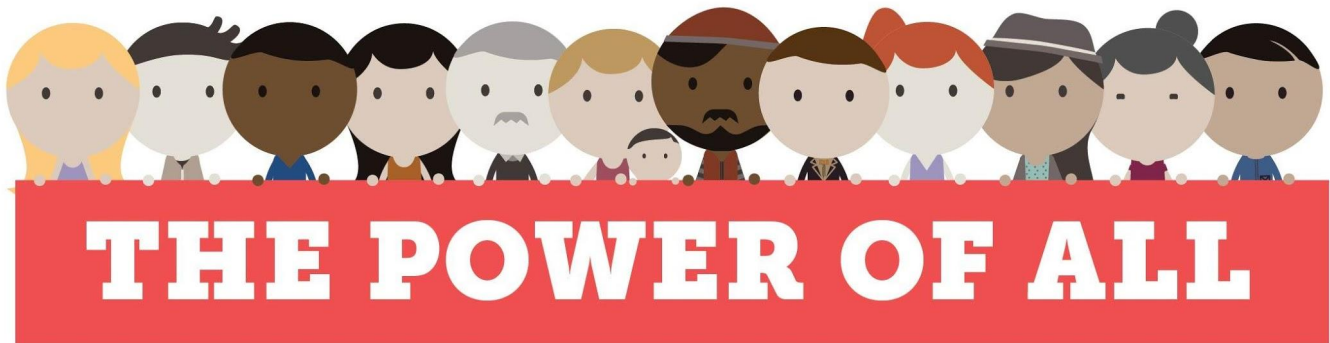
## The Solution (Overview Messages)

- Compared to marijuana and alcohol licensing, a tobacco retail license is a low-cost way to reduce the high cost of youth tobacco use.
- Licensing is a common-sense approach that will ensure that retailers operate legally, ethically and responsibly.
- Along with a strong retailer licensing policy, raising the minimum legal sale age to 21 will help save lives.<sup>48</sup>
- A comprehensive retailer licensing policy is necessary to lay the foundation for provisions that ban flavors of all tobacco products. Banning flavors can reduce youth use and initiation.<sup>49</sup>

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<sup>48</sup> Institute of Medicine, Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products, <http://www.nationalacademies.org/hmd/Reports/2015/TobaccoMinimumAgeReport.aspx>

<sup>49</sup> CDC, Progress Erased: Youth TOBACCO Use Increased During 2017-2018. Press Release. Feb 2019. <https://www.cdc.gov/media/releases/2019/p0211-youth-tobacco-use-increased.html>



## The Solution (Detailed Messages)

- 1) **Compared to marijuana and alcohol licenses, a tobacco retail license is a low-cost way to reduce the high cost of youth tobacco use.**
  - a) The annual fee paid by a licensed retailer to sell tobacco products should fund the critical elements of a license; administration of the license, retailer education and enforcement of the law.
  - b) The cost of a tobacco retail license in Colorado ranges from \$100-\$500 a year, a small sum compared to alcohol and marijuana licenses.
  - c) According to 2017 tracking data by NACS, a convenience store industry advocacy organization, tobacco products accounted for 31% of in-store sales, and is the leading in-store category for the industry.<sup>50</sup>
  
- 2) **Licensing is a common-sense approach that will ensure retailers operate legally, ethically and responsibly.**
  - a) In Colorado, local licenses are required to sell goods and services ranging from marijuana and alcohol to ice and Christmas trees. However, there is no statewide license required to sell tobacco, the deadliest consumer product.<sup>51</sup>
  - b) Colorado is one of only 12 states that do not require retailers to have a license to sell tobacco.<sup>52</sup>
  - c) Enforcement paired with meaningful penalties, such as license suspension and revocation, provide significant motivation for retailers to comply with tobacco laws.<sup>53</sup>

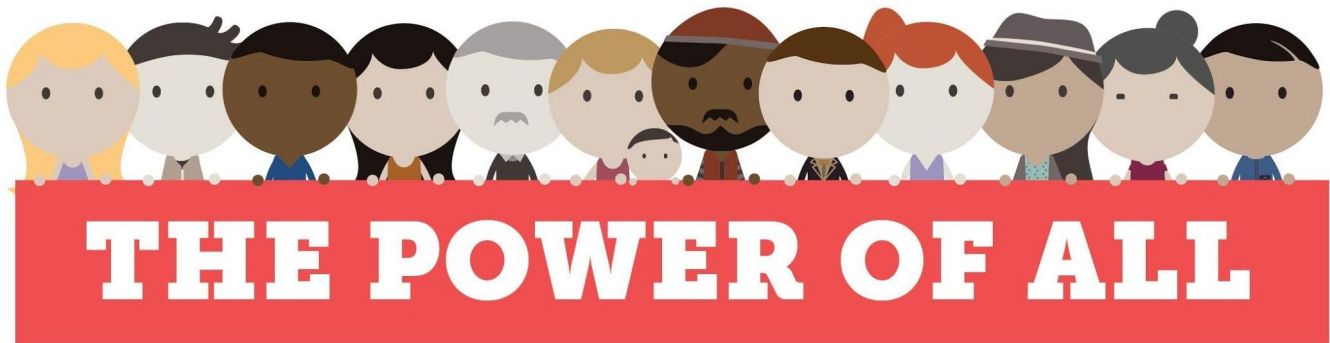
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<sup>50</sup> NACS; Inside the Store. <https://www.convenience.org/Research/FactSheets/InsidetheStore>

<sup>51</sup> U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

<sup>52</sup> Centers for Disease Control and Prevention. State Tobacco Activities Tracking and Evaluation system. (2018). <https://chronicdata.cdc.gov/Legislation/STATE-System-Licensure-Fact-Sheet/uey9-5sp9>

<sup>53</sup> Point of Sale Strategies a Tobacco Control Guide. (2014). Retrieved September 20, 2016, from [publichealthlawcenter.org](http://publichealthlawcenter.org)



- i) Ninety-four percent of Coloradans believe if a store sells tobacco to a minor it should have its license suspended.<sup>54</sup>
- ii) Licensing of tobacco retailers provides the best tracking mechanism for communities who want to know who is selling tobacco and where it is being sold.<sup>55</sup>

### **3) Local licensing of tobacco retailers in Colorado successfully supports strong enforcement and reduces the number of illegal sales to minors.**

- a) Requiring a license sends a message to all tobacco retailers and parents that the community is serious about protecting youth from illegally purchasing tobacco products.
  - i) Penalizing youth for purchase, use, and/or possession is not an effective strategy to reduce youth tobacco use. Some experts suggest that Minors in Possession (MIP) laws detract from effective enforcement and tobacco control efforts. Enforcement officials focused on penalizing youth will dedicate less attention and resources to retailer enforcement.<sup>56</sup>
- b) Evidence shows that strong tobacco retailer licenses make youth less likely to start smoking or vaping. In one study, youth in places that had a strong tobacco retailer license were 33% less likely to start smoking and 26% less likely to start vaping.<sup>57</sup>
  - i) An independent study conducted in Colorado indicates that retail licensing leads to lower tobacco violation rates.<sup>58</sup>
  - ii) A study conducted in Jefferson County, Colorado found that effective compliance check protocols should test all elements of laws against selling tobacco to minors (i.e. requesting

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<sup>54</sup> Tobacco Attitudes and Behavior Survey (TABS), Adult Tobacco Use and Exposure Colorado 2012 Results. Community Epidemiology & Program Evaluation Group, University of Colorado.

<sup>55</sup> McLaughlin, I. Tobacco Control Legal Consortium. "License to Kill? Tobacco Retailer Licensing as an Effective Enforcement Tool." Apr. 2010.

<sup>56</sup> Wakefield, M., Giovino, G. (2003). Teen penalties for tobacco possession, use, and purchase: evidence and issues. Tobacco Control 12, i6-i13.

<sup>57</sup> Astor RL, Urman R, Barrington-Trimis JL, et al. Tobacco Retail Licensing and Youth Product Use. Pediatrics. 2019;143(2):e20173536 <https://pediatrics.aappublications.org/content/143/2/e20173536>

<sup>58</sup> CEPEG. Macro evaluation of the STEPP program portfolio, FY 2015-16 through FY 2017-18. (2018).



- ID from young-looking customers, determining age from ID, and not selling to underage adolescents).<sup>59</sup>
- iii) A study found that daily smoking among young adolescents dropped by 28% in 14 communities that implemented comprehensive tobacco retailer licensing ordinances, and successful youth purchases dropped from 39% to 5%.<sup>60</sup>
  - iv) Evidence shows that strong tobacco retailer licensing laws can help reduce sales to underage youth. One study showed that sales to underage youth dropped by an average of 26% after implementation of a strong tobacco retailer license.<sup>61</sup>
  - v) Retail licensing is also a key strategy to reducing youth access to tobacco through friends and family, sometimes called “social sources.” It’s because the license reduces illegal sales to youth that it also reduces social sources for tobacco products.<sup>62</sup>
- c) Licensing tobacco retailers is an appropriate role for local governments as they are responsible for the health, safety and welfare of their citizens.<sup>63</sup> Local governments already create and enforce policies to keep their communities safe, including monitoring the quality of food, ensuring safe working conditions for employees and enforcing alcohol sales.
- d) In most Colorado communities where tobacco licensing has been formally presented, city councils have unanimously passed a tobacco licensing policy.<sup>64</sup>

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<sup>59</sup> Levinson AH, Ma M, Jason LA, et al. Assessment of the US Federal Retailer Violation Rate as an Estimate of the Proportion of Retailers That Illegally Sell Tobacco to Adolescents. *JAMA Pediatr.* 2018;172(10):966–972. doi:10.1001/jamapediatrics.2018.2038

<sup>60</sup> JL Forster, DM Murray, M Wolfson, et al. “The effects of Community Policies to Reduce Youth Access to Tobacco” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1508321/>

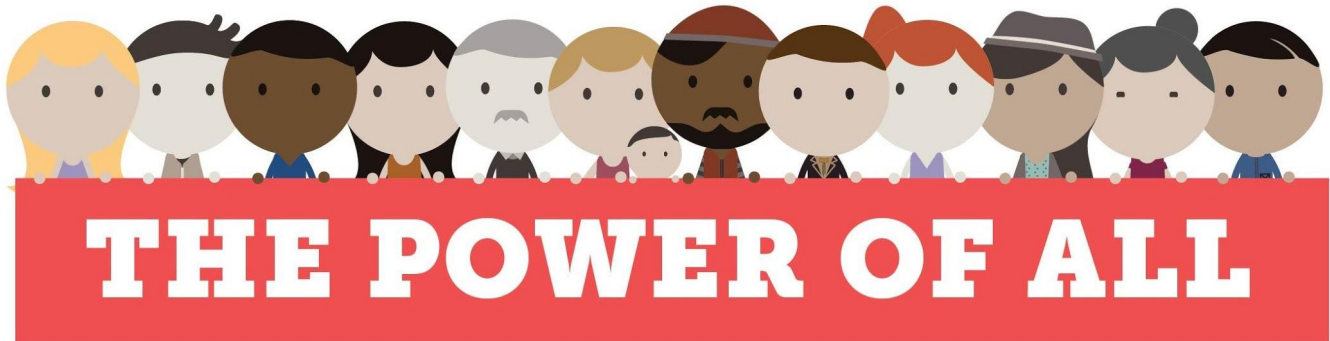
<sup>61</sup> American Lung Association. The Center for Tobacco Policy and Organizing. Retrieved at <https://center4tobaccopolicy.org/wp-content/uploads/2016/10/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>. June 2019.

<sup>62</sup> U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012.

<sup>63</sup> McLaughlin, I. Tobacco Control Legal Consortium. “License to Kill? Tobacco Retailer Licensing as an Effective Enforcement Tool.” Apr. 2010.

<sup>64</sup> Colorado School of Public Health, Tobacco Control Training and Technical Assistance. “Unpublished”(June 2019).





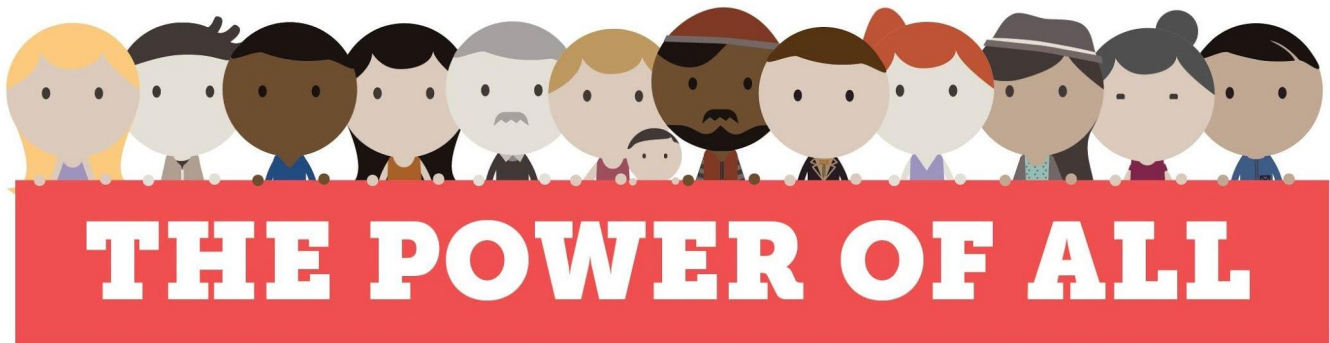
- i) Colorado city and town councils that have approved a non-cigarette tobacco licensing policy include: Lakewood, Fountain, Golden, La Junta, Manitou Springs, Pueblo, Rocky Ford and Steamboat Springs.
  - ii) Colorado city and town councils that have approved a tobacco license that includes cigarettes and all other tobacco products are: Edgewater, Aspen, Basalt, Avon and Snowmass Village.
- e) The passage of Colorado HB19-1033 during the 2019 legislative session provides local cities, towns and counties with expanded authority to regulate all tobacco within their jurisdictions, without the risk of financial penalties to communities that require licenses for cigarette retailers.<sup>65</sup>
- 4) Along with a strong retailer licensing policy, raising the minimum legal sale age to 21 will help save lives.**
- a) Policymakers should raise the minimum legal sales age in conjunction with licensing retailers to provide enforcement and have the greatest impact on reducing youth access to tobacco.<sup>66</sup> The Institute of Medicine<sup>67</sup> reports that raising the tobacco sale age will:
    - i) Significantly reduce the number of adolescents and young adults who start smoking, by as much as 25% for 15-17 year olds by the time they become adults.
    - ii) Reduce smoking-caused deaths.
    - iii) Immediately improve the health of adolescents, young adults and young mothers who would be deterred from smoking, as well as their children.

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<sup>65</sup> [HB19-1033](#)

<sup>66</sup> CDC, Community Guide, Tobacco Use and Secondhand Smoke Exposure: Community Mobilization with Additional Interventions to Restrict Minors' Access to Tobacco Products. Retrieved June 2019

<sup>67</sup> Institute of Medicine, Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products, <http://www.nationalacademies.org/hmd/Reports/2015/TobaccoMinimumAgeReport.aspx>



- b) A study of the California Minimum Legal Sales Age law showed that only seven months into implementation of the law it was effective at reducing under-age sales of tobacco by almost 50% and illegal sales to 18-19 year old young adults was reduced by 14.2%.<sup>68</sup>
  - c) There is evidence that raising the minimum legal sale age prevents youth use. In the five years after Needham, MA raised the age to 21, the rate of youth smoking was nearly cut in half, compared to an average 20% decrease in neighboring communities. This decline was consistent across gender, ethnicity and grade (10 – 12).<sup>69</sup>
  - d) Many states and communities have raised the minimum legal sale age of tobacco and there is broad public support for the policy.
    - i) As of May 2019, 475 cities in 29 states have raised the minimum legal sale age for tobacco to 21.
    - ii) As of May 2019, city councils in Aspen, Basalt, Edgewater and Snowmass Village have raised the minimum legal sale age to 21 and used retail licensing to enforce the policy.
    - iii) A 2017 study by the CDC found that three quarters of adults favor raising the tobacco age to 21, including nearly two-thirds of adult smokers.<sup>70</sup>
  - e) With 38% of current smokers in the military reporting they began smoking after joining the military, service members between 18 and 21 deserve the same protections as their civilian counterparts from tobacco addiction.<sup>71</sup>
- 5) **A comprehensive retailer licensing policy is necessary to lay the foundation for provisions that ban flavors of all tobacco products. Banning flavors can reduce youth use and initiation.**

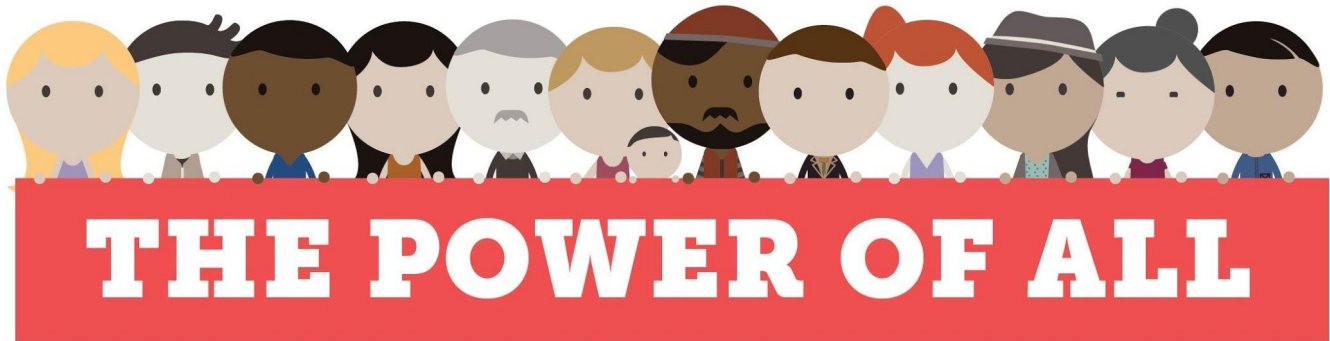
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<sup>68</sup> Zhang X, et al Tob Control Epub ahead of print Feb 28, 2018. Doi: 10.1136/tobaccocontrol-2017-054088

<sup>69</sup> Kessel Schneider S, Buka SL, Dash K, et al “Community reductions in youth smoking after raising the minimum tobacco sales age to 21 Tobacco Control” 2016;25:355-359. <http://dx.doi.org/10.1136/tobaccocontrol-2014-052207>

<sup>70</sup> Gentzke, AS, et al., “Attitudes toward raising the minimum legal age of sale for tobacco products—United States, 2017,” poster presented at the 2018 Annual Meeting of the Society for Research on Nicotine and Tobacco (SRNT).

<sup>71</sup> *ibid.*



- a) Prohibiting the sale of flavored tobacco products is a proven strategy recommended by the CDC to reduce youth use and initiation.<sup>72</sup>
- b) Two states and more than 180 communities have passed restrictions on the sale of flavored tobacco products.<sup>73</sup>
  - i) In June 2019, the city of Aspen passed a law that banned the sale of all tobacco products including mint and menthol.
- c) Expanding flavor restrictions to other types of tobacco and including menthol are necessary to reduce youth tobacco use. The large majority of youth who use flavored tobacco report that they would stop using tobacco products altogether if flavored products were no longer available.<sup>74</sup>

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<sup>72</sup> CDC, Progress Erased: Youth Tobacco Use Increased During 2017-2018. Press Release. Feb 2019.  
<https://www.cdc.gov/media/releases/2019/p0211-youth-tobacco-use-increased.html>

<sup>73</sup> Campaign for Tobacco Free Kids. "States and Localities That Have Restricted the Sale of Flavored Tobacco Products."  
<https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>

<sup>74</sup> Kingsley, M., Song, G., Robertson, J., Henley, P. & Sanouri Ursprung, W. 2019. Tobacco Control. Impact of flavoured tobacco restriction policies on flavoured product availability in Massachusetts.