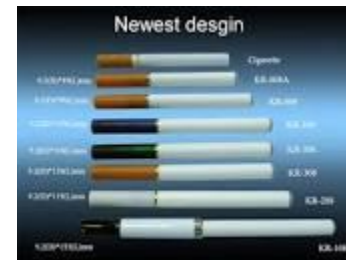


OUT OF THE BOX LOCAL POLICY CAMPAIGNS IN MASSACHUSETTS



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**NATIONAL TOBACCO CONTROL CONFERENCE
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MODEL REGULATION STRATEGIES

1. General Guidelines:

1. Document science base for each strategy.
2. Attach simple checklist with listed strategies.
3. Encourage adoption of a comprehensive regulation.
4. It's a living document because of the industry's ongoing Whack a Mole game.



INCLUDE NDP IN DEFINITION OF TOBACCO

“Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, **whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, and rely on vaporization or aerosolization.”**

Does not include FDA approved cessation devices.

E-CIGS – DO THEY HELP YOU QUIT OR DO THEY MAKE YOU SMOKE MORE?

Big 3 tobacco companies each have a brand.

Can't have it both ways guys!

Cessation device or dual use strategy.

E-Liquid is a hazardous waste.

Require a written disposal plan.

Reported cases of poisoning.

Lethal for children.

Warnings on Vuse and Mark Ten products.



YOU SAID IT!



THIS PRODUCT IS NOT A SMOKING CESSATION PRODUCT . . . THIS PRODUCT IS INTENDED FOR USE BY PERSONS OF LEGAL AGE . . . AND NOT BY CHILDREN OR WOMEN WHO ARE PREGNANT . . . OR PERSONS WITH OR AT RISK OF HEART DISEASE, HIGH BLOOD PRESSURE DIABETES, OR TAKING MEDICINE FOR DEPRESSION OR ASTHMA. NICOTINE IS ADDICTIVE . . . AND IT IS VERY TOXIC BY INHALATION, IN CONTACT WITH THE SKIN OR IS SWALLOWED. . . INHALATION OF THIS PRODUCT MAY AGGRAVATE EXISTING RESPIRATORY CONDITIONS. INGESTION OF THE NON-VAPORIZED CONCENTRATED INGREDIENTS IN THE CARTRIDGES CAN BE POISONOUS.

YOU CAN'T HAVE IT BOTH WAYS GUYS

- **Your fancy lawsuit resulted in a holding that e-cigs are tobacco products, not cessation devices.**
 - Even though your customers claim otherwise.
 - **SOMETIMES!**
- **So, we are going to include them in the definition of tobacco.**
 - No special treatment.
 - Representative Sanchez's bill.
 - This means they are age-restricted and you can't use them wherever you can't smoke.
- **77 municipalities ban e-cig use where you can't smoke. 137 age-restrict e-cigs.**

CIGARS – GET ‘EM WHILE THEY’RE CHEAP!



- 1. No person shall sell or distribute or cause to be sold or distributed a single cigar.**
- 2. No person shall sell or distribute or cause to be sold or distributed any original package of two or more cigars, unless such package is priced for retail sale at \$5 or more.**
- 3. This Section shall not apply to:**
 - 1.** The sale or distribution of any single cigar having a retail price of \$2.50 or more.
 - 2.** A person engaged in the business of selling or distributing cigars of commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intend to sell or distribute outside the boundaries of the town.

CIGARS – GET ‘EM WHILE THEY’RE CHEAP!



1. **Youth pricing strategy.**
 1. Teens are smoking cheap, flavored cigars more than they are smoking cigarettes.
 2. 3 flavored cigars for 99 cents!
2. **Lots of opposition to this strategy by the industry. Arguments include:**
 1. Causes adults to smoke more.
 1. No. Ban on loose cigarettes.
 2. Already illegal to sell to minors and “our rates are great.” Just look at the FDA rates.
 1. No. Cheap, single cigar sales rates are higher than cigarette sales rates.
 2. FDA only checks for cigarette sales and does inspections.
3. **77 Municipalities have done this.**

NO TOBACCO OR NICOTINE DELIVERY PRODUCT SALES IN PHARMACIES

- **Pharmacies are the last health care institution where tobacco is sold.**
 - Rite Aid “wellness card.”
- **137 cities and towns ban the sale of tobacco and ndp’s in pharmacies.**
 - 57% of population in MA.
- **CVS voluntary plan.**
- **No opposition, ever.**



BANNING FLAVORED TOBACCO PRODUCTS - THE NEW FRONTIER

FDA banned flavored cigarettes in 2009 because:

1. Young people are much more likely to use flavored tobacco products than adults.
2. Industry documents show that companies have designed flavored cigarettes with kids in mind
 1. “Create a honey-flavored cigarette to attract teenagers who like sweet products.”
3. Candy and fruit flavors mask the bad taste of tobacco. www.fda.gov
4. Same arguments for other tobacco products.
5. FDA is anti-preemptive.



BANNING FLAVORED TOBACCO PRODUCTS

1. NYC and Providence, RI did this.

1. Won lawsuits.

2. Industry hates this strategy.

3. New strategy in Massachusetts.

1. Waited until lawsuits were over.

4. 9 municipalities have done this.

1. In effect in Yarmouth on Cape Cod since 7/1/14.

5. The rationale for doing this is crystal clear.

1. FDA's website.

6. Exempt adult-only retail tobacco stores?



INCREASE MINIMUM LEGAL SALES AGE TO 21



1. Initiated by 2 pediatricians.
2. Mixed messages being sent for a few years.
3. Needham did this in 2005 (under the radar).
4. Okay if part of comprehensive strategy.

1. Science base:

1. Neuroscience.
2. Addiction science.
3. Research on increases minimum legal sales age of alcohol sales to 21 and positive public health outcomes.
4. IOM report.



CAP NUMBER OF TOBACCO SALES PERMITS, INCLUDES NDP

- **Similar to alcohol permits.**
- **Make them more valuable.**
 - Better compliance rates.
- **Permanently retire a permit when business closes.**
- **40 municipalities do this in Massachusetts.**
- **Ban retail stores within 500 feet of elementary or high school.**
 - Grandfather existing stores.



THEY'RE BACK!!!!

- Cigar packaging requirement, flavored ban, age 21.
 - Liberty Square Group, lobbying firm.
 - PM – bought Black & Mild.
 - Attend most hearings - do not speak.
 - Call BOH offices weekly looking for updates.
 - Reynolds, lobbyist
 - Testified at hearings.
 - Annoys boards of health.
 - Interrupts.
 - Was “leading the charge.”
 - Has “gone missing.”

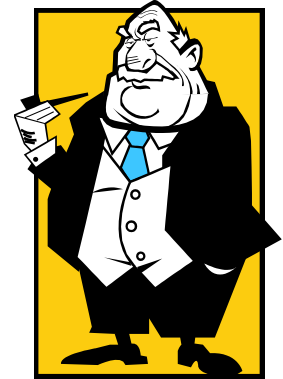


THEY'RE BACK !!!!!



- **NATO (National Association of Tobacco Outlets)**
 - Call BOH offices.
 - Letters are getting sloppy.
 - Bad local information.
 - Don't understand parts of the regulation.
 - We are getting "under their skin."
 - Arguments getting personal.
 - Sbarra and Wilson.

THEY'RE BACK!!!!!!



NECSA (New England Convenience Store Association)

- Sends written testimony.
- Recruits local retailers.
- Is beginning to testify.
- Quotes FDA compliance checks results.
- Becoming more savvy.
- Beginning to use 21 to attempt to thwart other policies.

RAM (Retailers Association of Massachusetts)

- Haven't heard from them much lately.
- Mostly about pharmacy bans.
- Threaten law suits, using San Francisco as example.
 - Just plain wrong on the facts.

Goal appears to bully and frighten policy makers.

- This is old news to our BOH's.
 - Been there before with SHS regs.

ECONOMICS ARGUMENT



Not our strongest, BUT – HOLD ON A MINUTE!!!!

U.S. Surgeon General's 2014 Report states:

**Cigarettes are unreasonably dangerous and,
as such, are DEFECTIVE CONSUMER
PRODUCTS.**

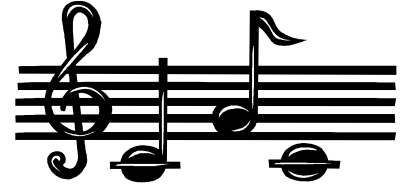
**They are the ONLY consumer product that, when
used as intended, causes death.**

**Maybe one's business plan shouldn't be based on
such a product . . . Just a thought. . .**

ENDGAME STRATEGIES?



“GOD BLESS AMERICA”



WESTMINSTER HEARING

www.nbcnews.com/news/us-news/butting-heads-towns-tobacco-ban-hearing-shut-down-being-too-n247471

Too much, too soon . . . ?

BOTTOM LINE: NO LAW SUITS

Policy strides continue in Massachusetts.

Templates are available.



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