

# Tobacco Retailer Regulation

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# Objectives

Utah has record low smoking rates across the country, but it's not time to celebrate yet. We have pockets with higher rates than the national average. Tobacco policies work and we have a policy in need of help.

Sources: American Lung; CDC; Orzechowski and Walker; [https://www.aei.org/wp-content/uploads/2013/08/img-hassett-chart-piece-july-2013\\_15364933528.png](https://www.aei.org/wp-content/uploads/2013/08/img-hassett-chart-piece-july-2013_15364933528.png)

## Burden of Tobacco Use

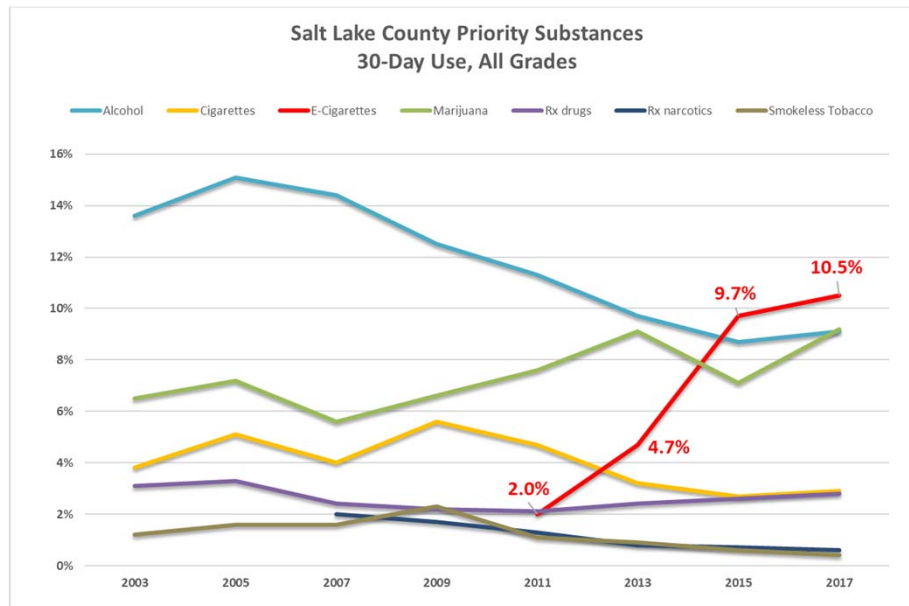
Tobacco use kills 1,300 Utahns annually

Costs Utah \$542 million in health care costs each year



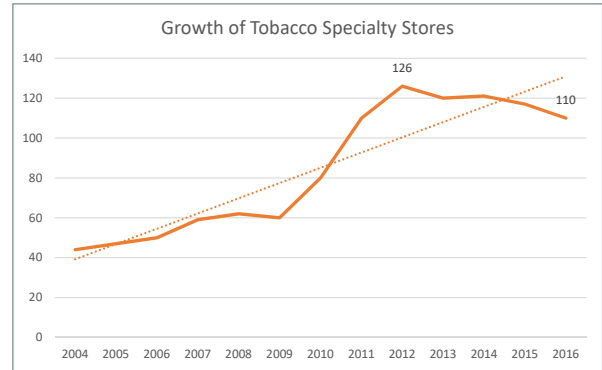
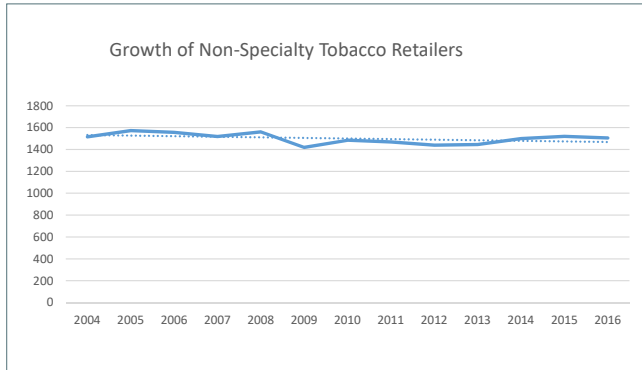
Utah Department of Health Tobacco Prevention and Control Program Sixteenth Annual Report, October 2016

## E-Cigarettes & Youth: An Alarming Trend



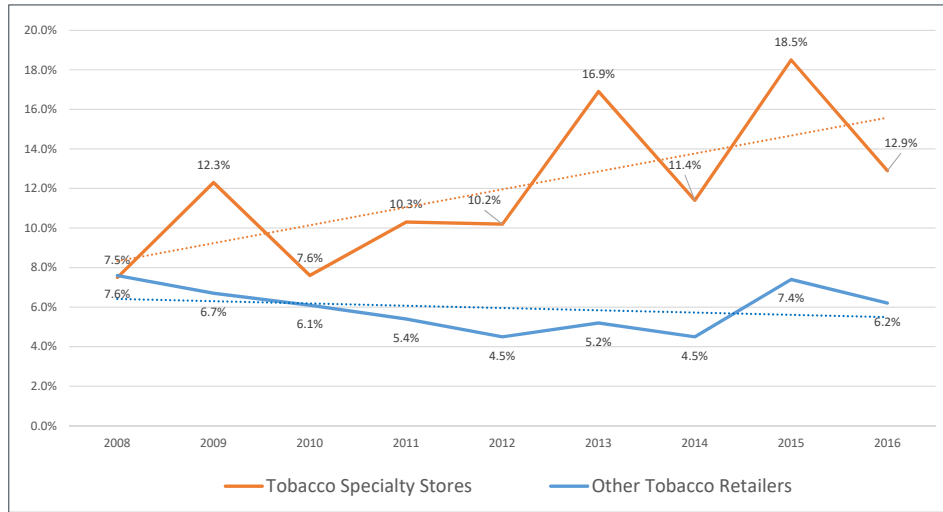
Source: 2017 Utah Student Health and Risk Prevention (SHARP) Survey, Compiled by Bach Harrison, LLC

# Tobacco Retail Outlet Growth in Utah



UDOH

### Utah Underage Tobacco Sales Rates



UDOH

## Tobacco Policies Work

- Minimum age
- Smoke-free spaces
- Taxation

# Location, Location, Location

More tobacco retailers = more youth smokers



- Both the Institute of Medicine and the U.S. Surgeon General have recommended that communities take steps to limit the number and restrict the location of tobacco retailers as an effective tobacco control measure.
- Exposure to these marketing and promotional activities has been shown to affect tobacco use initiation rates among adolescents, particularly when the stores are close to schools. Thus, studies have documented that youth who live or go to schools in neighborhoods with the highest density of tobacco outlets (or with the highest density of retail tobacco advertising) have higher smoking rates compared to youth who live, or attend school, in neighborhoods with fewer or no tobacco outlets.

Source: <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-guide-regulating-retailer-locations-2014.pdf>



## 2012 Legislative Session

- HB95 Retail Sale of Tobacco Products
  - Restrict locations for tobacco specialty businesses

- Utah was a leader in this regard and may still be the only state to address this.
- Best practice for prevention and cessation
- Title 17 Chapter 50 Part 3 Section 333
  - <http://le.utah.gov/xcode/Title17/Chapter50/17-50-S333.html>

## 600 Feet From:

- Another tobacco shop
- Agriculture property
- Residential property



- 128 (i) 1,000 feet of a community location;  
129 (ii) 600 feet of another retail tobacco specialty business; or  
130 (iii) 600 feet from property used or zoned for:  
131 (A) agriculture use; or  
132 (B) residential use.

## 1,000 Feet From:

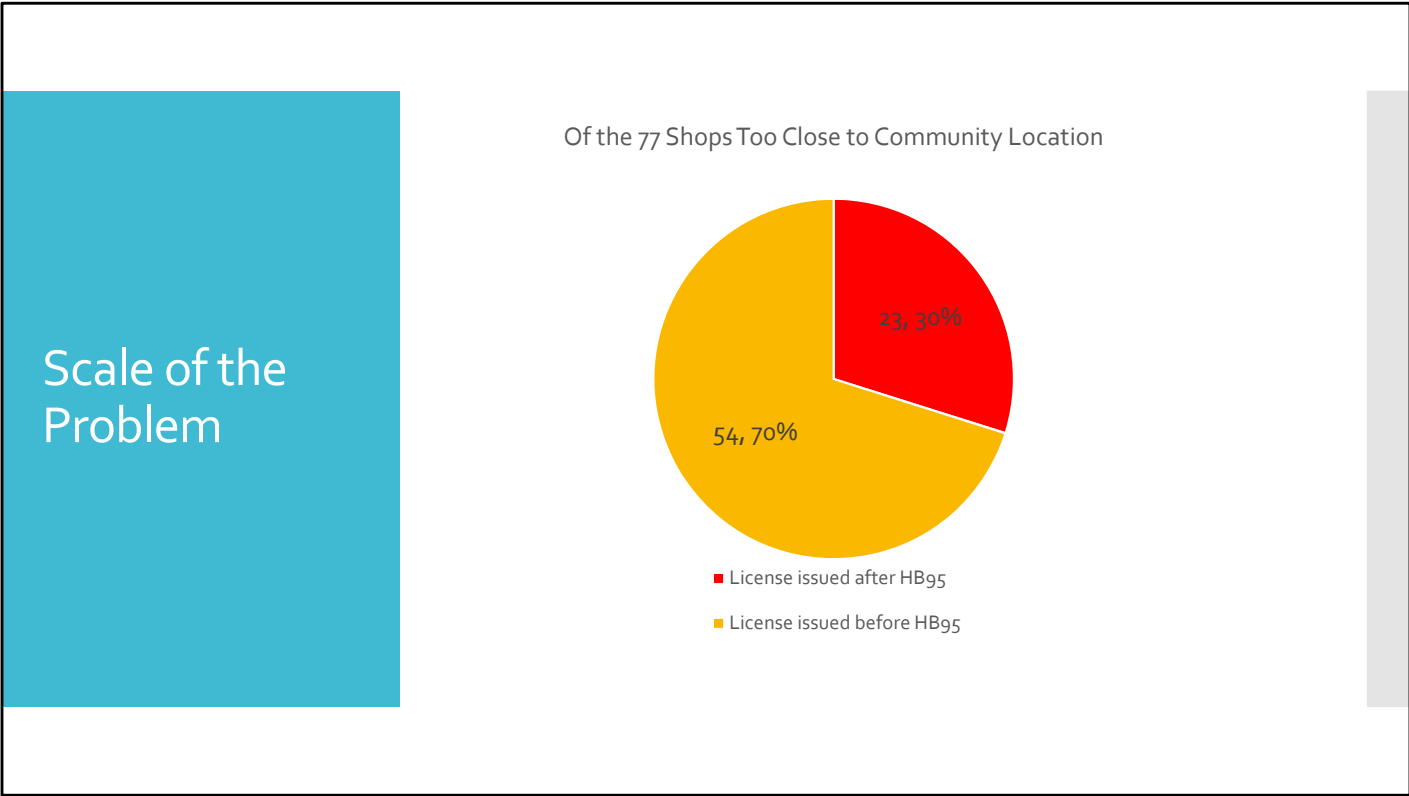


- 71 (a) "Community location" means:
- 72 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- 73 (ii) a licensed child-care facility or preschool;
- 74 (iii) a trade or technical school;
- 75 (iv) a church;
- 76 (v) a public library;
- 77 (vi) a public playground;
- 78 (vii) a public park;
- 79 (viii) a youth center or other space used primarily for youth oriented activities;
- 80 (ix) a public recreational facility; [or]
- 81 (x) a public arcade[.]; or
- 82 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

<https://le.utah.gov/~2018/bills/static/HB0324.html#76-10-105.1>

1. What is a retail tobacco specialty business?
2. Who is exempt from proximity requirements?





Source: Salt Lake County Health Department

## RTI Interviews of Licensing Officials

- Some common concerns:
  - lack of clarity for definitions, such as the definition of a community location
  - how to accurately keep track of tobacco sales
  - what products count as “tobacco sales”

Source: Findings from Utah Local Health Department and Business Licensing Official Interviews: Zoning Assessment Summary Report, March 2017, Prepared by RTI International

## Quotes from Interviews:

- *"The law [should have] been written based on square footage instead of receipts."*
- *"The one thing that I've been thinking to do on a local level is some sort of shelf space requirement."*

Source: Findings from Utah Local Health Department and Business Licensing Official Interviews: Zoning Assessment Summary Report, March 2017, Prepared by RTI International

## Quotes from Interviews:

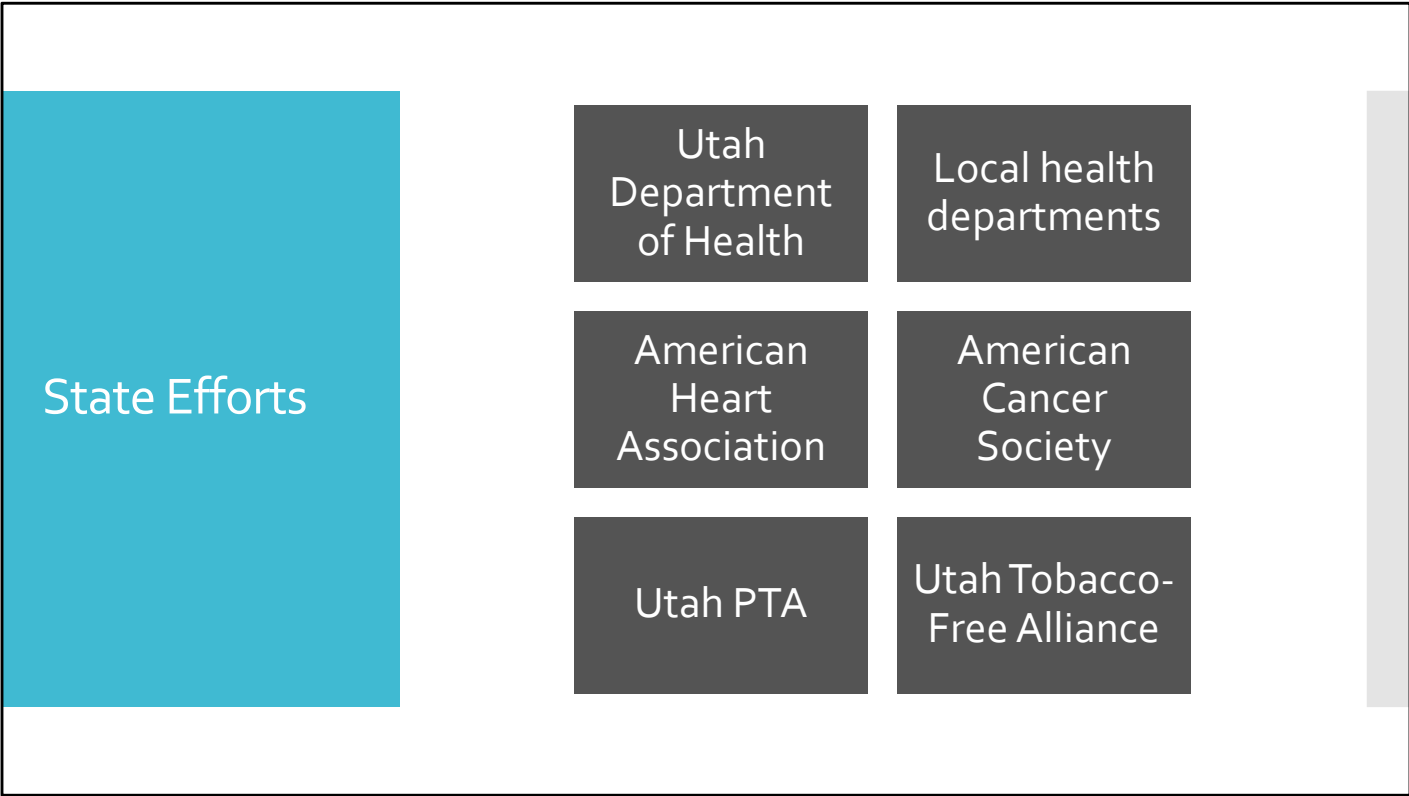
*"The biggest barrier is the definition of a tobacco specialty business. The fact that it revolves around annual sales is the biggest hurdle because somebody can come in and open a tobacco specialty business whenever they want, and I can't do anything about it for 12 months if they tell me that it's something else to start with."*

Source: Findings from Utah Local Health Department and Business Licensing Official Interviews: Zoning Assessment Summary Report, March 2017, Prepared by RTI International





Source: Utah Department of Health





State  
Legislation

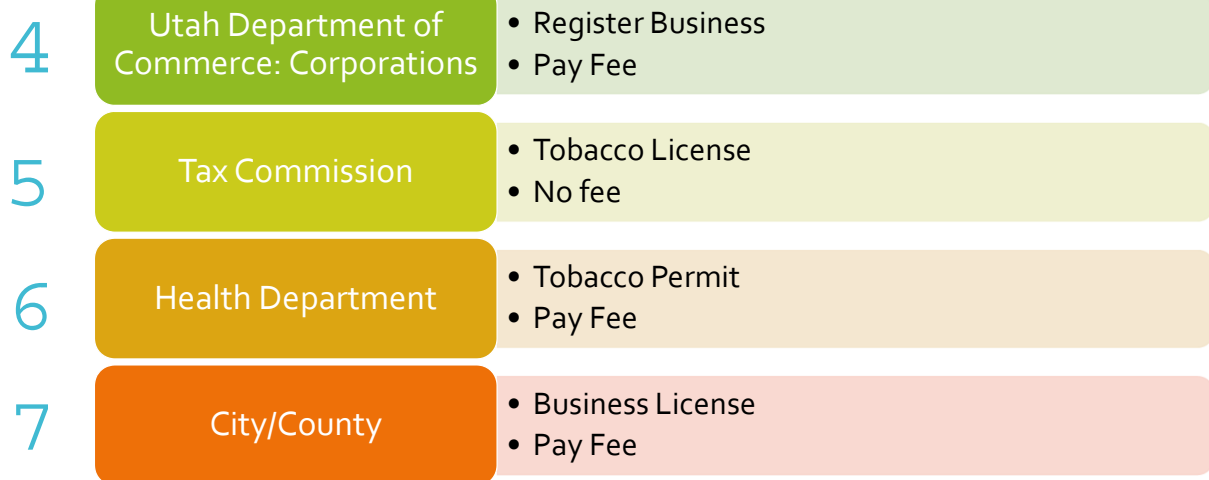
- 2017 – HB370
  - Rep. Brad Last

State  
Legislation

- 2018 – HB 324

## HB 324

- Requires health department tobacco permit
- New definition of tobacco specialty business



## Process to Become a Tobacco Retailer

1. Utah Department of Commerce: Corporations
  - \$70 – LLC or Corporation, renewed annually for \$20
  - \$22 – Doing Business As (DBA), valid for three years
  - <https://corporations.utah.gov/>
2. Tax Commission
  - No longer charge fee for tobacco licenses under HB 324
  - License valid for three years
3. Health Department Permit
  - \$30 for a new permit
  - \$20 for a permit renewal; or
  - \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.
4. City/County
  - Check with city or county in which the business operates

## Permit Options

- General Tobacco Retailer
  - \$30 for new permit
  - \$20 for permit renewal
  - Valid for 2 years
- Retail Tobacco Specialty Businesses
  - \$30 for a new permit
  - \$250 plan review fee
  - \$20 for permit renewal
  - Valid for 1 year



**Permit Application**  
Tobacco Retailer  
Environmental Health Division  
Phone: 385-468-3886; Fax: 385-468-3861

Utah State Tax Commission tobacco license #:   
Attach a copy of the license to this application

**Section 6: Retailer Type:**

Choose **ONE** type of permit for your tobacco retail location.

**General Tobacco Retailer**  
*Renewal required every two years*

Sells a wide variety of products so that the sale of tobacco products\* accounts for less than 35% of the total quarterly gross receipts. In addition, less than 20% of the public retail floor space and less than 20% of the total shelf space is allocated to the offer, display, or storage of tobacco products. There is no self-service display for tobacco products.

To be permitted as a General Tobacco Retailer, the business identified in this application may not at any time:

- 1) Have any self-service display of tobacco products; or
- 2) Have 20% or more of the total public retail floor space allocated to the offer, display, or storage of tobacco products; or
- 3) Have 20% or more of the total shelf space allocated to the offer, display, or storage of tobacco products; or
- 4) Have 35% or more of total quarterly gross receipts from the sale of tobacco products.

**Retail Tobacco Specialty Business**  
*Renewal required annually*

Specializes in the sale of tobacco products\*. 35% or more of the total quarterly gross receipts are from the sale of tobacco products; or 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products; or 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products; or the retail space features a self-service display for tobacco products.

To be permitted as a Retail Tobacco Specialty Business, the business identified in this application may not at any time be within:

- 1) 1,000 feet of a community location\*\*; or
- 2) 600 feet of another retail tobacco specialty business; or
- 3) 600 feet of property used or zoned for agricultural or residential use.

**Retail tobacco specialty businesses require a one-time plan review for an additional fee.**

\*Tobacco products include any cigar, cigarette, electronic cigarette, chewing tobacco, or any substitute for a tobacco product, including flavoring or additives to tobacco, and tobacco paraphernalia. Please refer to UCA 59-14-102, UCA 76-10-101, and UCA 76-10-104.1 for specific definitions of tobacco products.  
\*\*Community location includes any: public or private K-12 school, licensed child-care or preschool, trade or technical school, church, public library, public playground, public park, youth center or other place used primarily for youth-oriented activities, public recreational facility, public arcade, or homeless shelter.

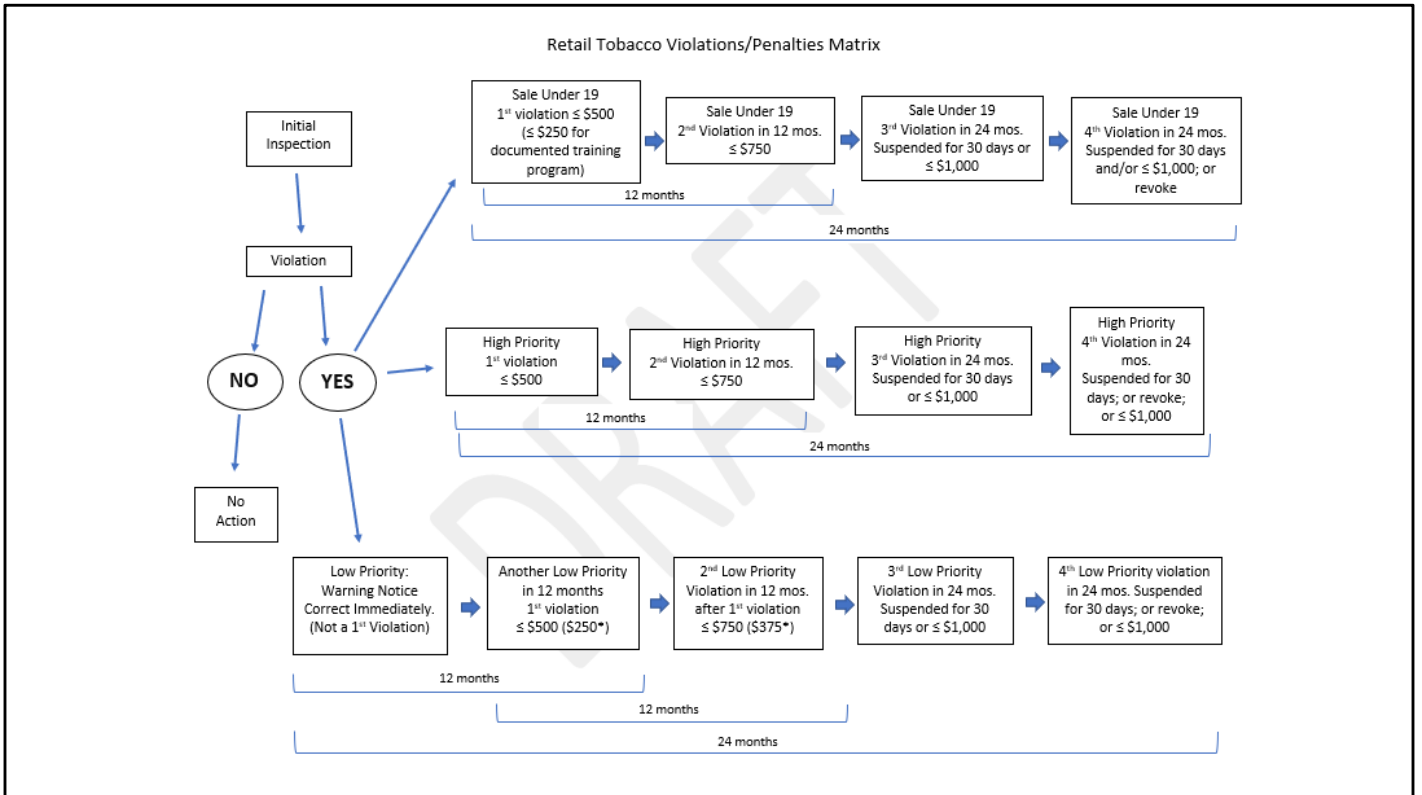


## Important Dates

- **July 1, 2018**
  - New retailers may apply for HD tobacco permit
- **November 1, 2018**
  - All retailers can apply HD tobacco permit
- **January 1, 2019**
  - All tobacco retailers must have HD tobacco permit

## Other Impacts of HB 324

- New definition of smoking
- Compliance checks
- Penalties (more teeth)
- Changes the proximity requirements exemption date from May 8, 2012 to December 31, 2015



1. Work with your health department
2. Review HB 324 with your teams
1. Local regulations may be needed
  - No state preemption



Questions?



## Contact Information

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Tobacco Prevention & Cessation

Salt Lake County Health Department

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Thank You!