



## COALITION for RESPONSIBLE RETAILING

We comply because we care

MAY 11 2014

Mr. William Rossi  
Chilmark Town Hall  
401 Middle Road  
Chilmark, MA 2525

Dear Mr. Rossi,

You may have seen a recent letter sent by the Massachusetts Health Officers Association (MHOA) calling the Massachusetts Coalition for Responsible Retailers (CRR) effort to draw attention to the 86% of minors who get tobacco from social sources, rather than retailers, a "red herring." The MHOA also makes a number of other assertions that we feel compelled to address directly.

First, we reject the notion that the 2014 Journal of School Health study, which shows that 86% of underage smokers get access to tobacco products from sources other than purchase at retail stores,<sup>1</sup> is a red herring. In addition, a 2012 Surgeon General study found that "Social influences are among the most robust and consistent predictors of adolescent smoking"<sup>2</sup>. Furthermore, if you read the MHOA's own letter closely, they actually suggest that the number of minors who get their tobacco from social sources in Massachusetts is closer to 90%.

If anyone is being misleading, it's the MHOA, and the Massachusetts Association of Health Boards (MAHB). If we want to seriously curtail youth access to and use of tobacco products, the failure to address the issue of social sources will prevent all of us from achieving our mutual goals. It is time for the MHOA and the MAHB to support a credible effort to solve the social sources problem rather than continue to use law-abiding retailers as a scapegoat for continued use of tobacco products by minors.

CRR has asked Boards of Health such as yours to partner with us to improve policies that will keep minors from possessing and using tobacco and nicotine products, regardless of the source. The MHOA suggests that approach would be "punishing youth." Do we "punish" minors when we act to keep them from possessing and using other adult products like alcohol? Of course not. Massachusetts General Law specifies that minors are not only subject to a fine if they are caught in possession of alcohol, but they may also be arrested. Accountability and consequences help change behavior.

CRR is merely suggesting we treat tobacco in the same manner as we treat alcohol. If adults provide alcohol to underage youth, then those adults are held accountable. Similarly, if adults obtain and provide tobacco products for underage youth, then those adults need to be held accountable so that they cease

<sup>1</sup> Everett Jones S, Caraballo RS. Usual source of cigarettes and alcohol among US high school students. *Journal of School Health*. 2014; 84: 493-501.

<sup>2</sup> U.S. Department of Health and Human Services. "Social, Environmental, Cognitive, and Genetic Influences on the Use of Tobacco Among Youth" Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. (2012) Pg. 458.

doing so. It is highly inappropriate for the MHOA to cast blame on those of us who sell tobacco products – products which, regardless of opinions, are legal for sale to adults in Massachusetts.

When the MHOA succumbs to the logic that leaving tobacco in the hands of 86% of minors is contrary to the goal of health officials, the organization resorts to an argument that blames retailers and manufacturers for selling a product like tobacco in the first place. CRR would respectfully suggest that health officials who fail to address the social sources issue bear as much responsibility for minors using products as much as anyone. The problem of social sources has been around as long as there have been teenagers who, for a myriad of reasons, have tried tobacco products. Decrying the danger of tobacco products to minors while simultaneously overlooking the actual use of those products by those same minors sends mixed messages to minors and adults alike.

Oddly, given its misplaced effort to discredit CRR, the MHOA letter also appears to unintentionally agree with CRR when the group suggests, “policies which address accessibility and appeal combat the real problem.” We agree. The key idea is to limit access to the overwhelming source used by minors to obtain tobacco in the first place.

As for making tobacco appealing, a report issued by the CDC on April 17, 2015 announces that there has been a statistically significant decrease in current cigarette use by high school students from 15.8% in 2011 to 9.2% in 2014<sup>3</sup>. That is, cigarettes are becoming less appealing as shown by the large reduction in high school students smoking cigarettes. Moreover, current laws go to great lengths to make it difficult to advertise and glamorize tobacco products. We would argue that the real appeal we should address is peer pressure and the contradictory idea that it is somehow acceptable for minors to possess and use tobacco products while it’s illegal for them to purchase it.

MHOA argues that all tobacco must first be sold through a retailer before it gets into the hands of minors making retailers the “original source” of tobacco products. Now that argument is a red herring. Sure, a legal adult could purchase a product and give it to a minor, but that is not what the CDC data suggests. The data suggests that minors take it upon themselves to obtain tobacco products through their social connections. We would argue if it is illegal for a minor to possess and use tobacco products, regardless of the source, then underage youth should not be allowed to use the products without consequences. That’s not to say retailers are off the hook, not at all. Retailers should continue to be held highly accountable to reduce inadvertent sales of tobacco products to minors in compliance with the current laws. We assure you, CRR’s retailers are committed to this principal no matter what the MHOA letter suggests to the contrary.

MHOA argues that retailers and manufacturers make tobacco “cheap, sweet and easy to get.” We agree on the easy to get part, though not through retailers. CRR members adhere to the We Card policies that minimize sales to minors, while minors can easily access tobacco through friends and others and use whatever they possess. In regards to cheap and sweet, retailers should not be equated with manufacturers. Manufacturers of tobacco products are highly regulated and if the MHOA has issues with the kinds of tobacco products meant for adults that are on the market, then the organization should engage in a dialogue with manufacturers rather than seek to further regulate and punish retailers.

By the way, the most recent CDC report on tobacco use by minors suggests that the pricing strategies the MHOA, the Massachusetts Municipal Association (MMA), and the MAHB promote are losing their impact.

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<sup>3</sup> Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, “Tobacco Use Among Middle School and High School Students-United States, 2011-2014”, April 17, 2015.

These groups often cite data that say this approach is effective and at one time it may have been. However, that effectiveness seems to be declining and it has never stopped 4 out of 5, or perhaps as many as 9 out of 10 minors, in the state from possessing and using tobacco products.

The MHOA letter goes on to assert that in Massachusetts an estimated 20% of minors who use tobacco equals 10,000 people getting tobacco from retailers. On this front, the MHOA again plays loose with the data. The Journal of School Health suggests the national number is 14 percent and the MHOA letter suggests the number of minors obtaining tobacco from retailers in the Commonwealth is 10%.

One guess is that the MHOA and others who support their position are more interested in making tobacco completely illegal in the long term than they are in protecting minors in the near term. Publically, they admit their approach is political, suggesting their way is the way policy gets made in the Commonwealth. CCR's approach is a bit more pragmatic and practical: Address the 86% effectively and you solve the majority of the problem, while responsible retailers will do all we can to reduce the minority of inadvertent sales to minors.

Ironically, MHOA's letter asserts, "young people need to be protected..." And again, the CRR agrees. CRR cites DePaul university studies that show consequences, no matter how small at the right age can teach minors to protect themselves. At the same time, the policies MHOA advocates for merely reduce the ability of adults to access legal tobacco products they wish to purchase. So, CRR's policy options should keep tobacco products out of the hands of the majority of minors while not harming local businesses or denying adults the right to purchase what they want to purchase.

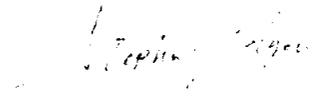
To be perfectly clear, CRR is not hiding our argument behind children. We are honestly requesting that municipal officials in Massachusetts do the following:

- Implement tangible policies that address the sources that provide the vast majority of minors with their access to tobacco products.
- Make it a small, civil infraction for minors to possess and use tobacco products, not to be punitive but to encourage behavior modification during those formative years when minors' actions can be positively influenced.
- Allow retailers to continue to sell products the states recognize as legal products for adult consumption.
- Respect the nature of competitive small businesses and the proximity of sources to tobacco and nicotine products in nearby states that are not subject to municipal laws of the cities and towns in the Commonwealth: If you deem action necessary, encourage state leaders to take that action directly.

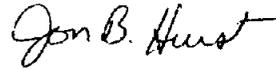
In conclusion, CRR would once again like to request the opportunity to meet with you to have an open, robust conversation about our proposal to address the 86% of youth who rely on social sources for tobacco products prior to you holding public hearings or deciding on any issue. If you are offering groups such as the MHOA, the MMA or the MAHB an opportunity to advocate for policy changes, then, as local business owners, we respectfully request the same courtesy.

Thank you for your patience with this long letter addressing our concerns. We hope to be meeting with you in person soon.

Sincerely,



Stephen Ryan  
Executive Director  
New England Convenience Store Association



Jon Hurst  
President  
Retailers Association of Massachusetts



Thomas Briant  
Executive Director  
National Association of Tobacco Outlets  
Assoc.



Matt Lelaucher  
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