

## **Prohibition of Redeeming Tobacco Product Coupons by Retailers**

### **Background**

- A prohibition on coupon redemption prevents a retailer from accepting tobacco product coupons from adult consumers.
- Although product coupons are widely accepted by retailers for literally thousands of different kinds of products, a tobacco product coupon redemption ban requires that a retail refuse to accept legitimate manufacturer tobacco product cost saving coupons from adult customers.
- Generally, a violation of a coupon redemption ban law results in a fine assessed to the retailer and, for subsequent violations, may also involve the suspension or revocation of the retailer's license to sell cigarettes and tobacco products.

### **Arguments in Favor of Permitting the Redemption of Tobacco Coupons**

- The First Amendment to the U.S. Constitution protects free speech, which according to U.S. Supreme Court rulings, includes commercial speech in the form of truthful product price information to consumers.
- Under the First Amendment, manufacturers and retailers have a protected interest and a right in communicating price information about tobacco products through the use of coupons, which lower the price of a tobacco product to adult consumers and prohibiting the acceptance of coupons is unconstitutional.
- A ban on redeeming coupons has nothing to do with reducing underage tobacco use because state and federal laws already prohibit the sale of tobacco products to underage individuals *at any price*. For this reason, a coupon ban only impacts retailers and those adults who are of legal age to purchase and use tobacco products.
- The Federal Cigarette Labeling and Advertising Act does not allow local and state governments to adopt any "requirement or prohibition based on smoking and health...with respect to the advertising or promotion of any cigarettes." 15. U.S.C. § 1334. Federal courts have held that "promotion" includes the redemption of discount coupons and, for this reason, cities and states are precluded from adopting a coupon redemption ban on cigarettes.
- A coupon redemption ban would result in lost sales by retailers since consumers would be prevented from using a price reduction incentive to purchase tobacco products.

