

# **Lessons from the Implementation of Tobacco 21:**

**Models of State and Local Innovation,  
Community Engagement, and  
Decriminalization of Youth Access to  
Tobacco**

Presented by Kara Kiessling  
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# Acknowledgements

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  - Holly Jarman, David Mendez, Rafael Meza, Alex Liber, Charley Willison, Tammy Chang, Leia Gu, Megan Roberts, Elizabeth Klein
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# What is IHPI?

- Collaborative institute of health services researchers
  - 600+ members from 14 colleges, schools, and institutes
- Supports the education, training and development of faculty, trainees and students
- Goal: Improve the quality, safety, equity, and affordability of health care



# Disclaimer

Any positions expressed during this presentation are the authors' and do not represent the positions of the University of Michigan or the Institute For Healthcare Policy and Innovation.



# TOBACCO

NO ID  
NO  
SALE!

## What are Tobacco 21 laws?

- Limits minimum age of sale of tobacco products to 21 or older
  - Could include minimum purchase age
- Can change who enforces and who is the enforcement target of such laws



# 500+ Cities & Counties in **30** States

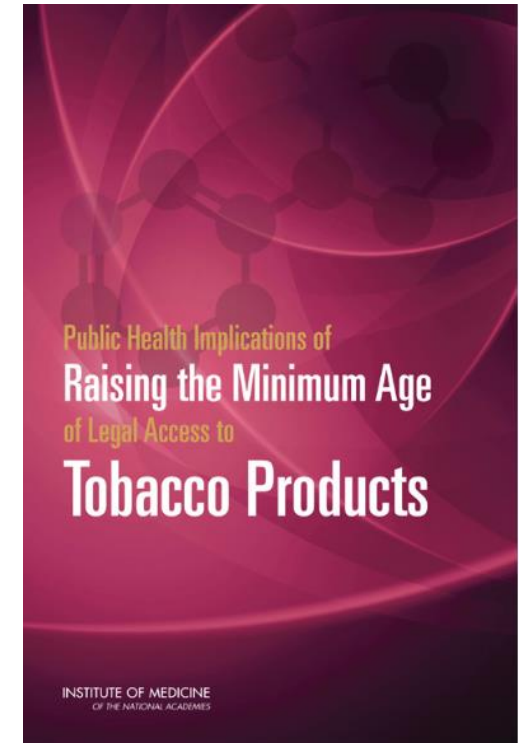
**Tobacco  
21 has  
spread  
rapidly**



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# Evidence on Tobacco 21

- IOM found T21 was highly likely to reduce smoking initiation
- Decreased initiation expected to be concentrated among high school students (age 14-18)



# T21 in Michigan

- T21 Legislation introduced in 2017 and 2019
- City of Ann Arbor and Genesee County passed T21 ordinances
  - Genesee put on hold
- Prop 1 set 21 as minimum age of sale for marijuana





# Related Policy Change

- Governor Whitmer's flavored vaping ban

Rule 1. (1) As used in these rules:

(a) "Characterizing flavor" means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product, vapor product, or alternative nicotine product, or any byproduct produced thereof. This includes, but is not limited to, tastes or aromas relating to food or drink of any sort; menthol; mint; wintergreen; fruit; chocolate; vanilla; honey; candy; cocoa; dessert; alcoholic beverages; herbs; or spices.

- More information: [www.Michigan.gov/ecigarettes](http://www.Michigan.gov/ecigarettes)



# Order of the Presentation



Policy Sprint

Case Study  
Findings

Opportunities  
in Michigan

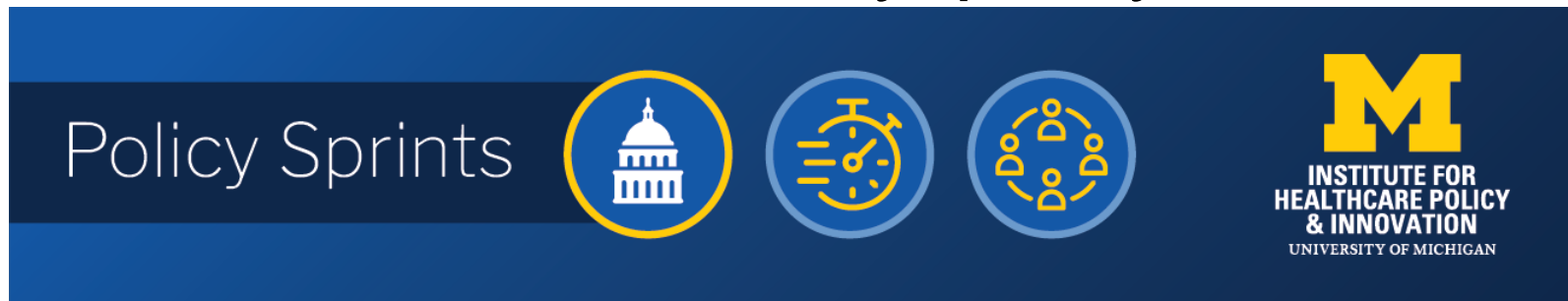


# T21 Policy Sprint Overview



# What is a Policy Sprint?

- A funded effort to create timely, policy relevant research



- UM IHPI provided...
  - Startup funding
  - Guidance, administrative support, and capacity
  - Media and policy resources

# The IHPI T21 Policy Sprint



What are the health and fiscal impact of T21 in Michigan?

- Simulation modelling, using Michigan data



What are the implementation challenges of T21?

- Qualitative case studies of 4 Ohio cities



What do young people think about T21 laws?

- Text message based MyVoice nationwide survey of young people ages 14-24



# IHPI T21 Policy Sprint Findings



T21 will save lives.  
Tax increases can  
cover revenue  
losses.



Tobacco 21 laws  
require an effective,  
comprehensive and  
civil enforcement  
and compliance  
regime



Social sources are  
important for  
youth who  
smoke.

Young People  
Largely Favor T21.







# **Tobacco 21: Implications for Michigan**



If Tobacco 21  
is enacted  
in Michigan,  
by 2025,

**it is predicted  
that 11,000 fewer  
young people will  
start smoking**

Source: Tobacco 21 in Michigan: New Evidence and Policy Considerations. 2019. [ihpi.umich.edu/tobacco21](http://ihpi.umich.edu/tobacco21).

# Key Finding of Policy Sprint

**Tobacco 21 has the potential to improve health outcomes in Michigan by decreasing initiation**

**...but only if the law is thoughtfully implemented and evaluated.**



**Tobacco 21 is about  
much more than  
~~crossing out 18~~ and  
replacing it with 21.**

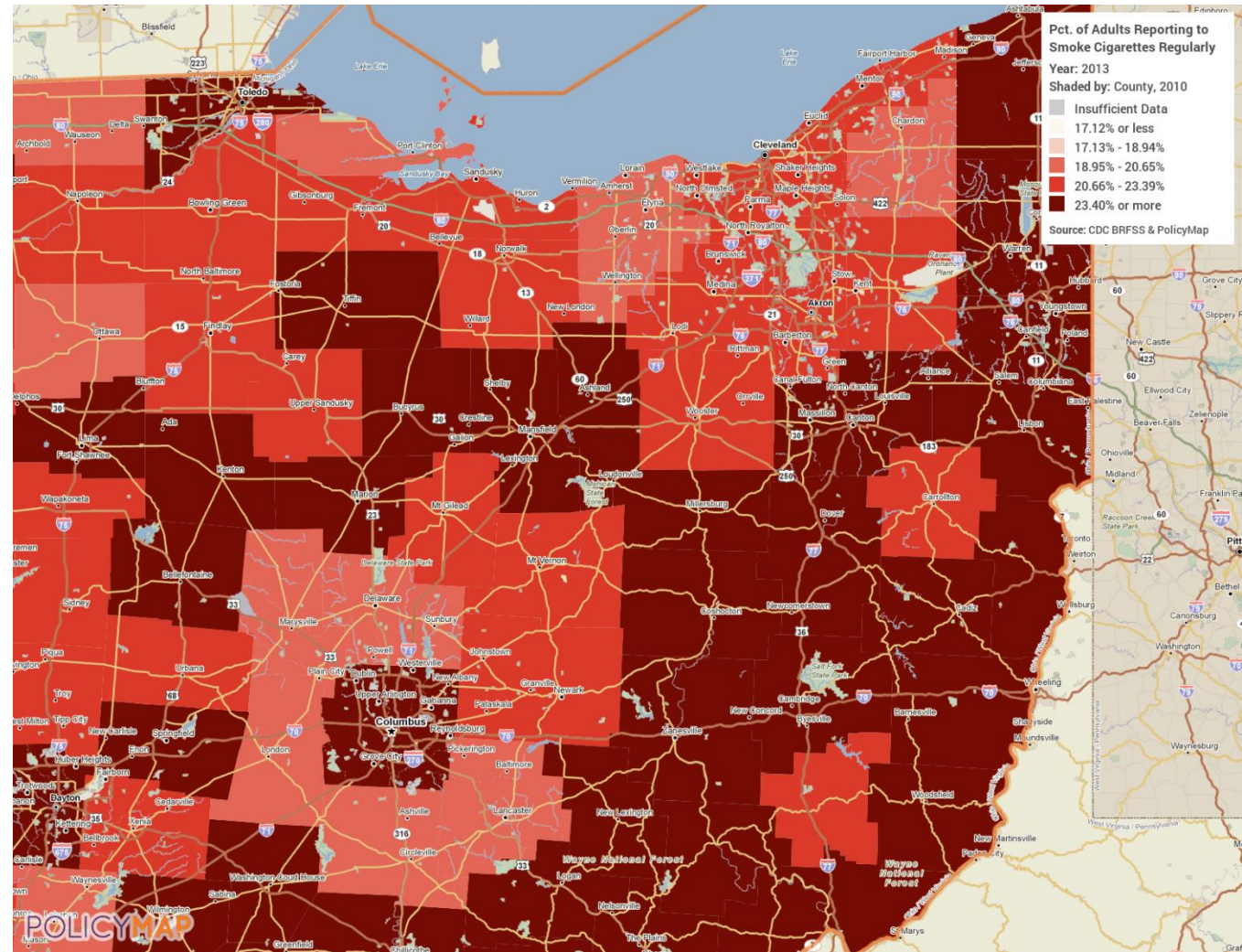


# Findings from Case Study in Ohio



# Lessons from 4 Ohio Case Studies of T21

- In-depth interviews with advocates and officials
- Review of laws, policy documents
- Contrasting experiences in Cleveland and Euclid with Columbus and Dublin



# Key Findings: implementation

Tobacco 21 laws require an **effective, comprehensive** and **civil** enforcement and compliance regime

**Effective:** high level of compliance needed to deliver health benefits

**Comprehensive:** cover all products, license all premises and events

**Civil:** limit enforcement by police to avoid exacerbating inequalities





## Effective

**‘[having a license] gives you the lever of potentially suspending or revoking a license for repeat violations because if you don't have that... people see the penalty as the cost of doing business and might decide that it's in their interest to just keep violating the law.’**

## Comprehensive

**‘we have a large number of bars that sell tobacco from behind the bar so again you're reaching out for those... There's a lot of cell phone stores that are out there in all these different neighborhoods. So again it's another different venue.’**

## Civil

**‘We think it's a bad idea for the police to be able to stop a 20 year old because they got a pack of cigarettes. We think there's enough unfortunate interaction with police. We don't want to encourage that any more. Smoking while black would be bad.’**



# Columbus

- Attempt to create a ‘gold standard’ enforcement regime, a ‘model policy’ based on food inspections
- Built database of retailers, implemented mandatory licensing
- Compliance checks conducted by sanitarians, limited role for police
- Education, outreach and training with retailers and clerks



# Cleveland

- Less focus on implementation
- Authority concerns
- Underfunded
- Little retailer outreach
- Poor compliance



# State and Local Innovation

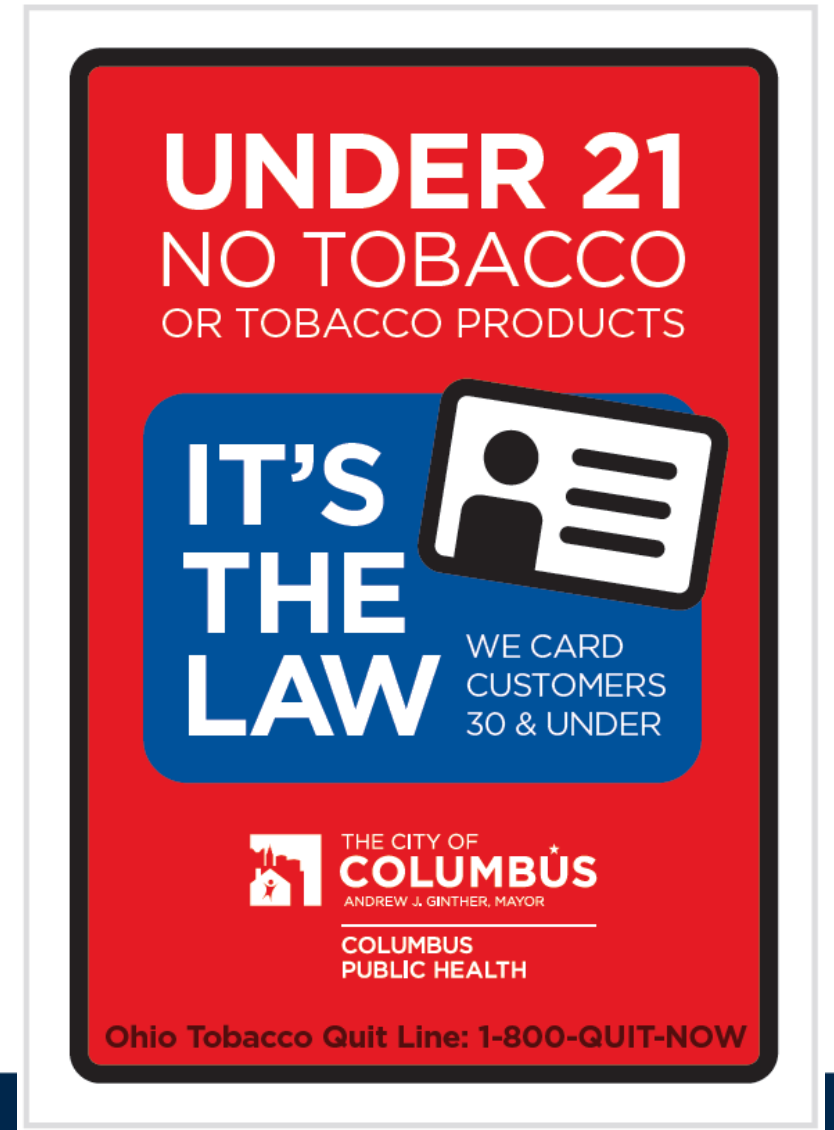
- **Licensing**
  - Can provide stable funding source
    - Strong regimes should set fee high enough to fund an effective program that includes administration costs and the costs of enforcement
  - Initial studies find strong licensing regimes are associated with lower usage rates of tobacco products among young people in California
- **Establishing Authority**
  - Needs to be clearly defined in law
  - Law enforcement agents, regulators, sanitarians and inspectors require clear procedures
  - Consider structure of public health agencies and connections to the Synar program and FDA inspection
- **Collaboration**
  - Between local public health, government, law enforcement, and the community is essential
  - In the most successful cities, public health departments are involved with the civil enforcement of the policy

# Community Engagement

- Our findings highlight opportunities surrounding to invest in the health of the community through local collaborations
- T21 policies should be considered as part of a comprehensive tobacco control program to protect and promote public health
  - Where possible, the process should be community-driven
- Health equity can only be achieved if the needs of the community are understood and being met
  - Clear communication is essential between public health departments and stakeholders as well as the public

# Community Engagement: Stakeholders

- Coordinated action and strong relationships among:
  - Enacting bodies
  - Implementing agencies
  - Enforcing agencies
  - Retailers
  - Community partners
  - Researchers
- Interviewees emphasized outreach, information and training for retailers as an important factor in determining success



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**UNDER 21**



**NO TOBACCO PRODUCTS**

PURSUANT TO CHAPTER 1179 OF THE HEALTH AND SANITATION CODE OF THE CODIFIED ORDINANCES OF THE CITY OF EUCLID, IT IS UNLAWFUL TO SELL, GIVE OR FURNISH TO A PERSON UNDER TWENTY-ONE (21) YEARS OF AGE A CIGARETTE OR OTHER TOBACCO PRODUCT.



CUYAHOGA COUNTY  
BOARD OF HEALTH  
YOUR TRUSTED SOURCE FOR PUBLIC HEALTH INFORMATION

**QUESTIONS? Call (216)201-2000**

# Community Engagement: Public

- Ongoing public education and messaging around the need for T21 and consequences of youth access to tobacco products
- Key activity for public health officials going forward will be to investigate complaints from members of the public against retailers suspected to be selling to underage youth



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# Decriminalization of Youth Access to Tobacco



- For health advocates, a key feature of implementation in Ohio is the shift from criminal penalties on minors to civil punishment for retailers
- T21 policy was seen as an investment in the future of local youth by reducing access to tobacco and removing criminal charges associated with tobacco possession



# Why Focus on Decriminalization?

- **Purchase, use, and/or possession (PUP) laws are linked to health equity concerns**
  - Multiple violations often invoke escalating penalties, including fines, mandatory education, restrictions on driving, and community service
  - Enforcement varies across communities: most happens at the local level and is often unfunded
    - Collateral consequences can include bodily harm, mental distress, and lost economic and educational opportunities
    - People of color are disproportionately affected
  - Evidence of the impact of PUP laws on youth tobacco use is mixed
    - Some studies have found evidence that it creates a deterrent effect among youth
    - Other studies have questioned the effectiveness, especially within communities of color from a health equity focus
- **Potential benefits of passing a Tobacco 21 law must be weighed against the potential damage to young people and communities arising from arbitrary or unjust criminal enforcement of the law**



“We don't want these young adults being charged with something that's legal in one town and then them driving a block over and it not be legal anymore. We wanted to be focused on the enforcement piece on the retailer because they are the one selling it just like if you're selling to somebody who is under 18 it is focused on the retailer as well.”



# Lessons From Ohio



Consider implementation from an early stage of policymaking



Comprehensive decriminalized enforcement and compliance is essential



Evaluate considering health equity impact



An opportunity to build community partnerships

**What does this  
mean for Michigan?**





# Enforcement & Compliance: Michigan

- Federal requirement to conduct compliance checks
  - Penalties for minors and clerks defined at the state level
- Michigan Youth Tobacco Act (YTA)
  - Misdemeanors, fines, possible community service, multiple violations lead to significant penalties
  - Not just for purchase but also for using tobacco products in public places
  - Misdemeanors cause significant collateral consequences
- Licensing at state level



# Opportunities for Michigan

## 1) Advocate for change at state level

### 1. Decriminalizing enforcement and compliance is essential

- Remove criminal penalties for minors and clerks in the Youth Tobacco Act

### 2. Improving civil enforcement is compatible with Federal requirements

- Consider ability to use Michigan's Master Retailer List for a more comprehensive licensing regime
- Synar compliance checks are not directly linked to enforcement
- FDA enforcement activities focus on premises, not clerks

## 2) Work with your community to identify needs and a comprehensive approach to youth tobacco use



# Resources and Dissemination



- Project website:
  - [www.ihpi.umich.edu/t21](http://www.ihpi.umich.edu/t21)
- Introductory Videos from IHPI and School of Public Health
- Interviews on local radio
  - WDET (Detroit Today)
  - WCMU (National Public Radio member station)
  - Michigan Public Radio (Stateside)
- Scholarly articles (forthcoming)



# Thank you!



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# Enforcement & Compliance: Federal

- Federal requirements for MI to conduct compliance checks:
  - As contractor for the FDA under the Tobacco Control Act 2009
  - To SAMHSA in exchange for block grant funding (Synar program)
  - Oversight by State dept working with PIHPs using a Master Retailer List (coverage checks to list performed every 3 years)
- Differences:
  - Checks are based on 18, but Synar can be informed if age changes to 21
  - FDA checks cover e-cigarettes and some novel products while Synar does not
  - FDA-issued penalties are focused on premises not clerks
  - Synar requires statistical sampling of retailers, FDA does not



# Licensing: Michigan

- Tobacco retailers licensed at state level through a tobacco tax license overseen by the Treasury
  - Must complete criminal background check conducted by police
  - Must be located in a non-residential area
  - Does not cover all tobacco products
- Ingham, Marquette & Genesee Counties have a local licensing requirement that is connected to underage sales, but other states are pre-empted from doing so



# Health & Revenue Implications of T21 in Michigan

Scenarios varying the effect of T21 on cigarette smoking initiation rates

Initiation ↓  
10%

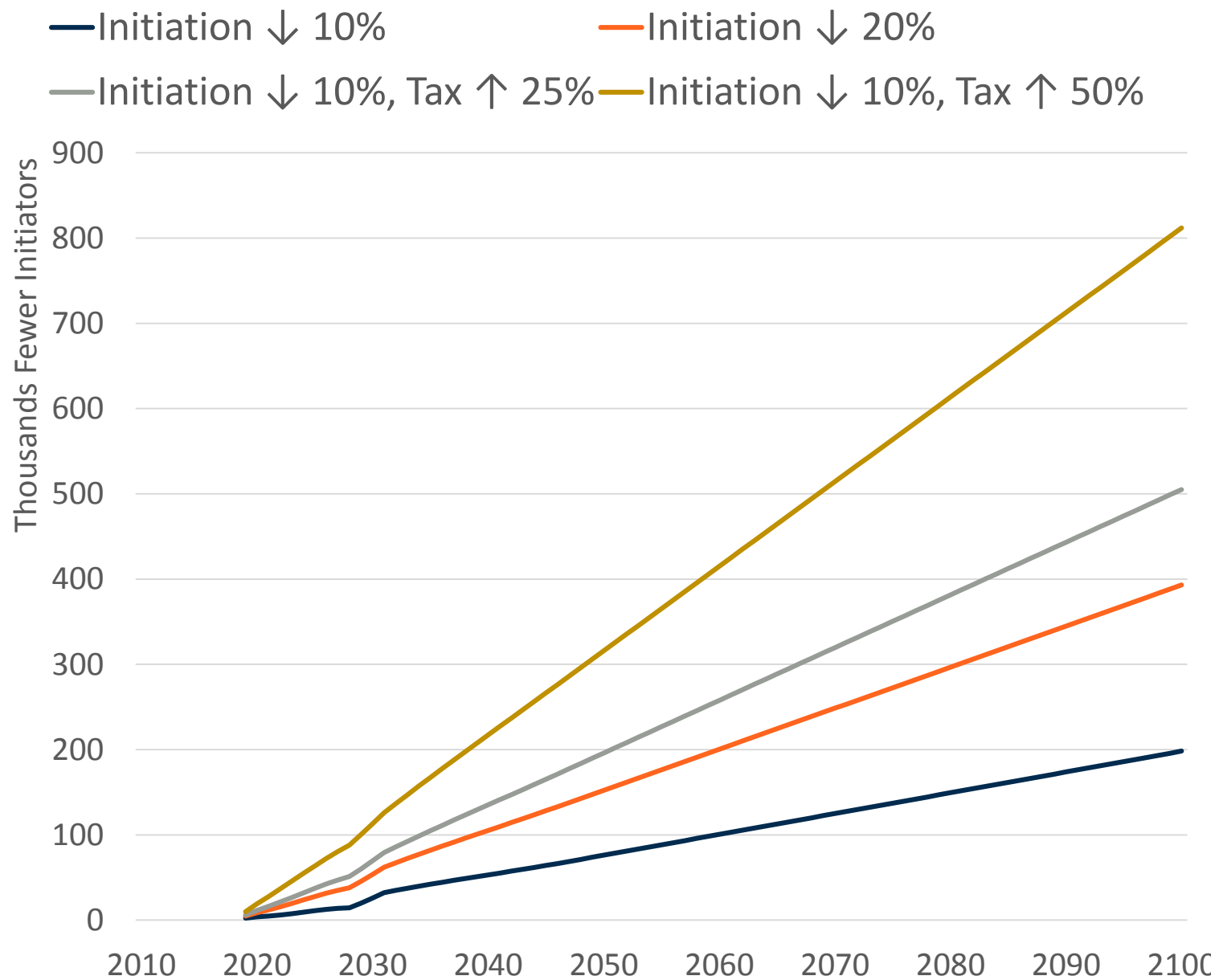
Initiation ↓  
20%

Initiation ↓  
10%, cig  
taxes ↑ 25%

Initiation ↓  
10%, cig  
taxes ↑ 50%

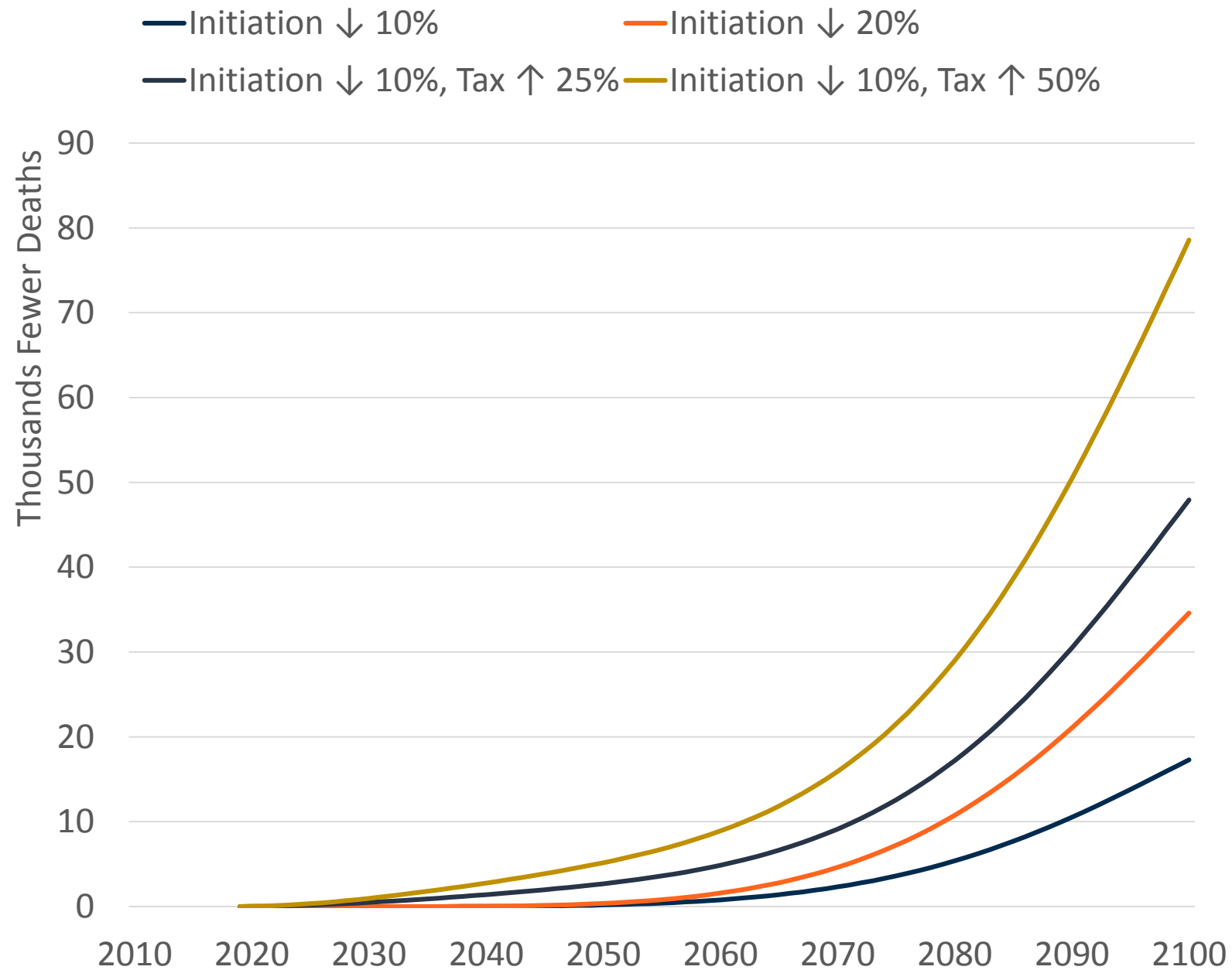


## Cumulative Prevented Initiation

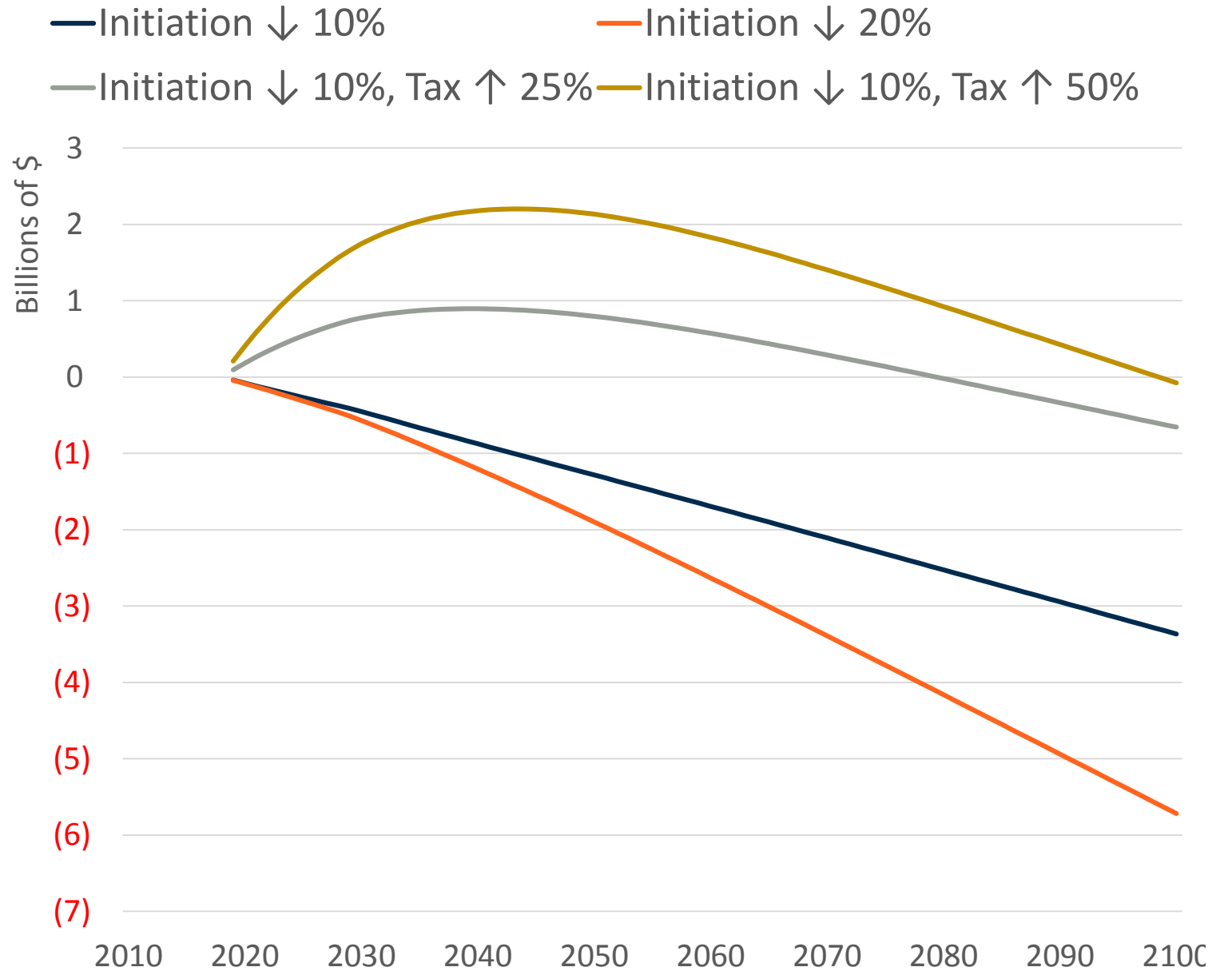




**Cumulative  
Smoking-  
related  
Deaths  
Averted**



## Cumulative Tax Revenue Gain / Loss



T21 will save lives.  
Tax increases can cover  
revenue losses.



# Views of young people towards tobacco use and T21

- MyVoice, national cohort survey of ~800 ages 14-24 conducted in September 2018 via text message
  - Over-sampled Michiganders and children of highly-educated parents
- Responses evaluated to understand attitudes towards tobacco use and opinions about T21

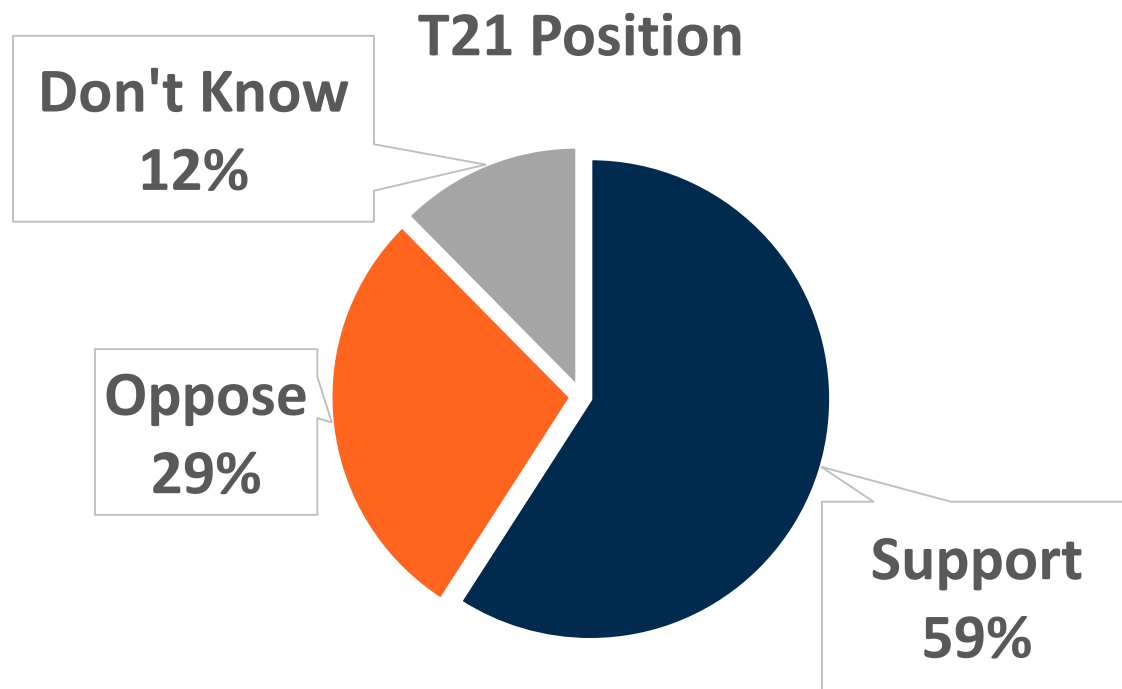


# Where do people your age get tobacco products?

	Age at enrollment < 18	Age at enrollment ≥ 18	Total
Brick and Mortar Retailers	23.5%	75.9%	47.5%
Social	52.9%	15.6%	35.8%
Illicit	19.5%	2.9%	11.9%
Online	9.6%	6.1%	8.0%
Total	446	377	823



# Young People Largely Favor T21



- Similar majority of young people in MI support T21
- More females support than males
- White Non-Hispanic support lower than average



Social sources are important for  
youth who smoke.

Don't leave young people out of  
the T21 policy discussion.

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