

AMERICAN LUNG ASSOCIATION®

2007 State Legislated Actions on Tobacco Issues Mid-Term Report

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ITPP
TOBACCO POLICY PROJECT

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2007 State Legislative Sessions

Overview of the issues addressed in this report.

Cigarette Tax Increases

Provides information on state cigarette tax increases in 2007.

Fire-Safe Cigarettes/ Flavored Tobacco Products

Looks at legislation to protect against cigarette-caused fires and ban flavored cigarettes/ tobacco products.

Smokefree Air Laws

Explores the legislation on smoking restrictions passed in 2007 thus far.

Tobacco Prevention and Cessation Programs

Discusses the trend in funding for tobacco control programs in FY2008.

Looking Ahead

Summarizes information in the report and examines several important new studies.

2007 State Legislative Sessions: Smokefree Air Laws Spread Across the Country; Safety Standards for Cigarettes Catch Fire

As the 2007 state legislative sessions come to a close in many states, smokefree air laws continue to pass in states throughout the country. Seven states have enacted legislation significantly strengthening their smokefree air laws so far in 2007, including the first traditional tobacco growing state, Tennessee. Three additional states are still considering bills to strengthen their smokefree laws.

Seven states have enacted legislation significantly strengthening their smokefree air laws in 2007, and 22 states, the District of Columbia and Puerto Rico have now passed comprehensive smokefree air laws.

A number of states have increased funding for their tobacco control programs in the 2008 fiscal year, reversing the drastic cuts made to these programs earlier this decade. Many states will see their annual payments from the Master Settlement Agreement (MSA) increase starting in April 2008, offering states a second chance to fund these vital public health programs. Activity on cigarette tax increases picked up at the end of June, and six states have increased their cigarette tax in 2007 thus far. Two states' cigarette taxes will also increase due to scheduled increases passed in previous years.

Laws setting fire safety standards for cigarettes have also been popular this year, with fifteen states enacting these laws.

It is shaping up to be another great year for state legislation that when implemented will help reduce the estimated 438,000 deaths from tobacco use each year.

Smokefree Workplace Laws Continue to Spread throughout the Country; Nearly Half of States Have Passed Comprehensive Smokefree Laws

The momentum for providing workers and patrons with protection from secondhand smoke has continued in 2007. In 2007 so far, seven states—Illinois, Maryland, Minnesota, New Hampshire, New Mexico, Oregon and Tennessee—have approved legislation to significantly strengthen existing smokefree air laws. The laws in six states—Illinois, Maryland, Minnesota, New Hampshire, New Mexico and Oregon—will prohibit smoking in almost all public places and workplaces, including restaurants and bars. Twenty-two states, the District of Columbia and Puerto Rico have now approved comprehensive smokefree air legislation.¹

2007 also saw the first traditional tobacco growing state, Tennessee; pass strong restrictions on smoking in public places and workplaces. The law contains several exemptions that preclude it from being included in the list of comprehensive states such as establishments that restrict access to persons under 21 at all times and workplaces with three or fewer employees, but is a big step forward in a state that has been reluctant to deal with tobacco's deadly toll.

There has also been encouraging progress on smokefree legislation in other traditional tobacco-producing states. Virginia made a valiant effort to pass a strong smokefree air law, ultimately having the governor significantly strengthen a weaker bill on the same subject that had been approved by the legislature to prohibit smoking in restaurants and bars.² However, the amended bill was defeated by the House of Delegates. Currently, Kentucky has 11 cities and counties that have passed strong local smokefree laws. North Carolina also passed legislation prohibiting smoking in state government buildings that will take effect in January 2008.

Results from the November 2006 elections also demonstrate that smokefree air laws continue to be popular with the general public. Voters in Arizona, Nevada and Ohio approved ballot initiatives significantly strengthening their laws governing smoking (54% to 46% in Arizona and Nevada; 58% to 42% in Ohio) while also rejecting weaker alternative ballot initiatives sponsored by the tobacco industry that would have continued to allow smoking in many public places and workplaces (57% to 43% in Arizona, 52% to 48% in Nevada and 64% to 36% in Ohio).

On May 29, the World Health Organization issued new policy recommendations on exposure to secondhand smoke. The recommendations urge all countries to implement policies requiring all indoor workplaces and public places, including restaurants and bars, to be completely smokefree.³ The new policy recommendations are based on several major reports on secondhand smoke, including the 2006 U.S. Surgeon General's report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*. This landmark report concluded that there is no safe level of exposure to secondhand smoke, and the only way to fully protect people from secondhand smoke indoors is to eliminate smoking completely.⁴ It has helped accelerate the momentum for states and local communities to pass comprehensive smokefree laws.

Smokefree States*

Arizona (2007)
California (1998)
Colorado (2006)
Connecticut (2004)
Delaware (2002)
District of Columbia (2007)
Hawaii (2006)
Illinois (2008)**
Maine (2003)
Maryland (2008)**
Massachusetts (2004)
Minnesota (2007)**
Montana (2009)**
New Hampshire (2007)**
New Jersey (2006)
New Mexico (2007)
New York (2003)
Ohio (2006)
Oregon (2009)**
Puerto Rico (2007)
Rhode Island (2005)
Utah (2009)**
Vermont (2005)
Washington (2005)

* Smokefree States prohibit smoking in almost all workplaces, including restaurants and bars.

** New Hampshire's law goes into effect in September 2007. Minnesota's law goes into effect 10/1/07. Illinois' and Maryland's laws go into effect in 2008. Oregon's law goes into effect in 2009. Montana and Utah's laws allow smoking in bars until 2009.

Average State Cigarette Tax Continues Its Climb

Six states—Connecticut, Delaware, Indiana, Iowa, New Hampshire and Tennessee—have passed cigarette tax increases this year. Cigarette taxes also increased in Alaska and will increase in Hawaii due to scheduled increases passed in previous years. Oregon voters will also decide whether to approve a constitutional amendment in November 2007 to increase the state cigarette tax by \$0.845 to \$2.025 per pack.

New Jersey continues to be the state with the highest cigarette tax at \$2.575 per pack, while South Carolina continues to have the lowest cigarette tax in the country at \$0.07 per pack.

Cigarette Tax Increases in 2007

(as of 7/15/07)

1. Iowa +\$1.00
2. Delaware +\$0.60
3. Connecticut +\$0.49
4. Indiana +\$0.44
5. Tennessee +\$0.42
6. New Hampshire +\$0.28
7. Alaska +\$0.20
7. Hawaii +\$0.20

However, the South Carolina House of Representatives did approve a cigarette tax increase this year, and the legislation will carry over to the 2008 legislative session for Senate action.⁵

The current state cigarette tax average is \$1.057 per pack. This will increase to \$1.069 per pack when Delaware's \$0.60 increase takes effect on July 31, 2007, and \$1.073 per pack when Hawaii's \$0.20 increase takes effect September 30, 2007. Twenty-three states, the District of Columbia and Puerto Rico will have cigarette tax rates of \$1.00 or higher, and eight states—Alaska, Arizona, Connecticut, Maine, Michigan, New Jersey, Rhode Island and Washington—will be at or over \$2.00 per pack.⁶

A major increase in the taxes on cigarettes will rapidly and significantly reduce the number of children who start smoking and encourage many adults to quit. Studies have shown that a 10 percent increase in the price of cigarettes reduces youth consumption by seven percent and adult consumption by four percent.⁷ An independent panel of scientists convened by the National Institutes of Health examined the evidence behind a number of interventions to reduce tobacco use in 2006, and concluded that increases in the price of tobacco products prevent tobacco use among adolescents and young adults, increases tobacco use cessation and reduces consumption of tobacco products by adults.⁸

Funding for Tobacco Prevention and Cessation Programs on the Rise; MSA Dollars to Increase Next Year

After several years of declines at the beginning of this decade, funding for tobacco prevention and cessation programs is trending upward again. A number of states saw increases in the previous fiscal year (FY2007) and for FY2008 (July 1, 2007 to June 30,

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2008 for most states) the good news appears likely to continue. In Florida, funding is set to increase from \$5.6 million in FY2007 to approximately \$58 million this year as a result of a constitutional amendment passed by voters in November 2006 that dedicated 15 percent of Florida's future tobacco settlement money to tobacco prevention and cessation programs. Tennessee, which has previously dedicated almost no state money to tobacco control programs, has allocated \$10 million for a tobacco control program in FY2008. Funding also increased in a number of other states, including Alaska, Indiana, Iowa, Mississippi and New Mexico as well as the District of Columbia; however, the amount in Mississippi falls far short of the \$20 million the state spent in previous years.

In 2008, 46 states and the District of Columbia will also earn a second chance to dedicate money from the MSA to its intended purpose: tobacco prevention and cessation programs. Due to a provision in the MSA, states will receive an estimated \$1 billion in additional funds in 2008. These additional "strategic contribution payments" will last until 2017; after that, the regular annual MSA payments are scheduled to increase, meaning MSA payments will not drop off again after 2017.⁹

Washington State has funded its tobacco prevention and cessation program at close to the minimum level recommended by the Centers for Disease Control and Prevention (CDC) for a number of years, and has seen dramatic declines in adult and youth smoking rates. Between 1990 and 2001, adult smoking prevalence in Washington was nearly unchanged. However, from 2001, one year after Washington instituted its comprehensive tobacco control program; to 2005 the prevalence of smoking among adults in Washington declined significantly from 22.5 percent to 17.6 percent, and by a significantly larger amount than it did nationally during the same period (22.7% to 20.9%). In addition, the prevalence of youth smoking also declined faster in Washington than it did nationally; for example, from 2000 to 2004, smoking prevalence among 8th graders declined from 12.5 percent in 2000 to 7.8 percent in 2004 in Washington but only from 12.2 percent to 9.3 percent nationally.¹⁰

Studies indicate that thousands of illnesses and deaths from tobacco use could be prevented and billions of dollars in medical expenses could be saved if all states made long-term investments in a sustained campaign to prevent tobacco-related disease and death. A study published in the *American Journal of Public Health* concluded that if states spend just the minimum amount recommended by the CDC, youth smoking would be 3 percent to 14 percent lower nationwide.¹¹

Washington state's successful tobacco control program has helped reduce adult smoking rates from 22.5% to 17.6% since 2001.

Many More States Pass Fire-Safe Cigarette Laws; R.J. Reynolds Introduces New Line of Flavored Cigarettes

An increasing number of states have also started to pass laws providing their residents with protection from cigarette-caused fires. Fifteen states—Alaska, Connecticut, Delaware, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Montana, New Jersey, Oregon, Rhode Island, Texas and Utah—have passed these important consumer-protection laws during 2007, and join six states—California, Illinois, Massachusetts, New Hampshire, New York and Vermont who passed similar legislation in previous years. The laws in all these states are based off the standard that has been implemented in New York.

Cigarette-ignited fires are the leading cause of home fire deaths in the United States, killing between 700 and 900 people each year according to the National Fire Protection Association. Also, a 2005 study by the Harvard School of Public Health found that self-extinguishing cigarettes sold in New York, while not perfect, were much more likely to go

out than keep burning and had no effect on cigarette sales in New York.¹²

Despite the fact that R.J. Reynolds signed a settlement agreement with state Attorneys General in October 2006 prohibiting the marketing of candy, fruit and alcohol-flavored cigarettes, they have already moved to violate the spirit of the agreement by introducing a new line of flavored cigarettes called Camel Signatures barely seven months later. These new cigarettes come with names like



Store advertising for Camel Signature cigarettes, May 2007

Source: Campaign for Tobacco-Free Kids, available at: <http://tobaccofreekids.org/reports/camel/>

Robust and Infused and the Infused flavor is described on R.J. Reynolds's website as offering "notes of citrus" and a "sweet apple-like flavor." These new flavored cigarettes are being advertised in retail stores that are fully accessible to youth. Survey data from 2005 showed that 20 percent of smokers 17 to 19 years old smoked flavored cigarettes during a 30-day period in 2004, while only 6 percent of people over age 25 did.¹³

These new products provide compelling evidence for why states need to pass laws prohibiting the sale of flavored cigarettes and tobacco products. Maine became the first state

to do just that, approving legislation in July that will prohibit certain flavored cigarettes and cigars. However, the legislation does not take effect until 2009. Eight other states—Hawaii, Illinois, Kansas, Massachusetts, Montana, New Jersey, New York and West Virginia—had bills to ban flavored cigarettes/tobacco products introduced or carried over from 2006 during the 2007 legislative session. Legislation pending in the U.S. Congress to give the U.S. Food and Drug Administration (FDA) the authority to regulate tobacco products would also prohibit the sale of flavored cigarettes nationwide.

Looking Ahead

2007 has seen a continuation of the great progress on providing workers and patrons with protection from secondhand smoke. Twenty-two states, the District of Columbia and Puerto Rico now have laws prohibiting smoking in most public places and workplaces, including restaurants and bars, while four more states have laws that only exempt stand-alone bars. Attitudes about secondhand smoke indoors are shifting, and the general public is becoming increasingly unwilling to be exposed to a hazardous substance where they work and play.

The state cigarette tax average continues its steady climb and is currently at a \$1.057 per pack. Since January 1, 2002, 43 states, the District of Columbia and Puerto Rico have increased their cigarette taxes, a number of them more than once. The state cigarette tax average was only 44.6 cents per pack then, which demonstrates the incredible progress that has been made on this issue in the past five years.

Despite this progress, tobacco products still remain the number one preventable cause of death in the United States killing an estimated 438,000 people per year. Also, smoking rates among adults and youth seem to have stalled recently, with no significant change in either over the past several years. Tobacco control and public health experts agree: tobacco use drops when states pass comprehensive smokefree workplace laws, increase tobacco taxes and fund tobacco prevention and cessation programs at the minimum levels recommended by the CDC.

Recent research out of New York City provides a real-world example of the progress that can be made in reducing the toll of tobacco when strong tobacco control policies are implemented. From 2002 to 2006, New York City implemented comprehensive tobacco control measures including a large increase in its cigarette tax, a smokefree workplace law, and hard-hitting tobacco educational campaigns. After a decade with no progress, New York City's smoking rate declined from 21.6 percent in 2002 to 17.5 percent in 2006. After the decline stalled in 2005, in 2006 the city ran a year-long hard-hitting media campaign to motivate more smokers to quit. From 2005 to 2006, smoking decreased sharply

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among males (from 22.5% to 19.9%) and among Hispanics (from 20.2% to 17.1%). By 2006 there were 240,000 fewer smokers in New York City than there were in 2002, which will prevent an estimated 80,000 deaths from smoking-related causes.¹⁴

Finally, a recent report released by the prestigious Institute of Medicine (IOM) entitled “Ending the Tobacco Problem: A Blueprint for the Nation” provides validation for the effectiveness of existing tobacco control policies, and suggests potential new ways to reduce tobacco use. The report has a number of recommendations for states, including all states should pass comprehensive smokefree workplace laws, increase cigarette taxes to at least \$2.00 per pack, index their tobacco taxes to inflation and fund tobacco control programs at the level recommended by the CDC. The chairman of the committee that wrote this landmark report said in his opening statement when the report was released that just implementing traditional tobacco control measures like those above, the prevalence of smoking could be brought down to 10 percent, and about 11 million fewer people would be smoking.¹⁵

By implementing several comprehensive tobacco control measures, New York City has reduced its adult smoking rate from 21.6% to 17.5% since 2002.

We hope you find this report useful. For more information on state tobacco control laws and policies, check out the American Lung Association’s State Legislated Actions on Tobacco Issues (SLATI), available online at: <http://slati.lungusa.org>.

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- 1 Laws in 15 states – Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Maine, Massachusetts, New Jersey, New Mexico, New York, Ohio, Rhode Island, Vermont, Washington as well as the District of Columbia and Puerto Rico – have taken full effect currently. New Hampshire’s law will take effect in September 2007. Minnesota’s law will take effect October 1, 2007. Illinois’ law will take effect January 1, 2008. Maryland’s law will take effect February 1, 2008. Oregon’s law will take effect January 1, 2009. Utah’s law will take full effect January 1, 2009. Montana’s law will take full effect October 1, 2009.
- 2 A governor in Virginia has the power to amend bills that are sent to them by the legislature.
- 3 The full World Health Organization policy recommendations on secondhand smoke are available at: http://www.who.int/tobacco/resources/publications/wntd/2007/pol_recommendations/en/index.html .
- 4 U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: a Report of the Surgeon General*. Atlanta, Ga.: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
- 5 For a listing of current state cigarette tax rates, go to: <http://slati.lungusa.org/appendixc.asp> .
- 6 States with cigarette excise taxes at or over \$1.00: Alaska, Arizona, Connecticut, Delaware, District of Columbia, Hawaii, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Texas, Vermont, and Washington.
- 7 Tauras JA, O’Malley PM, Johnston LD, “Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis,” Bridging the Gap Research, ImpacTeen, April 2001. Available at: http://www.impacteen.org/generalarea_PDFs/AccessLaws.pdf , accessed 6/21/07.
- 8 National Institutes of Health State-of-the-Science conference statement: tobacco use: prevention, cessation, and control. *Ann Intern Med*. 2006 Dec 5; 145(11):839-44. Statement available online at: <http://www.annals.org/cgi/content/full/0000605-200612050-00141v1> .
- 9 For a short description of the “strategic contribution payments” and estimates of how much each state will receive, see: Campaign for Tobacco-Free Kids Fact sheet. “Coming Increases to State MSA Payments in April 2008 – New Funding for Tobacco Prevention.” Available at: <http://tobaccofreekids.org/research/factsheets/pdf/0286.pdf> , accessed 6/6/2007.
- 10 Dilley JA, Rohde K, Dent C, Boysun MJ, Stark MJ, Reid T. Effective tobacco control in Washington State: a smart investment for healthy futures. *Prev Chronic Dis* [serial online] 2007 Jul [date cited]. Available from: http://www.cdc.gov/pcd/issues/2007/jul/06_0109.htm, accessed 6/21/07.
- 11 Tauras JA, Chaloupka FJ, Farrelly MC, Giovino GA, Wakefield M, Johnston LD, O’Malley PM, Kloska DD, Pechacek TF. State Tobacco Control Spending and Youth Smoking. *Am J Public Health*. 2005 Feb.; 95(2): 338-44.
- 12 Alpert RH, Carpenter C, Connolly GN, Rees V, Ferris GF. “Fire Safer” Cigarettes: The Effect of the New York State Cigarette Fire Safety Standard on Ignition Propensity, Smoke Toxicity and the Consumer Market. Harvard School of Public Health, January 2005. Available at: <http://www.hsph.harvard.edu/press/releases/cigarettes/cigarettes.pdf> , accessed 9/1/2006.
- 13 Sources: National Youth Smoking Cessation 12-Month Follow-up Survey of 17-26 year old smokers: n = 1,603; Assessing Hard Core Smoking Survey of adult smokers 25 years and older: n = 867. Obtained from: Gary A. Giovino, Jun Yang, Cindy Tworek, K. Michael Cummings, Richard J. O’Connor, Kathleen Donohue, Dianne Barker, Larry Hawk. “Use of Flavored Cigarettes among Older Adolescent and Adult Smokers: United States 2004.” Powerpoint Presentation to the 2005 National Conference on Tobacco or Health, Chicago, IL, May 6, 2005.
- 14 Centers for Disease Control and Prevention. Decline in Smoking Prevalence—New York City, 2002-2006. *MMWR Morb Mortal Wkly Rep*. 2007 Jun. 22; 56(24): 604-08.
- 15 IOM (Institute of Medicine). 2007. *Ending the tobacco problem: A blueprint for the nation*. Washington, DC: The National Academies Press.

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Beginning our second century, the American Lung Association works to prevent lung disease and promote lung health. Asthma is the leading serious chronic childhood illness. Lung diseases and breathing problems are the primary causes of infant deaths in the United States today. Smoking remains the nation's number one preventable cause of chronic illness. Lung disease death rates continue to increase while other major causes of death have declined.

The American Lung Association has long funded vital research to discover the causes and seek improved treatments for those suffering with lung disease. We are the foremost defender of the Clean Air Act and laws that protect citizens from secondhand smoke. The Lung Association teaches children the dangers of tobacco use and helps teenage and adult smokers overcome addiction. We help children and adults living with lung disease to improve their quality of life. With your generous support, the American Lung Association is "Improving life, one breath at a time."

*For more information about the American Lung Association
or to support the work we do, call
1-800-LUNG-USA (1-800-586-4872)
or log on to www.lungusa.org.*

