

December/January 2010

American Lung Association State of Tobacco Control 2009 Report Released January 12th

On Tuesday, January 12 the American Lung Association released its *State of Tobacco Control 2009* report. The report grades state tobacco control policy in four key areas: tobacco control program funding, smokefree air, cigarette tax and cessation coverage. The report also grades the federal government in four areas: FDA regulation of tobacco products, cessation coverage/services, cigarette tax and the Framework Convention on Tobacco Control. The report clearly demonstrates that the federal government and most states are not doing enough to reduce the number one preventable cause of death in this country, tobacco use. Did your state make the grade? Find out at: www.stateoftobaccocontrol.org.

Judge Upholds Key Provisions of FDA Legislation to Regulate Tobacco Products

On January 5, U.S. District Judge Joseph McKinley upheld most of the key provisions in the new law giving the U.S. Food and Drug Administration the authority to regulate tobacco products. These provisions included: new requirements for graphic warnings on cigarette packages, bans on free samples of cigarettes and free gifts with the purchase of cigarettes. The ability of federal, state and local governments to impose additional restrictions on tobacco products was also upheld. However, the judge did strike down provisions that banned the use of color and imagery in cigarette advertising where kids have access to and that prohibited claims implying that tobacco products are safer because of FDA approval. The decision will likely be appealed. The American Lung Association along with 10 other public health and consumer advocacy organizations filed friend of the court (amicus) briefs in the case. For more information from the American Lung Association on this important court decision, click [here](#).

Michigan Approves Legislation Making Almost All Workplaces Smokefree

On December 18, Gov. Jennifer Granholm signed legislation into law that will prohibit smoking in almost all public places and workplaces in Michigan, including restaurants and bars. The legislature had approved the legislation earlier in December. This makes Michigan the 26th state to approve legislation meeting the American Lung Association's [Smokefree Air Challenge](#). The law does exempt the gaming floors of existing casinos, existing cigar bars and tobacco specialty stores. The new law will take effect May 1, 2010. (Source: *Michigan Approves Smoking Ban*, Mark Hornbeck and Christine Macdonald, Detroit News, December 11, 2009.)

Historic Smoking Law Takes Effect in North Carolina

On January 2, a law prohibiting smoking in restaurants and bars took effect in North Carolina making it the first traditional tobacco growing state to completely prohibit smoking in these establishments. It is an

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historic achievement in a state that is home to two major tobacco companies. Twenty-five states prohibit smoking in restaurants and bars currently, and laws will take effect later this year in two additional states.

Judge Rules that FDA Can Not Regulate E-Cigarettes as Drug-Delivery Devices

On January 14, U.S. District Judge Richard J. Leon ruled that the U.S. Food and Drug Administration (FDA) could not regulate electronic cigarettes, or e-cigarettes, as drug-delivery devices. The decision allows e-cigarette manufacturers to continue to sell their products in the U.S., and make health claims about their products without any scientific evidence or regard for the public health impact. The judge said e-cigarettes could still be regulated by FDA as tobacco products. The federal government has not indicated whether it will appeal the decision. (Source: *FDA Has No Authority of Electronic Cigarettes*, *Judge Says*, Jared A. Favole, Wall Street Journal, January 14, 2010.)

Cessation Coverage Dramatically Lowers Medicaid Smoking Rates in Massachusetts

During November, Massachusetts released data showing a dramatic drop in smoking rates among people in the state Medicaid program, known as MassHealth. MassHealth smoking rates declined 26 percent – from 38 percent in 2006 to 28 percent in 2008 – which translates to 33,000 fewer smokers. The decrease is due to Massachusetts decision in 2006 to provide coverage under MassHealth for all recommended medications and forms of counseling to help people stop smoking, and aggressively promote the benefit. There is also indications that providing this coverage has led to less hospitalizations for heart attacks, asthma attacks and maternal birth complications among Medicaid recipients although the data needs to be peer-reviewed. For more information on what cessation medications and services are covered under each state's Medicaid program, go to: www.lungusa.org/cessationcoverage. (Source: *Smoking Rates Drops in Massachusetts*, *Drawing Attention*, Abby Goodnough, New York Times, December 17, 2009.)

News on Smokefree Air Laws/Ordinances

Indiana

On January 26, the sponsor of a bill to prohibit smoking in almost all public places and workplaces in Indiana withdrew the bill after it was amended on the floor of the Indiana House of Representatives to exempt bars and taverns. Sadly, this likely ends the effort to pass a vital piece of public health legislation that would have protected workers from secondhand smoke in the 2010 legislative session. (Source: *Brown Withdraws Smoking Ban Bill*, Jon Seidel, Gary Post Tribune, January 26, 2010.)

Kansas

As part of his state-of-the-state address on January 11, Gov. Mark Parkinson called for passage of legislation during the 2010 legislative session that would prohibit smoking in almost all public places and workplaces in Kansas, including restaurants and bars. A bill that would accomplish this was approved by the state Senate in 2009, and carries over to the 2010 legislative session for consideration by the state House of Representatives. (Source: *Cigarette, Sales Tax Increases Highlight "State of the State"*, wibw.com, January 11, 2010.)

To view your state's restrictions on smoking, go to: <http://slati.lungusa.org>, click on a state and then the "Clean Indoor Air" link.

News on Cigarette Tax Increases

New York

As part of his fiscal year 2010/2011 budget, Gov. David Paterson proposed increasing New York's cigarette tax by \$1.00 per pack, and restoring \$8 million of the funding that was slashed from the state tobacco control program this past fiscal year. If adopted, New York's cigarette tax would increase to \$3.75 per pack, the highest in the country. (Source: *Budget Plan Squeezes Cash Out of Soda, Cigarettes, Speeders*, Joseph Spector, Poughkeepsie Journal, January 20, 2010.)

Kansas

As part of his state-of-the-state address on January 11, Gov. Mark Parkinson called for an increase in Kansas' cigarette tax of 55 cents per pack to help fill an estimated \$400 million budget deficit. If approved, this would bring Kansas' cigarette tax rate up to the current national average of \$1.34 per pack. (Source: *Cigarette, Sales Tax Increases Highlight "State of the State"*, wibw.com, January 11, 2010.)

For more information on tobacco taxes in your state, go to: <http://slati.lungusa.org>, click on a state and then the "Tobacco Excise Tax" link.

If you have questions or comments about the content in this e-newsletter, or have questions on tobacco control policy issues, please contact Thomas Carr, Manager, National Policy, American Lung Association National Office, Washington, DC, at tcarr@lungusa.org. To subscribe to this e-newsletter, go to <http://www.lungusa.org/get-involved/sign-up.html>.

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