

## MARTIN COUNTY TOBACCO PREVENTION NEWSLETTER

Volume 3, Issue 3

July-Sept., 2010

INSIDE THIS ISSUE:

<i>Pre-Emption Can Impede Local Tobacco Protection Efforts: A Report from the Centers for Disease Control and Prevention</i>	1
<i>Surveillance of Point-of-Purchase Tobacco Advertising and Product Placement in Martin County, Florida</i>	2
<i>Facts About Cigarette Excise Taxes: A Report from the Centers for Disease Control and Prevention</i>	4
<i>CDC Says Smoking Still Too Common in Movies</i>	6
<i>Supreme Court Denies Cigarette Companies And Obama Administration In Tobacco Case</i>	7
<i>Opinion: U.S. Supreme Court Upholds Verdict that Tobacco Companies Conspired To Deceive American Public and Addict Children</i>	8

# Pre-Emption Can Impede Local Tobacco Protection Efforts

*A Report from the Centers for Disease Control and Prevention*

Tobacco use is the cause of one in five deaths annually in the United States—more deaths than HIV, illegal drug use, alcohol use, motor vehicle injuries, suicides, and murders combined. More than 126 million nonsmoking Americans are exposed to the dangers of secondhand smoke in their homes, workplaces, and public places. Nonsmoking adults who are exposed to secondhand smoke increase their risk of heart disease by 25% to 30%, and their risk of lung cancer by 20% to 30%. The U.S. Surgeon General has concluded that eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure.

States are using various legislative tools to reduce smoking rates and to protect the public from the adverse health effects of smoking. To limit exposure to smoke, states are enacting laws prohibiting or restricting smoking in enclosed places, such as government worksites, private worksites, and restaurants. To reduce tobacco use, states are raising excise taxes on tobacco products and enacting statutes that limit advertising (by restricting the display of tobacco products, tobacco product promotion, or tobacco product samples) and youth access to tobacco (by prohibiting the sale or distribution of tobacco to youth and restricting access to tobacco product vending machines). At the local level, cities and counties have also responded to public health con-

cerns related to smoking and tobacco use by enacting ordinances limiting the access to or use of tobacco. Local ordinances can be more stringent or more comprehensive than state statutes, and the debate over local laws can help educate communities about the health effects of tobacco use and contribute to changes in social norms about smoking.

### What is preemption?

Some states, however, preempt, or prevent local communities from enacting local ordinances that are more stringent than or differ from a state's tobacco control policies related to advertising, smoke-free indoor air, and youth access. A state may preempt local tobacco control laws in all or only in some categories. The tobacco industry has historically supported state preemption laws as a way to reverse existing local tobacco control ordinances and prevent future enactment of such ordinances. In an effort to protect nonsmokers by allowing local communities to pass comprehensive tobacco control measures, a Healthy People 2010 objective calls for eliminating state laws that preempt stronger local tobacco control laws, including local smoke-free ordinances.

### Court decisions can determine preemption

However, even if a state does not have "express preemption" (i.e., even if state law does not contain explicit preemptive language), a state

court may find that the state has "implied preemption" (i.e., that state law is implicitly preemptive). If a local ordinance is legally challenged, a court has the responsibility to interpret state statutes, as well as the state legislature's intent when the law was debated and passed. As a result, statutes must be read together with case law decisions to get a full understanding of a state's preemption status. In particular, court decisions related to smoke-free indoor air have determined whether a state preempts the enactment of local ordinances restricting smoking.

In several states, courts have weighed in and decisively influenced interpretations of whether states preempt local smoking restrictions. For example, a court in California ruled that the 1995 state smoke-free law did not preempt local ordinances from making enclosed public places and places of employment smoke-free. The court ruled that the state law explicitly disclaimed any intent to preempt local governments from regulating smoking, and, in fact, expressly authorized local governments to prohibit smoking in any manner not inconsistent with the state law. In 2008, a South Carolina court found that the state statute, including the Clean Indoor Air Act, did not preempt a city from enacting a local ordinance regulating smoking in public places. Similarly, courts in New Hampshire and in Washington

# Surveillance of Point-of Purchase Tobacco Advertising and Product Placement in Martin County, Florida

By Valerie Graham, Tobacco Prevention Specialist of Martin County

During the spring of 2010, staff of the Quit Doc Research & Education Foundation (QDREF), the Tobacco Free Partnership of Martin County (TFPMC), and Students Working Against Tobacco (SWAT) Chapters, conducted local surveillance to evaluate the amount of point-of-purchase tobacco advertising and product placement in Martin County, Florida.

Point-of-sale advertising is a major cause of underage smoking in the United States according to a news release from Stanford University (July 2010). The Stanford Prevention Research Center found that youth, ages 11 to 14 years old, who regularly visited stores with point-of-sale tobacco ads are *twice as likely to try smoking* as those who made infrequent visits. Lisa Henriksen, a senior research scientist at the Center states, "The tobacco industry argues the purpose of this type of advertising is to encourage smokers to switch brands, but this study shows that it encourages teenagers to pick up a deadly habit... the exposure is unavoidable, it is impossible to miss."

Middle and high school youth in Martin County are above the state average of middle and high school youth who have smoked cigarettes, smoked cigars, or used any form of tobacco in the past 30 days (Florida Youth Tobacco Survey). The focus of our local surveillance was to assess the level of tobacco advertising, and the amount of self-service tobacco, that these children and youth are exposed to on a daily basis by focusing on the tobacco retailers within a 3-mile radius of all Martin County Middle and High School campuses. Due to the proximity of schools in Stuart and Jensen Beach, many of these tobacco retailers are near 2 or more schools, including eight local elementary schools.

To conduct this surveillance we utilized the StoreALERT survey tool; this method was developed as part of a national study,

and is currently monitored by the Campaign for Tobacco-Free Kids. The StoreALERT survey looks at both exterior and interior advertising, as well as product placement. StoreALERT training sessions were conducted to recruit and prepare community volunteers and Martin County Students Working Against Tobacco (SWAT) youth. Hidden Oaks Middle School and Martin County High School SWAT chapters were particularly involved in collecting survey data.

Using StoreALERT criteria, QDREF staff compiled a list of potential businesses to survey from each of the following categories:

- Stand-Alone Convenience Stores
- Stand-Alone Gas Stations
- Gas & Convenience Stores
- Grocery Stores
- Supermarkets
- Drug Stores
- Pharmacies
- Liquor Stores
- Tobacco Store

The sampling strategy was designed to produce survey results that are representative of 127 retailers within 3 miles of public school campuses sorted by zip codes within Martin County. This method resulted in a sampling of 73 (58%) of the retailers in Martin County that fit the criteria. Over half of the stores surveyed were convenience stores, gas stations, or a combination of the two.

### Extent of Tobacco Advertising

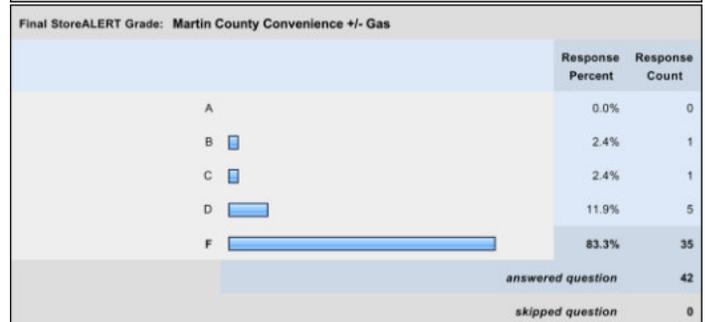
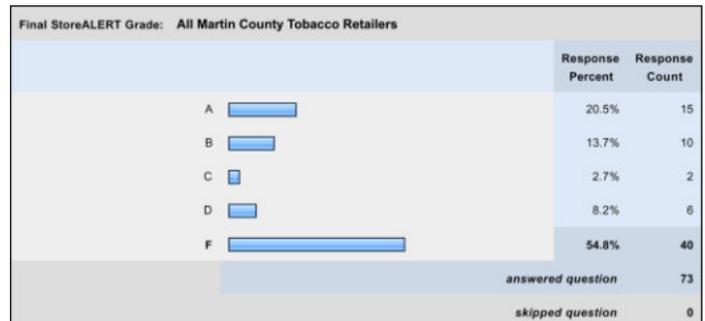
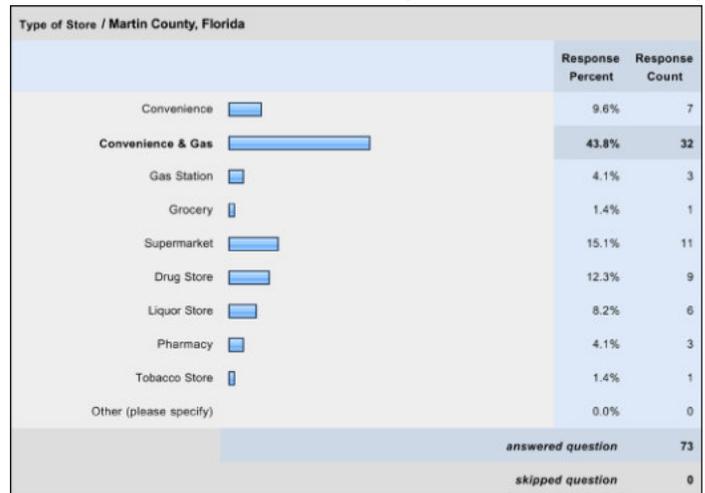
Overall, among all stores surveyed within 3 miles of middle and high schools, 63.0% received a grade of "D" or "F", meaning these retail stores had a significant amount of tobacco advertising.

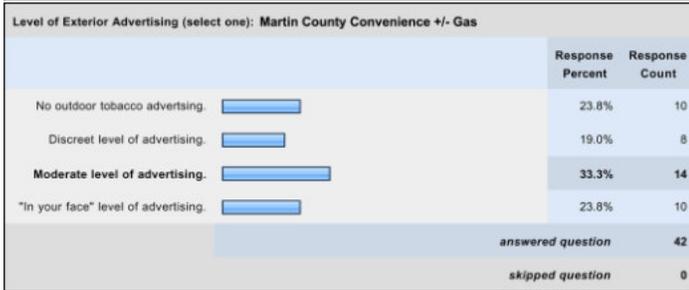
Convenience stores and/or gas stations were the worst offenders. 95.2% of these stores received a grade of "D"

or "F. This is a significant issue in our community because these are precisely the types of stores that children most often visit with their parents and teen-

agers tend to patronize, especially after acquiring their driver's license.

For comparison, we lumped together all of the remaining





potential tobacco retailers in the survey (grocery stores, supermarkets, pharmacies, liquor stores, general stores, tobacco stores etc.). Only 19.3% of all of these stores combined received a grade of "D" or "F", and almost half (48.4%) received a grade of "A".

Next we looked at two key indicators related to underage tobacco usage: 1) tobacco advertising outside of the retail outlet and 2) self-serve tobacco access at specific retailers.

**Exterior Tobacco Advertising**

54.8% of all tobacco retailers had some level of outdoor tobacco advertising, and 17.8% of those retailers had an overwhelming level of tobacco advertising.

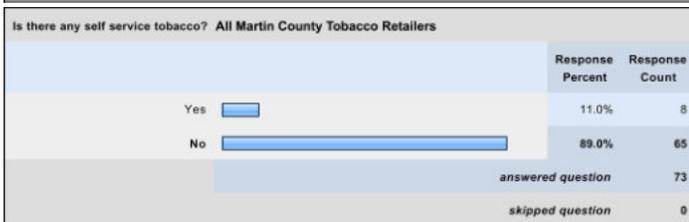
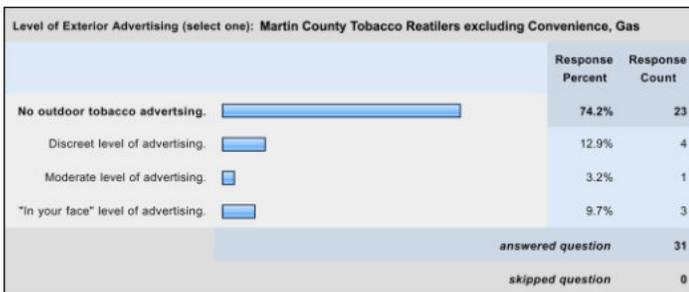
Identifying the instances of this type of advertising is very important because outdoor

advertising affects the entire community, not just the individuals shopping inside of the stores. Cigarette brand impressions can be seen when driving by these stores; brand-labeled items on property such as trash cans, illuminated signs, gas pump and door mats are widespread in convenience stores near schools.

Again, to highlight the difference among the types of stores, we broke the results down into two categories: Convenience and/or gas stations vs. all other tobacco retailers.

23.8% of convenience stores chose not to place outdoor tobacco advertising on their property BUT an alarming equal percentage, 23.8%, had the worst form of the in-your-face level of tobacco advertising in their locations.

The majority of non-



convenience-type retailers (74.2%) chose not to place outdoor tobacco advertisements on their property and only 9.7% had in-your-face advertising, a stark difference from the convenience-type store advertising facing our children and youth on a daily basis.

**Self-Service Tobacco**

The second key indicator we focused on, self-service tobacco, assesses underage tobacco access and potential usage. Self-service tobacco makes it easier for youth to make tobacco purchases, or to simply steal tobacco, in order to start and maintain tobacco addiction. Only 11% of ALL tobacco retailers in Martin County currently offer self-service tobacco.

50% of Liquor Stores offer self-service tobacco. This is less of an issue given that youth under 18 years are not likely to shop or hang out at these retailers.

9.5% of convenience stores and/or gas stations offer self-service tobacco, compared to just 4% of the remaining retailers, revealing that convenience-type stores offer self-service tobacco at over twice the rate of the all remaining retailers.

Easy access of tobacco products at retailers that children and youth utilize most, makes it easier for them to begin or maintain a tobacco addiction.

**Summary:**

Convenience stores have clearly become tobacco stores marketing their tobacco products to the children and youth who frequently shop in, or drive by, these stores. The time has

come to address this issue in Martin County as many other Florida communities have successfully done.

*Possible solutions addressing point-of-purchase advertising:*

- Pursuing local ordinances or zoning restriction to limit the scope of tobacco advertising in retailers, especially ones located near school campuses.

- Limiting the number, density, or location of these tobacco retailers, especially near school campuses.

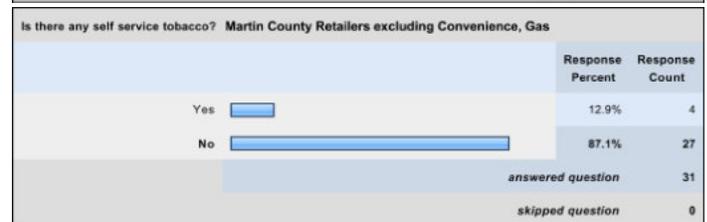
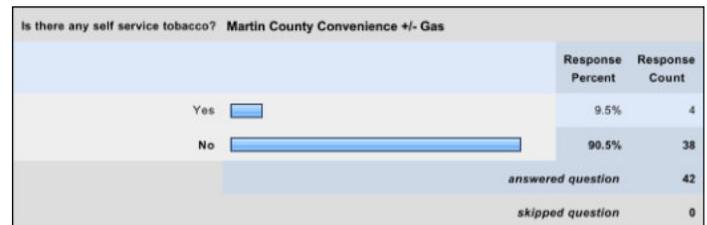
*Possible solutions addressing self-service tobacco:*

- Eliminating the harmful effects of self-service tobacco on children and youth by creating retailer-assisted tobacco sales, with or without the requirement to place all products below the counter and out-of-sight.

- Restrictions on flavored tobacco product sales, including limiting the sale of such products to tobacco retailers that DO NOT allow youth under 18 years of age into the store.

- Changing the licensing requirements for tobacco sales (stricter criteria, zoning away from schools, or increasing the fees) to limit the number, density, and location of tobacco retailers, especially those located within 3 miles of school campuses.

The Tobacco Free Partnership of Martin County is working hard to address these issues in our community. To learn more, visit our web site at [www.tfp-martin.org](http://www.tfp-martin.org).



# Facts About Cigarette Excise Taxes

*A Report from the Centers for Disease Control and Prevention*

**Taxes on tobacco help reduce the number of tobacco users**

An estimated 443,000 people die prematurely in the United States each year and another 8.6 million have a serious illness caused by smoking or exposure to secondhand smoke. According to the Centers for Disease Control and Prevention (CDC)'s Best Practices for Comprehensive Tobacco Control Programs—2007, the more that states spend on comprehensive tobacco control, the greater the reduction in smoking rates, which reduces death and disease related to tobacco use. Additionally, if states were to meet their recommended level of investment in tobacco control, smoking rates would be reduced by 5 million.

According to the Surgeon General, "substantial increases in the excise taxes on cigarettes would have considerable impact on the prevalence of smoking and, in the long-term, reduce the adverse health effects caused by tobacco". CDC found that an increase in excise taxes in Massachusetts, for example, when combined with an anti-smoking campaign, produced a 19.7% decline in cigarette consumption per capita four years after the tax increase was initiated.

Adolescents are particularly sensitive to tobacco product price increases and a study by the independent CDC Task Force on Community Prevention Services concluded that increasing the unit price for tobacco products is an effective method for reducing tobacco use among young adults and adolescents. The largest impact on cigarette demand for teens is the perceived price of cigarettes. Excise taxes on tobacco products are especially effective in discouraging youth who have not developed an addiction to tobacco from becoming users, thus protecting their health and increasing their likelihood of remaining tobacco-free.

A 10% increase in the price of a pack of cigarettes, for example, can cause a 9 to 15% decrease in cigarette smoking among adolescents – an effect of up to three times greater than the effect of price on adults.

Increasing the tax on cigarettes would also cut medical costs and would increase productivity in the United States. It is estimated that more than \$96 billion per year is spent in medical costs for those suffering from the health effects of smoking and an additional \$97 billion per year is lost to lost

productivity. The potential savings, plus investment from tax revenues, could be used to stimulate other sectors of the economy with \$45 billion in investments through 2025.

**States' activity to reduce tobacco use through excise taxes**

Through December 31, 2009, the state excise tax on cigarettes ranges from \$0.07 per pack in South Carolina to \$3.46 per pack in Rhode Island and the federal tax increased by 62 cents to \$1.01 per pack. Only two states (Missouri and South Carolina) have an excise tax on cigarettes that is under \$0.25 per pack. Twenty-one states have an excise tax on cigarettes from \$0.25 to \$0.99 per pack. Thirteen states have cigarette excise taxes from \$1.00 to \$1.99 per pack. Fourteen states and the District of Columbia have a cigarette excise tax of at least \$2.00 per pack. This is an increase from 2006, when only five states had an excise tax rate that high.

Unlike the tax on cigarettes (calculated per pack), the tax on smokeless tobacco is usually measured in either a dollar amount per ounce or as a percentage of a price (such as

the wholesale or manufacturer's price) and the calculations vary by state. For example, Vermont's tax on smokeless tobacco is set at 92% of the wholesale sales price, whereas Maine's smokeless tax is \$2.020 per ounce on chewing tobacco and snuff. Sixteen states have specific defined excise taxes on certain types of smokeless tobacco, such as chewing tobacco and snuff. In 2009, Pennsylvania was the last state to add an excise tax on smokeless tobacco.

**Opportunities for reducing tobacco use exist for states**

Raising excise taxes on tobacco products, along with other tobacco control measures, is one of the most effective methods to prevent or reduce tobacco use. Many states have taken steps recently to increase the excise taxes on tobacco products in an effort to reduce tobacco use.

Twenty-three states, however, have excise tax rates of less than \$1.00 on packs of cigarettes and 8 states have taxes under \$0.50 per pack. Higher excise taxes on tobacco products can act as a stimulus to encourage current users to quit and as a deterrent to non-users from beginning to use tobacco products. States with lower tobacco product taxes also limit their potential to use revenue as dedicated tax revenue for tobacco control. This tobacco control spending can also offset the health costs related to smoking, which the CDC estimates is \$7.18 per pack of cigarettes sold and consumed in the United States.

Since just incremental increases in excise taxes can influence smoking behavior (especially in youth), states can use excise taxes as a tool to raise revenue, reduce both private and public healthcare costs, and improve the health of their citizens.



# Pre-Emption Laws

*Continues from Page 1*

ruled that state laws establishing smoking restrictions preempted local smoking restrictions in certain settings, even though the statutes in question did not contain explicit preemption language.

## Enabling local communities to pass tobacco control measures

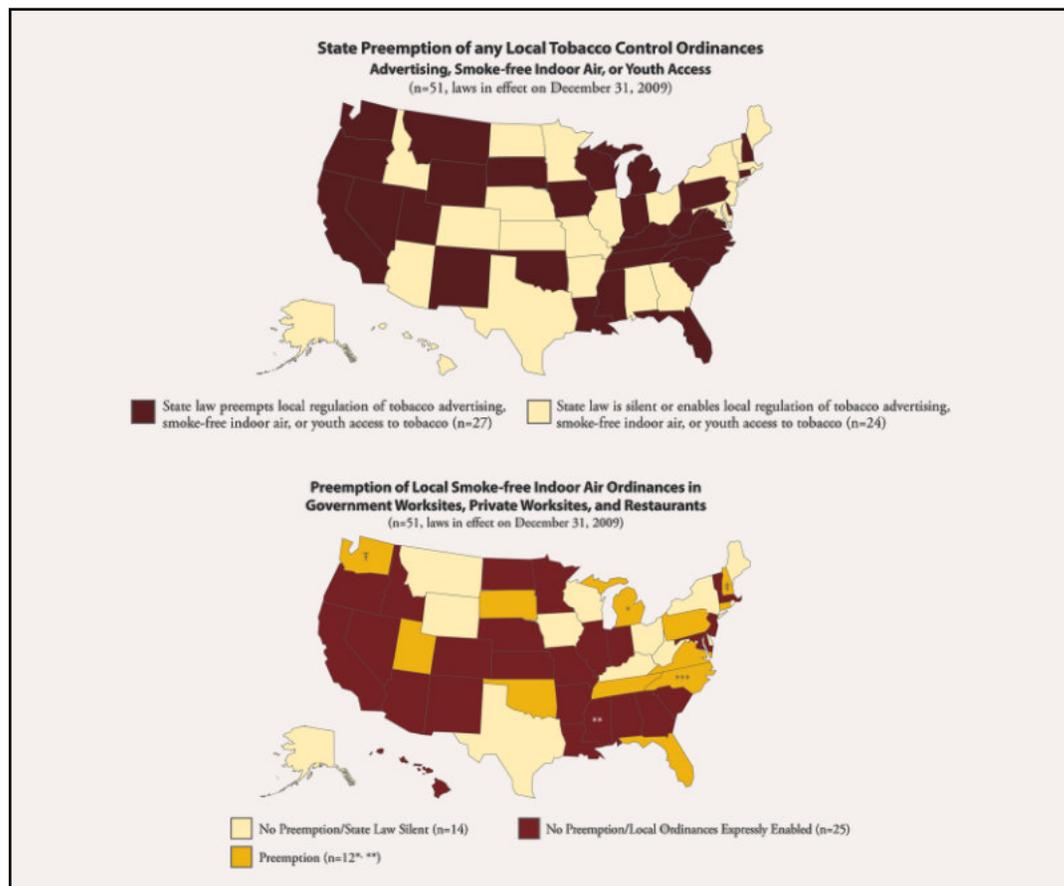
The only way for states to ensure that local tobacco control ordinances are not preempted is to include enabling clauses in state laws. These clauses explicitly allow local jurisdictions to enact ordinances that differ from the state law. This can have the effect of making the state law the floor for tobacco control regulations, rather than preemption provisions that establish state law as the ceiling.

## State efforts to restore or preserve local smoke-free indoor air control since 2004

Once enacted, state preemptive laws have traditionally proven difficult to repeal. However, since 2004, seven states have repealed provisions that preempted local smoking restrictions in some or all settings. The seven states that have repealed smoke-free indoor air preemption are Illinois, Louisiana, Mississippi, Montana, Nevada, New Jersey, and Oregon. In addition, there appears to be a trend for states that enact new smoking restrictions to include explicit enabling language, even if the previous state smoking restrictions had not been explicitly preemptive.

## Current status of state preemption related to smoke-free indoor air

As of December 31, 2009, 12 states have laws or court decisions in effect that explicitly preempt local ordinances from restricting smoking in government worksites, private worksites, and/or restaurants. Eight of these 12 states preempt local action in all three of these settings. Two states (Michigan and New Hampshire) preempt



local smoking restrictions in restaurants but not in the other two settings, one state (North Carolina) preempts local smoking restrictions in private worksites and restaurants but enables local smoke-free indoor air restrictions in government work-sites, and one state (Washington) preempts local smoking restrictions in government worksites and restaurants but not in private worksites.

Twenty-five states have enacted laws that explicitly enable local communities to adopt smoking restrictions that are more stringent than or differ from the state standard. Of these, one state (Mississippi) enables local smoke-free indoor air restrictions in only one location: government worksites.

Thirteen states and the District of Columbia (excluding the court-decided preemption status in New Hampshire and Washington) do not have any explicit language in their statutes regarding the presence or

absence of preemption of local smoking restrictions in government worksites, private worksites, and restaurants (Michigan is also silent regarding preemption in government and private worksites).

Some states have enacted changes to their preemption status that had not yet taken effect as of December 31, 2009. A Wisconsin law will change that state to enabling in all three locations effective in 2010, while a North Carolina law, also effective in 2010 will enable local ordinances in restaurants, but not in private workplaces.

## Current status of state preemption related to other tobacco control efforts

As of December 31, 2009, 22 states have laws preempting local ordinances related to youth access to tobacco; 20 states preempt local restrictions on selling tobacco products to youth and 19 states

preempt local restriction on distributing tobacco products to youth. Seventeen states have laws that preempt local ordinances related to restrictions on tobacco product vending machines.

Eighteen states have laws preempting localities from enacting ordinances related to the advertisement of tobacco products. Within the four types of tobacco advertising laws (laws that restrict tobacco advertising in general, laws that restrict the display of tobacco products, laws that restrict the promotion of tobacco, and laws that restrict the distribution of tobacco product samples), three states have preemption laws for only one type. Five states have preemption statutes for two types of advertising laws and three states have preemption for three types of advertising. Seven states preempt all types of local tobacco advertising restrictions.

# CDC Says Smoking Still Too Common in Movies

Study Shows Tobacco use on the silver screen down; still shown in half of PG-13-rated movies

WASHINGTON, D.C. – There's a lot less smoking in the movies these days, a new report shows.

Tobacco use on the silver screen peaked in 2005 and has been on the decline since, according to research that looked at the most popular films from 1991 to 2009.

Last year more than half of the 145 top movies released did not show any smoking at all. That's a record for the past two decades. For films aimed at children or teens, the percentage was even higher – 61 percent.

The report was released August 19, 2010 in a *Centers for Disease Control and Prevention (CDC)* publication. The report's authors recommended that movie ratings also consider whether the film depicts smoking and suggested strong advertisements about the dangers of smoking precede movies that show tobacco use.

"The results of this analysis indicate that the number of tobacco incidents peaked in 2005, then declined by approximately half through 2009, representing the first time a decline of that duration and magnitude has been observed," the team at the U.S. Centers for Disease Control and Prevention, the University of California San Francisco and elsewhere wrote.

"However, nearly half of popular movies still contained tobacco imagery in 2009, including 54 percent of those rated PG-13, and the number of incidents remained higher in 2009 than in 1998," they added.

The report "shows that Hollywood is perfectly capable of making movies without as much smoking and people still come see them," said the study's lead author, Stan Glantz, director of the Center for Tobacco Control Research and Education at the University of California, San Francisco.

Glantz and others have been pressuring movie studios for years to cut out smoking in movies marketed to children and teens. Those efforts appear to be paying off, with studios adopting policies on smoking and putting anti-smoking messages on DVDs that depict smoking, he said.

The amount of smoking in PG-13-rated movies is of particular concern, though, because that's where teens view it most, he said. The more on-screen smoking they see, the more likely they are to pick up the habit themselves, the study's authors reported.

"There's a declining trend – which is good to see – but we haven't made nearly enough progress," said Ursula Bauer of the CDC.

"This analysis shows that the number of tobacco incidents increased steadily after the 1998 Master Settlement Agreement between the state attorneys general and the major cigarette companies, in which the companies agreed to end brand placement," wrote the authors of the report.

"Exposure to onscreen smoking in movies increases the probability that youths will start smoking. Youths who are heavily exposed to onscreen smoking are approximately two to



*Penelope Cruz puffs away in a scene from "Vicky Cristina Barcelona".*

three times more likely to begin smoking than youths who are lightly exposed," the CDC report reads.

They also said the Motion Picture Association of America had done little to make changes but noted some studios had made voluntary changes. For example, Viacom was the first company whose movies rated for youth showed no use of tobacco in 2009.

They suggested more policies could encourage filmmakers to do better.

"Such policies could include having a mature content (R) rating for movies with smoking, requiring strong anti-tobacco ads preceding movies that depict smoking, not allowing tobacco brand displays in movies, and requiring producers of movies depicting tobacco use to certify that no person or company associated with the production received any consideration for that depiction," they wrote.

Since 2007, the Motion

Picture Association of America has considered smoking as a factor in its rating system, noting when cigarette use has affected the rating. For example, the PG-13 rating for "Avatar" included "some smoking."

"This ensures specific information is front and center for parents as they make decisions for their kids," the group said in a statement Thursday.

Some critics, including Glantz, have pushed for an automatic R rating for films that depict smoking, to serve as an economic incentive to drop tobacco use from their movies to get a less restrictive rating.

Two members of the U.S. House of Representatives, Democrat Edward Markey and Republican Joseph Pitts, who both serve on the Energy and Commerce Committee, wrote the Motion Picture Association of America encouraging the industry to adopt stronger anti-smoking measures.

# Supreme Court Denies Cigarette Companies And Obama Administration In Tobacco Case

*Huffington Post, June 28, 2010*

WASHINGTON, D.C.— The Supreme Court has rejected appeals by the Obama administration and the nation's largest tobacco companies to get involved in a legal fight about the dangers of cigarette smoking that has stretched more than ten years.

The court's action, issued without comment Monday, leaves in place court rulings that the tobacco industry illegally concealed the dangers of smoking for decades. But it also prevents the administration from trying to extract billions of dollars from the industry either in past profits or to fund a national campaign to curb smoking.

In asking the court to hear its appeal, the administration said the industry's half-century of deception "has cost the lives and damaged the health of untold millions of Americans."

The appeal was signed by Elena Kagan, the solicitor general, a couple of months before President Barack Obama nominated her to the Supreme Court.

Philip Morris USA, the nation's largest tobacco maker, its parent company Altria Group Inc., R.J. Reynolds Tobacco Co., British American Tobacco Investments Ltd. and Lor-

illard Tobacco Co. filed separate but related appeals that took issue with a federal judge's 1,600-page opinion and an appeals court ruling that found the industry engaged in racketeering and fraud over several decades.

In 2006, U.S. District Judge Gladys Kessler ruled that the companies engaged in a scheme to defraud the public by falsely denying the adverse health effects of smoking, concealing evidence that nicotine is addictive, and lying about their manipulation of nicotine in cigarettes to create addiction. A federal appeals court in Washington upheld the findings.

At the same time, however, the courts have said the government is not entitled to collect \$280 billion in past profits or \$14 billion for a national campaign to curb smoking. The high court previously denied the government's appeal on that issue.

The companies argue that the government improperly used the Racketeer Influenced and Corrupt Organizations, or RICO law, against them. The racketeering law often is employed against the Mafia and other criminal organizations.

The companies also

say the courts' decision to brand their statements about smoking as fraudulent unfairly denied them their First Amendment rights to engage in the public-health debate about smoking.

The administration said the money it seeks from the industry is commensurate with the harm it has caused.

The public health groups in the case are: American Cancer Society;

American Heart Association; American Lung Association; Americans for Nonsmokers' Rights; National African American Tobacco Prevention Network and Tobacco-Free Kids Action Fund.

The groups are most interested in forcing the tobacco companies to pay for a wide-ranging education campaign to discourage people from taking up smoking and helping others quit.

113,597 DOCTORS FROM COAST TO COAST WERE ASKED!



Family doctors, surgeons, nose and throat specialists . . . doctors in every branch of medicine were asked, "What cigarette do you smoke?"

These nationally known independent research groups did the asking.

The answers come in by the thousands. Actual statements from doctors themselves. The result? Camels . . . convincingly!

According to this recent Nationwide survey:

**MORE DOCTORS SMOKE CAMELS THAN ANY OTHER CIGARETTE!**

This is no casual claim. It's an actual fact. Based on the statements of doctors themselves to three nationally known independent research organizations.

THE QUESTION was very simple. One that you . . . any smoker . . . might ask a doctor: "What cigarette do you smoke, Doctor?"

After all, doctors are human too. Like you, they smoke for pleasure. Their taste, like yours, enjoys the pleasing flavor of costlier tobaccos. Their throats too appreciate a cool mildness.

And more doctors named Camels than any other cigarette!

If you are a Camel smoker, this preference for Camels among physicians and surgeons will not surprise you. But

if you are not now smoking Camels, try them. Compare them in your "T-Zone."

THE "T-ZONE" TEST WILL TELL YOU

The "T-Zone"—T for taste and T for throat—is your own laboratory, your proving ground, for any cigarette. For only your taste and your throat can decide which cigarette tastes best to you . . . and how it affects your throat.



CAMEL - COSTLIER TOBACCOS

## U.S. Supreme Court Upholds Verdict that Tobacco Companies Conspired To Deceive American Public and Addict Children

*Statement of Matthew L. Myers, President, Campaign for Tobacco-Free Kids, June 28, 2010*

Washington, D.C. - The U.S. Supreme Court today declined to hear appeals in the federal government's civil racketeering lawsuit against cigarette manufacturers. Today's decision upholds the trial court's historic verdict that the cigarette manufacturers are racketeers and have engaged in a decades-long conspiracy to deceive the American public and target children with their deadly and addictive products. That verdict is now final and undeniable: The cigarette manufacturers have been found guilty of engaging in a deadly fraud that is unprecedented in our nation's history.

The case before the Supreme Court stemmed from U.S. District Court Judge Gladys Kessler's landmark 1,683-page opinion issued in 2006 that found the major cigarette manufacturers guilty of violating civil provisions of the Racketeer Influenced and Corrupt Organizations Act (RICO). Judge Kessler found that the cigarette manufacturers had acted illegally when they "lied, misrepresented and deceived the American public, including smokers and the young people they avidly sought as 'replacement' smokers, about the devastating health effects of smoking and environmental tobacco smoke."

However, Judge Kessler also determined that she was constrained in the types of penalties she could impose

on the industry because of a prior controversial appeals court ruling that restricted financial remedies under civil RICO.

It is disappointing that the Supreme Court also denied appeals by the government and public health organizations that sought stronger remedies in the case. These remedies included requiring the tobacco companies to fund public education and smoking cessation campaigns and to forfeit illegal profits.

It is now critical that the trial court move forward with strongly enforcing the remedies that it did order. These include requiring the tobacco companies to make corrective statements about the health risks of smoking and secondhand smoke and their deceptive practices through newspaper and television advertising, on their web sites and on cigarette packaging. The trial court also ordered the tobacco companies to report marketing data annually to the government, extended and expanded current requirements that the cigarette manufacturers make public their internal documents produced in litigation, and prohibited the companies from committing acts of racketeering or making false, misleading or deceptive statements about cigarettes and their health risks in the future. The court also banned deceptive cigarette labels such as "light" and

"low-tar," a ban that has already taken effect as a result of a new federal law granting the U.S. Food and Drug Administration authority over tobacco products.

Today's ruling also puts the responsibility squarely on elected officials at all levels to eliminate the harmful and deceptive influence of the tobacco industry and take effective action to protect the nation's health. Congress and the Obama Administration should fund a national public education and smoking cessation campaign, and the FDA must effectively exercise its new authority to regulate the manufacturing, marketing and sale of tobacco products. State officials must redouble efforts to implement proven measures, including higher tobacco taxes, comprehensive smoke-free workplace laws and well-funded tobacco prevention and cessation programs.

Tobacco use is the nation's leading cause of preventable death, claiming more than 400,000 lives and costing \$96 billion in health care expenditures each year.

The six public health organizations that are formal parties to the case are the American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers' Rights, the National African American Tobacco Prevention Network and the Tobacco-Free Kids Action Fund (a 501 (c)4 affiliate of the Campaign for Tobacco-Free Kids).

 **Quit Doc**  
Research and Education Foundation

850 NW Federal Hwy., Suite 130  
Stuart FL 34994  
Phone: 772-233-4290  
Fax: 877-828-9963  
vgraham@quitdoc.com



Health Access and Tobacco  
4052 Bald Cypress Way, Bin C#23  
Tallahassee, FL 32399-1744  
Phone: 850-245-4144  
Fax: 850-414-6470

We're on the web!

[www.qdref.org](http://www.qdref.org)  
[www.smokescreeners.org](http://www.smokescreeners.org)

**Let us know  
what you think!**

Please call us at 866-355-7848, or via e-mail at

[bhummel@quitdoc.com](mailto:bhummel@quitdoc.com)

with your comments and suggestions, or to volunteer for one of our many projects.

