

TAKING LOCAL ACTION FOR SMOKEFREE AIR*October 2004*

Working on local smokefree air laws is one of the most cost-effective public health measures that money can buy. The mere process of enacting such laws acts as an educational campaign on the dangers of secondhand smoke for the entire community, while the law itself not only protects nonsmokers from exposure to secondhand smoke, but also helps people to stop smoking. But, because of the ever-present opposition of the tobacco industry, its allies, and its front groups, campaigns to enact smokefree laws are often difficult and must be intelligently waged. The following steps outline, very generally, the basic components of a successful campaign.

KNOWING CURRENT LAW

Before embarking on a campaign for a smokefree air law, you must first determine what the current law is in your community. In some instances, there may be no laws whatsoever relating to smoking control, in which case you will be starting with a clean slate. But there may already be laws in force. These may vary from limited measures, such as prohibiting smoking in public buildings or public transit vehicles, to laws that are more comprehensive in scope, but have weak provisions, such as ones that only require workplaces to have smoking policies or only require restaurants to have small nonsmoking sections. In either case, you need to familiarize yourself with the current law so that you will know just how much of a leap forward you will be proposing and just how much you need to prepare the community for the changes to be made. You should also research the legislative history of any existing laws, particularly ones that were recently enacted, so that you will have a good idea of who your supporters and opponents might be and what kind of arguments have been used in previous legislative battles. Finally, you should find out what the public attitude is with respect to any existing laws and how well they have been enforced.

ESTABLISHING A COALITION

Laws to protect nonsmokers from the dangers of secondhand smoke, especially 100% smokefree laws, require the support of coalitions to share the workload and demonstrate broad community support. ANR members, the voluntary health agencies (i.e., American Cancer Society, American Heart Association, and American Lung Association), local Health Departments, and health professionals are good places to start. Ideally, coalitions will eventually include members who represent the diverse ethnic and cultural segments of the community and have a variety of skills, contacts, and experience. Thus, your coalition should also include such people as teachers, attorneys, business and civic leaders, union leaders, environmentalists, and secondhand smoke victims. You will need one or two people to be the primary spokespersons for the coalition. They will be responsible for taking your case to the public and the media. It is also always helpful to have someone who is a political insider and can guide a lobbying effort. Otherwise, however, there are only two prerequisites for membership in the coalition: a commitment to protecting nonsmokers and a willingness to work.

In addition to contacting ANR for a list of potential supporters, there are several ways that you can expand your coalition:

- Have organizations in the coalition activate their membership lists.

- Obtain names of people who have complained of secondhand smoke to the local Health Department.
- Circulate petitions in favor of a proposed law and use the contact information on them.

Be sure to establish a database of contact information, not only for coalition members and supporters, but also for community organizations, business leaders, public officials, and the media.

PREPARING THE SOIL: EDUCATING THE COMMUNITY

Before going public with your proposed law, you need to lay the groundwork for it. This can be tedious and time consuming, but preparing your infrastructure at the outset will save time later and make your efforts much more successful. Spend an adequate amount of time — several months to a year — on a public education campaign so that members of the community, including elected officials, understand the health hazards of secondhand smoke and the potential means of protecting people from those hazards. Impress on people the need to change the social norm from smoking to nonsmoking. You should also educate the community as to the nature of the tobacco industry and the false claims that the industry will make in order to defeat any proposed law. Public presentations to a wide variety of organizations — civic clubs, parent-teacher organizations, health agencies, professional societies, and home-owners groups — provide an excellent opportunity to identify individuals who care about the issue and are willing to support or work on your campaign. These public education campaigns also serve to hone the skills of the core coalition members in presenting arguments for legislation and in identifying potential opposition arguments.

Educate the local business community about the health effects of secondhand smoke exposure, and the potential legal liability of businesses to their employees and customers *before the tobacco industry shows up to spread misinformation and create unfounded fears*. Also share with them the extensive research findings that prove that smokefree laws have no negative economic impact on businesses in places that have already enacted them. Indeed, you can show them that such laws have a *positive impact* by reducing costs, increasing employee productivity, and pleasing the vast majority of customers.

Many coalitions undertake public opinion surveys, asking residents how they feel about secondhand smoke and smokefree laws. Almost all such surveys show strong support for smokefree air, and this is the best ammunition you can have when it is time to approach legislators with your proposed law. Prohibiting smoking in restaurants is always one of the most controversial issues in any proposed law. For this reason, it is a good idea to survey the local restaurants to determine which ones are already smokefree and how going smokefree impacted their business. You need to identify those restaurants that support your proposed law, because a few vocal restaurants can give the mistaken impression that all the restaurants are opposed to it.

If you have determined that there is strong community support in favor of a smokefree law, move forward by sharing all of this information with your elected representatives and other officials. Give your coalition an important strategic advantage by letting these representatives know *in advance* what to expect from the tobacco industry, its allies, and its front groups during the campaign. Make sure that they are aware that opposition might come from so-called smokers' rights groups and business front groups, both of which will falsely deny that they have ties to the industry.

However, if you find that community support for the proposed law is weak, then you will need to postpone action on a law and refocus your educational efforts. *Under no circumstances should you try to pass a law, even a relatively weak one, when the community is not ready for it.*

When the coalition is ready to move forward with the legislative campaign, find a member of the city council or board of supervisors to sponsor the proposed law. Ideally, there will be a coalition member who has some personal contact with a sympathetic legislator. If not, observe the legislative body to determine who might be the appropriate sponsor. Regardless of how chosen, a sponsor should be committed to the issue, have a good relationship with his or her colleagues, and demonstrate respect for the coalition and its spokespersons.

THE PROPOSED LAW

In most cases, a sponsoring legislator will ask the municipal attorney (city attorney or county counsel) to draft the law. However, those attorneys are often unfamiliar with the subtleties of smokefree laws and may not care that much about how the law will work. You must be prepared to show your sponsor and the attorney exactly what you think the law should provide. For this purpose, ANR has available a model smokefree air law, as well as a detailed rationale for its provisions. A thorough understanding of this rationale can facilitate working with the sponsor and the attorney in customizing the law to your community.

You may need to compromise with your sponsor on the scope and coverage of the proposed law if he or she does not believe it can pass as proposed by you, or you may need to compromise as the proposal is going through the legislative process. In either event, you must let your sponsor know what your bottom line is and just when you will stop supporting the measure. While it is reasonable to work in incremental stages to limit or prohibit smoking in different places (e.g., workplaces, restaurants, or public places), it is better in the long run to refuse to support any weak law that is riddled with exceptions and loopholes, no matter how broad its coverage may seem to be. The tobacco industry and its allies are very adept at proposing laws that seemingly protect nonsmokers but that, in fact, only protect the industry. You must not only refuse to support such a law, but you must also be prepared to strongly oppose it, lest the tobacco industry obtain a major victory with your seeming acquiescence.

THE LEGISLATIVE PROCESS

The legislative process in one municipality may vary greatly from that in another; your sponsor can help you understand your municipality's procedures. You must become familiar with the entire process, including the format of public hearings, the powers of the Mayor or County Executive, and the possibility of a referendum on an enacted law, before you can adequately plan your strategy.

Poll your legislators early in the campaign. This can help you determine the degree of opposition you may face, the concerns that legislators may have, and the proper focus of your lobbying efforts. Coalition members should visit or phone each legislator. When visiting a legislator, bring some background information (e.g. articles, factsheets), but not so much as to be overwhelming. Select spokespersons who match their legislators' districts, constituency, and temperament. Most importantly, ensure that all spokespersons have a thorough understanding of the issues that may be raised.

Grassroots pressure — mobilizing varied constituents to speak out in support of the proposed law — is critical to demonstrating the breadth and depth of support for the law. The best means of showing that

support is to generate *many* personal letters and phone calls to all the legislators and to the Mayor or County Executive. Petitions, “cookie cutter” form letters, and email messages carry much less weight. ANR and other groups may have members who can be contacted to work on these lobbying efforts. Before your sponsor sets a hearing date for the proposed law, coalition members should poll the other legislators one more time. If you don’t have enough votes to pass the law, slow the process down and spend more time on grassroots efforts and educating individual legislators.

PUBLIC HEARING

Once the proposed law has been drafted, a public hearing will be scheduled. There are usually two readings of any proposal at consecutive legislative sessions. Normally, a public hearing is held on the first reading. Note that, although the second reading is usually considered to be merely a formality, the tobacco industry frequently enters a community between the first and second readings to lobby against the proposed law in hopes of defeating it when its supporters are unaware that any further action is taking place and are unprepared for further battle.

When the law comes up for a hearing, organize the speakers who will testify and *pack the chambers* with grassroots supporters. The speakers should be prepared to make concise, focused presentations. Make sure that your speakers do not duplicate each other but do cover all the issues involved, including medical, legal, and economic matters. In addition to presenting testimony from experts on those issues, it is particularly effective to have testimony from victims harmed by secondhand smoke (e.g. asthmatics, people with heart conditions, hospitality workers, etc.). This gives a human face to what can otherwise be very technical, theoretical issues for elected officials.

Testimony from medical experts should focus on the evidence about the health effects of secondhand smoke, but it should be limited, because most elected officials already know that passive smoking is harmful to nonsmokers. They should concentrate on pointing out that a vast body of scientific literature, as well as reports from leading health agencies, including the U.S. Surgeon General (1986), the California Environmental Protection Agency (1997), and the National Cancer Institute (1999), provide compelling evidence that secondhand smoke causes cancer, heart disease, and a host of respiratory illnesses. The medical experts should also be prepared to refute the tobacco industry’s attacks on the science of secondhand smoke, which are usually based on industry-funded studies that have no support in the general medical community.

Because smokefree laws are designed to protect nonsmokers, and not to alter the behavior of smokers, extensive testimony on the health effects of primary smoking is irrelevant and should be avoided.

The potential economic impact of the proposed law will be paramount in the legislators’ minds and you need to present evidence that smokefree laws are not damaging to the business community, and that they actually have a positive impact. The tobacco industry and its allies will, of course, claim just the opposite and you must be prepared to counter that claim. Ideally, business leaders and restaurant owners can be recruited to address these concerns, but if they can’t, you must address them yourself. All credible scientific studies prove that smokefree laws have no negative impact on businesses, including restaurants. ANR can provide you with the most up-to-date information about economic impact.

Your opponents will try to frame the issue as one about individual rights and freedom of choice. Your speakers must be prepared to keep reframing the issue as one about public health and to remind the legislators that people should not have to be exposed to secondhand smoke (which has been labeled as

a Group A carcinogen) to hold a job, eat in a restaurant, or go about their daily business in public places.

WORKING WITH THE MEDIA

The media is an important part of the legislative process. Remember that there are three types of media and that each plays a different role. Print media is generally considered to be a credible source for news and is the best place for an in-depth analysis of the issues. Radio is more personal, because most people listen to the radio alone. When making statements on the radio, be brief and to the point. Television is primarily a visual medium and does not generally have the capacity for in-depth analysis. As with radio, when interviewed on television, be brief and to the point. Early in your campaign you should identify print, radio, and television journalists who will cover the issue of secondhand smoke in an objective and fair manner.

Get to know your media contacts proactively and build trust so that they rely on you as a credible source. Invite reporters to your public education events and provide them with accurate, factual data. Remember that reporters will usually be unfamiliar with the issues surrounding secondhand smoke and you will need to both educate them and subtly lead them to frame their stories as you want them to appear. With relationships firmly established, you stand a better chance of being recognized by the media as a key player as the smokefree air campaign develops and moves toward a vote.

Choose spokespersons who are articulate under pressure, understand the issue, and know what arguments the opposition will raise. They should develop their key messages before speaking in depth to reporters, use plain and clear language, and deliver their comments in complete sentences so that the thoughts stand on their own. Staging press conferences, being interviewed by reporters, meeting with editorial boards, and writing letters to the editor are all part of working with the media. Effective media interaction will not only help you to frame the debate, but will also assist you in enlisting new allies.

You can also use the media to help in exposing tobacco industry interference and opposition during the campaign. Usually, the tobacco industry will approach your business community to scare them with false reports of economic loss, and to help organize opposition to the proposed law. In most instances, in order to hide its involvement, the tobacco industry will organize this activity through front groups. The ANR Foundation's Tobacco Industry Tracking Database[®] is a valuable resource in making the connections between front group activity and the tobacco industry and is available to both coalitions and the media.

IMPLEMENTATION AND ENFORCEMENT

Most municipal laws go into effect 30 days after enactment, but smokefree air laws frequently provide for a longer period, sometimes with respect to specific provisions such as prohibitions on smoking in workplaces or restaurants. This gives your coalition an opportunity to educate the business community and the general public about the law's provisions and enforcement procedures. Often, the city or county will print a brochure explaining the purposes and mechanics of the law. The city or county might also work with the local Chamber of Commerce to place an article in its newsletter, informing businesses of their responsibilities under the new law. Media contacts developed during the campaign can help with public education as well.

In general, smokefree laws have proved “self-enforcing,” much like traffic laws. For the same reason that most drivers willingly stop at red lights, the vast majority of smokers politely refrain from smoking in prohibited areas when they are aware of the law and when nonsmoking areas are well marked. Therefore, in addition to education, the key to successful implementation of a law is the placement of adequate “No Smoking” signs wherever smoking is not allowed. However, for the few instances when people disobey the law, the designated enforcement agency should be used to ensure future compliance.

Smokefree laws are uniformly popular with the vast majority of the public. With an on-going education program, the posting of numerous “No Smoking” signs, and the presence of a willing and committed enforcement agency, they are usually implemented with a high level of compliance and very few negative incidents.

DEFENDING THE GROUND YOU’VE GAINED

Just because a law is enacted, effective, and popular does not necessarily guarantee its continued success. A constant vigil must be kept to make sure that the tobacco industry does not reappear and attempt to rescind or gut the law. The industry may challenge the law by threatening or filing a lawsuit, encouraging civil disobedience, placing a referendum on the ballot to overturn the law, or simply waiting until elections produce new legislators hostile to smokefree air laws. In the vast majority of cases, the tobacco industry’s efforts to overturn or undermine a recently enacted law fail. However, the coalition must be prepared to defend the ground it has gained. The best defense against tobacco industry attacks is a strong offense that includes effective coalition leadership, massive grassroots support, committed elected officials, and a well-written law.

WORKING SMART

Like Goliath, the tobacco industry is a formidable, but not invincible, opponent. The experiences of scores of municipalities that have enacted smokefree laws confirm that, like David, when we work smart we win. Some of the common denominators found in successful smokefree air campaigns include:

- Taking the time to educate and organize a strong and diverse grassroots base of support.
- Moving incrementally toward the goal of a smokefree community.
- Selecting winnable policy goals.
- Developing and implementing a strategic plan.
- Working with and educating the media.
- Educating the business community and elected officials early in the campaign.
- Knowing the opposition and being prepared to counter its tactics.

The more than 1,800 laws regulating smoking, including more than 335 that are 100% smokefree laws, currently on the books in municipalities throughout the United States are proof that ***people power can overcome the money and influence of Big Tobacco.***

For a more comprehensive explanation of how to launch and run a local campaign to enact a smokefree air law in your community, we have developed *Clearing the Air*, a 44-page guide.

Discounts are available for multiple copy orders of publications. For further information, please call (510) 841-3032.

For online assistance, see the following websites:

ANR main site: <http://www.no-smoke.org>

ANR Foundation's tobacco industry database: <http://www.tidatabase.org>

Protect Local Control site: <http://protectlocalcontrol.org>

Tobacco Scam, which exposes the tobacco industry's manipulation of the restaurant industry as a front group to defeat smokefree air laws: <http://www.tobaccoscam.ucsf.org>

American Legacy Foundation's Tobacco Documents Library: <http://legacy.library.ucsf.edu>

© Americans for Nonsmokers' Rights, 1996. Revised 1998, 2001, 2003, 2004.

w:\files\material\pospaper\Taking Local Action for Smokefree Air (PP-08) 102504.doc