

Americans for Nonsmokers' Rights

Tobacco Industry Opposition to Local Clean Indoor Air Policies: Tactics, Sound Bites and Facts

October 15, 1998

THERE ARE TWO BASIC TYPES OF OPPOSITION SUPPORTED BY TOBACCO INDUSTRY

- Smokers Rights Groups (e.g., National Smokers Alliance, Maine Smokers Rights)
- Business Front Groups (e.g., Valley Business Owners and Concerned Citizens, Oregon Restaurant Association, etc.)

WHILE THE ORDINANCE IS BEING DEBATED

***Tobacco Industry Tactic:* Organize and misinform business owners--plus aggressive lobbying of elected officials.**

Tobacco Industry Sound Bite: "This is what we do-come into town and organize the opposition." -- Eric Schippers, National Smokers Alliance

Fact:

- The tobacco industry denigrates the democratic process by creating "astroturf" opposition to legitimate clean indoor air campaigns.
- In 1993, Philip Morris and public relations giant Burson Marsteller created the ultimate astroturf front group-the National Smokers Alliance.
- Typical NSA scenario: In 1998, the NSA flew three operatives into Montrose, CO, population 12,000 to kill a proposed local clean indoor air ordinance.

***Tobacco Industry Tactic:* Create a public relations blitz in opposition to a proposed smoke-free ordinance[regulation].**

Tobacco Industry Sound Bite: "The NSA would create a media program to focus on all media in the state, no matter how small, and generate editorials, columns and news articles..." -- NSA Political Action Plan

Fact:

- PR giant Burson-Marsteller developed the NSA's media strategy.
- NSA sets up local media machines run by public relation specialists like Mike Hambrick, a former 30 year television news veteran.
- The NSA recycles their standard media materials in community after community.

- Materials: Petitions, banners, T-Shirts, baseball caps, bumper stickers, economic impact studies from Massachusetts Restaurant Association and Mesa, AZ, etc.
- Media advocacy: Frequent news releases; outreach to local journalists; interviews on local talk radio; op-ed pieces; full page ads in local newspapers.

Tobacco IndustryTactic: Advocate for accommodation of smokers and ventilation as a solution - introduce "Red Light-Green Light" policies.

Tobacco Industry Sound Bite: Accommodation and common courtesy can solve this problem.

Fact:

- The only way to protect smokers from the documented dangers of secondhand smoke is to either:
- completely eliminate smoking, or
- create a separate, enclosed smoking room that has a separate ventilation system directly exhausted to the outside. (NIOSH Current Intelligence Bulletin #54, 1991)

Tobacco Industry Tactic: Downplay the health issue by reframing the debate; make tobacco control advocates look unreasonable.

Tobacco Industry Sound Bite: This is a civil rights, personal liberty issue, not a health issue. What's next-red meat, fast food, caffeine?

Fact:

- Clean indoor air campaigns do not seek prohibition nor to pit smokers against nonsmokers.
- Clean indoor air laws eliminate smoking from enclosed public places and workplaces to protect all people from the documented health risks of secondhand smoke.
- Personal liberty has never been understood to allow one person's behavior to damage or risk damage to another.

Tobacco Industry Tactic: Attack government action on a public health problem. Argue against too much government regulation.

Tobacco Industry Sound Bite: Business should have the right to choose.

Fact:

- Local governments have the express mandate to enact laws to protect the public's health and safety.
- Small businesses are regulated by many other types of local laws that protect the health and safety of the public.

Tobacco Industry Tactic: Attack the science of secondhand smoke, including the EPA report which concluded that secondhand smoke is a known human carcinogen.

Tobacco Industry Sound Bite: The EPA's methodology is flawed, so flawed that the conclusion simply cannot be supported.

Fact:

- Only the tobacco industry and its allies question the science that proves secondhand smoke is a serious health risk.
- Internal tobacco industry documents acknowledge that secondhand smoke is dangerous.
- Over 100 major studies in the past 13 years have examined secondhand smoke. Most found that secondhand smoke is injurious to health, including:
 - Surgeon General's Report, 1986
 - National Research Council review, 1986
 - Environmental Protection Agency report 1992
 - California Environmental Protection Agency review, 1997

Tobacco Industry Tactic: Discredit legitimate economic impact studies (or their authors) and promote tobacco industry-backed junk science.

Tobacco Industry Sound Bite: Smoke-free ordinances [regulation] will lead to economic devastation of the community.

Fact:

- The only unbiased, accurate means to measure economic impact is to compare sales tax receipts, provided by a state board of equalization, for several years before an ordinance as well as all quarters after an ordinance is enacted.
- Study after study conducted in this fashion find that smokefree ordinances have no negative impact on local businesses.
- The tobacco industry funds and promotes flawed studies that are based upon anecdotal information and perceptions, and ask leading questions.

AFTER THE ORDINANCE PASSES

Tobacco Industry I Tactic: Focus media attention on isolated violations or civil disobedience-don't acknowledge high rates of compliance.

Tobacco Industry Sound Bite: This will be an enforcement nightmare.

Fact:

- It is insulting for the tobacco industry to imply that the majority of business owners and smokers have no respect for the democratic process or are not law abiding citizens.
- Smokefree ordinances are generally easy to enforce, especially if there has been an effective public education campaign conducted, the law is well written and the enforcement agency is committed to both the goals of the ordinance and working with affected businesses.

Tobacco Industry Tactic: Threaten and file legal challenges.

Tobacco Industry Sound Bite: These laws are unconstitutional.

Fact:

- Although there are now over 800 clean indoor air ordinances on the books, successful legal challenges to these ordinances are extremely rare.
- Smokefree ordinances are almost always upheld by the courts.
- The tobacco industry uses lawsuits to intimidate elected officials into repealing smokefree ordinances and scare off other neighboring communities from taking similar action.

Tobacco Industry Tactic: Attempt to repeal a smokefree ordinance by means of a voter referendum.

Tobacco Industry Sound Bite: Voters will get an opportunity to end the business-busting ban. If other smokers and businesses want our help, it will be provided.

Fact:

- Like legal challenges, voter referendums to repeal smokefree ordinances generally fail.
- In a recent referendum, Mesa AZ voters upheld the city's smokefree ordinance by more than a 2 to 1 ratio (69% to 31%).

Tobacco Industry Tactic: Pass a state law that takes away the authority of city and county governments to enact local clean indoor air ordinances.

Tobacco Industry Sound Bite: "When you have 95,000 local units of government in this country, and you have a finite amount of resources, then the smart thing to do is to try to limit the potential for mischief. -- Walker Merryman, The Tobacco Institute

Fact:

- Tobacco control advocates have been so successful at fighting preemption, that the tobacco industry has shifted its legislative focus to more subtle means of limiting local control:
- In Arkansas, the legislature created a statewide tobacco control board which, with industry representation, would consolidate all tobacco related decision making.
- In 1998, the West Virginia legislature introduced 9 different preemption bills, including one which would have taken away the power of local boards of health to enact regulations of any sort.

SOME THINGS TO REMEMBER

"Ordinances only work to the extent that they sanctify a change in public attitudes."

-- Stan Glantz, *Scientific American*, July 1998

- Our *primary goal* is to change the culture, making smoking socially unacceptable. Legislation is only a tool.
- There is *only one rule* in running a clean indoor air policy campaign: Educate, *THEN* Legislate.

WINNER'S CIRCLE STRATEGIES

- Taking as much time as necessary to educate and organize a strong and diverse grassroots base of support.
- Focus on grassroots: talk directly to people about the problem; actively involve people who care deeply about this issue; create real grassroots leadership; obtain organizational endorsements.
- Have a strategic plan with goals, objectives and a timeline.
- Begin with policies that reflect where the community stands on clean indoor air.
- Educate the business community and elected officials before the opposition does.
- Go slow and take it one step at a time: jurisdictions with no experience in clean indoor air policies might consider starting with smokefree government buildings, then moving to public places and workplaces (excluding restaurants), and finally restaurants.
- Make sure you have all the required votes on the council or board before going into a public hearing.
- Save bars and outdoor restrictions until you have coverage of all other indoor venues.
- Understand your opponents and be prepared to counter their tactics.