

National RWJF SmokeLess States Program Helps Delaware Develop Comprehensive Clean Indoor Air Act and Increase Taxes on Cigarettes

SmokeLess States: National Tobacco Policy Initiative

SUMMARY

The IMPACT Delaware Tobacco Prevention Coalition, with the American Lung Association as the lead organization, conducted statewide activities to reduce tobacco use, particularly among children and youth.

The project was part of the Robert Wood Johnson Foundation (RWJF) *SmokeLess States*® *National Tobacco Policy Initiative*.

Key Results

Among the results of the project are the following:

- Delaware passed a comprehensive Clean Indoor Air Act which also overturned preemption¹.
- Delaware increased its cigarette excise tax from 24 to 55 cents per pack.
- The University of Delaware went smoke-free.
- Delaware passed legislation that limits youth access to tobacco products.
- Delaware created the Delaware Health Fund, a repository for all the monies from the Master Settlement Agreement².

¹ **Preemption**—A legislative or judicial scheme in which a higher level of government (state or federal) precludes lower levels of government from exercising authority over a specific subject matter. The tobacco industry commonly seeks to have state legislatures pass preemption laws to prevent local municipalities from legislating or regulating the sale or distribution of tobacco products or setting clean air laws for their communities; this effectively stifles local coalition policy activity.

² Master Settlement Agreement—A 1998 legal agreement between the tobacco industry (the five largest tobacco manufacturers) and the state Attorneys General in 46 states, Puerto Rico, the U.S. Virgin Islands, American Samoa, the Northern Mariana Islands, Guam and the District of Columbia. The agreement

- The coalition helped each Delaware hospital create a tobacco education program for patients.
- Delaware instituted mandatory compliance checks in retail outlets selling tobacco products in 1998.
- The IMPACT Delaware Tobacco Prevention Coalition developed a comprehensive tobacco control plan for the state, *A Plan for a Tobacco Free Delaware*.

Funding

RWJF provided \$1,448,505 for this project from April 1997 to February 2004. Other sources—including the American Cancer Society, the American Heart Association and the American Lung Association—contributed \$424,000 to support lobbying and other activities. No RWJF funds were used for lobbying. (See the Appendix for a list of additional funders.)

THE PROBLEM

In 1996, Delaware had the second highest cancer death rate and the ninth highest smoking rate among adults in the nation. A Delaware task force had identified tobacco use as the number one lifestyle change needed to prevent cancer in the state. However, forces working against tobacco prevention and control included:

- Delaware's cigarette excise tax, at 24 cents per pack, was low; in the northeast and middle Atlantic regions, only Virginia, one of the nation's leading tobacco growers, had a lower tax.
- Five of the seven tobacco companies were incorporated in Delaware.
- In 1995, 38 members of the Delaware state legislature—more than 60 percent—accepted contributions from the tobacco industry.

In 1985, the American Cancer Society, the American Heart Association and the American Lung Association formed the Delaware Coalition on Smoking OR Health, the first organized effort to work on tobacco issues. The coalition successfully shepherded a cigarette excise tax increase and legislation limiting youth access to tobacco through the General Assembly.

In 1995, with funding from the Centers for Disease Control and Prevention, Delaware created the IMPACT Delaware Tobacco Prevention Coalition, a grassroots advocacy organization dedicated to improving tobacco control—an expansion of the Delaware Coalition on Smoking OR Health. Over 18 months, the coalition grew to more than 25

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professional, voluntary, state and community organizations. With its new infusion of funding and members, the coalition developed a State Tobacco Prevention Plan that was endorsed by the governor. However, the strong influence of the tobacco industry was still a significant barrier to tobacco control efforts.

CONTEXT

In February 1991, the RWJF Board of Trustees established three new grantmaking goals; goal number three, as outlined in the Foundation's 1990 annual report, was "to promote health and prevent disease by reducing harm caused by substance abuse."

After exploring the landscape of tobacco prevention and control—at both the state and federal levels—RWJF program staff concluded that a private-sector voice was needed in the arena of tobacco control.

To fill the gap in private-sector tobacco-control activities identified by RWJF staff, the RWJF Board of Trustees in April 1993 authorized up to \$10 million for a four-year program, *SmokeLess States: Statewide Tobacco Prevention and Control Initiatives*, to support statewide efforts to reduce tobacco use, particularly among children and youth In 2000, the program's name was changed to *SmokeLess States: National Tobacco Policy Initiative* to reflect the focus on tobacco control advocacy only.

THE PROJECT

During the first phase of *SmokeLess States* (1993–1999), sites were expected to mobilize statewide coalitions, conduct public education campaigns, strengthen prevention and treatment capacity, and develop tobacco control policies. Under the first grant (ID# 031385), the IMPACT Delaware Tobacco Prevention Coalition hired additional staff, focused on strengthening the coalition's membership base and initiated its Tobacco Free Delaware project, which included efforts to educate the public and advocate for tobacco policy change.

The coalition's key activities during this phase included:

- Working on a campaign to create a separate health fund for monies from the Master Settlement Agreement³.
- Working on a campaign to increase the state tobacco excise tax.

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- Developing and implementing a public relations campaign using radio, television, newspapers and billboards.
- Working to reduce youth access to tobacco, by building a youth coalition and other activities.

The second phase of *SmokeLess States* (2000–2004) focused only on working to change tobacco policy. During this phase, Delaware's coalition focused on the passage of a strong Clean Indoor Air Act and increasing the cigarette excise tax (ID# 041522). The coalition's key activities funded by RWJF during this phase included:

- Building a grassroots database of more than 4,500 people interested in a comprehensive Clean Indoor Air Act for Delaware. People signed "green cards" that were forwarded to their legislators.
- Developing a grassroots media campaign, which involved coalition members and
 other interested people and groups in writing letters to all of the state's newspapers in
 support of the Clean Indoor Air Act.
- Implementing a comprehensive tobacco education campaign that included training for adults and youth; a public relations campaign using radio, television, newspapers, billboards and community presentations; educational gatherings for physicians and legislators; and special events at sports venues.
- Providing mini-grants to coalition members and community groups to support their tobacco prevention and control efforts.

By the end of the project, the IMPACT Delaware Tobacco Coalition included more than 65 agencies, nonprofit service groups, faith communities, government-supported offices, community partners and others. In addition to the American Lung Association (the lead organization), the American Cancer Society and the American Heart Association, coalition partners included Bay Health Medical Center, Boys and Girls Clubs of Delaware, the Catholic Diocese of Wilmington, Delaware Health and Social Services, Latin American Community Center, the Medical Society of Delaware, the Parent Teacher Association of Delaware and the West Center City Neighborhood Planning Advisory Committee. The coalition raised \$424,000 for its activities (see the Appendix for a list of additional funders). All lobbying⁴ activities were supported by matching funds and inkind support.

⁴ **Lobbying**—There are several kinds of lobbying. "Direct lobbying" consists of communications with legislators that seek to influence specific legislation. "Grass roots lobbying" consists of communications with the general public that encourage the recipients to contact legislators to influence specific legislation. Federal law prohibits foundations from lobbying; other nonprofit organizations can lobby within limits established by federal tax law (which vary depending on the type of organization), using their membership dues and other funds. Industry can lobby, and the tobacco industry asserts much of its power through lobbying.

RESULTS

Project staff reported the following key project results to RWJF:

- Delaware increased its cigarette excise tax from 24 to 55 cents per pack in 2003. Given an existing budget surplus in the state, this was considered a significant legislative victory.
- Delaware passed a comprehensive Clean Indoor Air Act in 2003. The legislation made all indoor public places smoke-free. It also removed Delaware's preemption⁵ clause, which had placed the authority for tobacco control efforts at the state rather than the local level. The IMPACT Delaware Tobacco Coalition, with the support of the governor, was subsequently successful in blocking legislation intended to weaken the act. An indoor air quality study conducted before and after the law's passage showed a 95 percent reduction in carcinogen levels and a 90 percent reduction in fine air particulates in eight locations examined. Nearly 100 percent (99.6 percent) of Delaware establishments comply with the law.
- The University of Delaware went smoke-free in 2000. As a result, more than 22,000 students, faculty and staff live and work on a campus free from environmental tobacco smoke.
- Delaware passed legislation that prohibits the use, distribution or advertising of tobacco products in school buildings, grounds and vehicles, and at all school functions.
- Delaware passed legislation that prevents youth from gaining easy access to tobacco products via the Internet.
- The IMPACT Delaware Tobacco Coalition developed a strong youth component with over 1,000 members, the Delaware Kick Butts Generation. The youth, who were trained in advocacy and media relations, actively participated in the tobacco excise tax campaign and youth access issues. Youth were also trained in the American Lung Association's Teens Against Tobacco Use program and visited elementary and middle schools to speak about tobacco use. Youth also coordinated a First Night Dover Smoke-Free and Alcohol-Free Dance and Kick Butt Karavan, which brings potential members to the beach for a summer beach party and introduces and encourages the potential members to become involved in anti-smoking projects.

⁵ **Preemption**—A legislative or judicial scheme in which a higher level of government (state or federal) precludes lower levels of government from exercising authority over a specific subject matter. The tobacco industry commonly seeks to have state legislatures pass preemption laws to prevent local municipalities from legislating or regulating the sale or distribution of tobacco products or setting clean air laws for their communities; this effectively stifles local coalition policy activity.

- Delaware created the Delaware Health Fund, a repository for all the monies from the Master Settlement Agreement⁶. The monies in the health fund can be used only to support specific health-related issues, including tobacco control. This was a significant victory for the coalition because Delaware historically placed revenue into the state's general fund, and there had been significant opposition to the legislation creating the health fund. In 2004, \$10 million from the health fund was earmarked for tobacco control.
- The project helped each Delaware hospital create a tobacco education program for patients that operates through the respiratory therapy department. The programs were developed with the American Lung Association, the American Cancer Society, the American Heart Association and the hospitals.
- Delaware instituted mandatory compliance checks in retail outlets selling tobacco products in 1998. Compliance checks monitor vendors' compliance with legislation that prohibits the sale of cigarettes and other tobacco products to minors. Tobacco Free Delaware trained youth and adults to conduct compliance checks and, from 1995 to 1997, conducted voluntary compliance checks. After the state took over the program in 1998, Tobacco Free Delaware worked with the state in various capacities including training and planning.
- The IMPACT Delaware Tobacco Prevention Coalition developed a comprehensive tobacco control plan for the state, A Plan for a Tobacco Free Delaware. This plan, released in January 2000, outlines the coalition's goals through 2010. The coalition is working with other community organizations to incorporate these goals into their plans as well. The coalition is in the process of revising the plan to show what has been accomplished and where it needs to go.
- The IMPACT Delaware Tobacco Prevention Coalition helped create a constituency in the state more educated about tobacco prevention and control—and more willing to speak out. The number of people in the coalition's database who signed a postcard to their legislator, wrote a letter to the editor or an op-ed piece or called their legislator increased from approximately 300 in 1997 to more than 4,000 in 2004.

Communications

The project established a website (*www.tobaccofreedelaware.org*, no longer active) with information about the coalition and its policy successes and developed and disseminated a newsletter (*Round-Up*), and fact sheets and brochures. Staff held educational workshops and training conferences on tobacco use. Tobacco Free Delaware's media

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campaign in support of the Clean Indoor Air Act included blanketing the state's newspapers with letters to the editor and participating in radio and television talk shows.

The coalition obtained the support of the editorial board of the *News Journal*, Delaware's largest newspaper. The *News Journal* continually published articles and op-ed pieces that affirmed the coalition's tobacco-control efforts. As project director Deborah Brown commented, "The editorial board did not waiver in its support of the Clean Indoor Air Act. ... We were able to utilize minimal dollars to get maximum action." Once the Clean Indoor Air Act was passed, more than 2,000 newspaper articles, more than 100 televisions programs and hundreds of radio programs mentioned the law. See Bibliography for details.

LESSONS LEARNED

- 1. There is a fine line between education and lobbying, which one must remain cognizant of at all times. Project staff learned a great deal about how they could use education and advocacy to press for stronger tobacco control and when to step back and let other organizations take over with lobbying efforts. (Brown/Project Director)
- 2. **Staying on message is critical to effective policy advocacy.** The IMPACT Delaware Tobacco Prevention Coalition used a health message to advocate for clean indoor air legislation, and stuck with this message despite every attempt by the opposition to drag them off message and into a discussion of economics. (Brown/ Project Director)
- 3. **Building and nurturing a strong grassroots base is also critical to effective policy advocacy.** In Delaware, the general public was educated about the harm caused by tobacco products and came to understand that their voice was important, too. They became part of the political process, knew which legislators to call and how to speak to them, and were no longer intimidated by those opposing the issue. (Brown/Project Director)
- 4. The youth voice is a key component of a tobacco prevention and control campaign. Politicians want to know how youth feel about the issue—and they listen when youth speak publicly or through letters to politicians. By establishing Delaware Kick Butts Generation, the coalition tapped into the strength and energy of the state's youth and used them to reinforce their health message. (Brown/Project Director)

AFTERWARD

The Delaware Health Fund continues to support tobacco control activities through the monies secured from the Master Settlement Agreement⁷. The American Lung

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Association of Delaware continues to administer the IMPACT Delaware Tobacco Prevention Coalition. Coalition members recognize that legislative attempts to weaken the Clean Indoor Air Act will continue and plan to work to maintain the law. The coalition revised the Plan for a Tobacco Free Delaware in January 2005, which outlines its goals and objectives through 2010. The coalition is working with other community organizations to incorporate these goals into their plans as well.

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APPENDIX

Other Cash and In-Kind Funders to Tobacco Free Delaware

(Current as of the end date of the program; provided by the program's management; not verified by RWJF.)

Cash Contributions

- State of Delaware Division of Public Health, \$201,000
- American Cancer Society, \$60,000
- American Lung Association, \$56,550
- American Heart Association, \$50,000
- Campaign for Tobacco-Free Kids: Advertisement and phone banking, \$37,400
- Glaxo-Advertorials and Zyban education, \$8,500
- American Lung Association of Delaware, American Heart Association and the American Cancer Society, jointly, \$6,000
- Bayhealth Medical Center, \$3,000
- Kids Count, \$1,000
- American Lung Association National Office, \$519
- Preventive Medicine and Rehabilitation Center, \$100

In-Kind Contributions

- American Cancer Society
- American Lung Association
- Americans for Non-Smokers Rights/Campaign for Tobacco-Free Kids
- Delaware Division of Public Health
- Dupont Hospital for Children
- New Castle Community Partnerships/Safe and Drug Free Schools/Department of Health and Social Services
- Pappastravos Radiology
- Numerous restaurants, businesses and community organizations

- Lobbyists of the American Lung Association, American Cancer Society and the American Heart Association
- Family Services Council
- ZENECA Pharmaceuticals
- Anonymous Donor

BIBLIOGRAPHY

(Current as of date of the report; as provided by the grantee organization; not verified by RWJF; items not available from RWJF.)

Articles

Simmons R. "Call to Action." Focus, June 3, 1999.

Sylvester G. "Pro Health." Focus, October 21, 1999.

Brown D. "HENOD Sponsors Statewide Tobacco Conference." *HENOD News*, March 2000.

Piecuski L. "Polytech Senior Not Just Blowing Smoke." *Polytech Press*, Winter 2000.

Brown D, Murtha K and Simmons R. "Delaware's Clean Indoor Air law Provides Lessons Learned," *News&Views*, 29(5): 7, 2002.

Reports

Your Resource for Tobacco Control in Delaware. Wilmington, DE: IMPACT Delaware Tobacco Prevention Coalition, 1999.

Prevent, Protect, Enforce. Wilmington, DE: IMPACT Delaware Tobacco Prevention Coalition, 1999.

Tobacco Control in Delaware. Wilmington, DE: IMPACT Delaware Tobacco Prevention Coalition, January 2002.

Facts About Secondhand Smoke. Wilmington, DE: IMPACT Delaware Tobacco Prevention Coalition, March 2002.

Economic Impact of Smoke-Free Policies on Restaurants and Bars. Wilmington, DE: IMPACT Delaware Tobacco Prevention Coalition, March 2002.

Effects of Secondhand Smoke on Bar and Restaurant Workers and Customers. Wilmington, DE: IMPACT Delaware Tobacco Prevention Coalition, March 2002.

Delaware's Clean Indoor Air Act. Wilmington, DE: IMPACT Delaware Tobacco Prevention Coalition, May 2002.

Bostic C. *Tobacco Policy Trend Alert-Clean Indoor Air: The Delaware Campaign Model.* Washington: American Lung Association, January 2003.

Survey Instruments

"Public Opinion Poll on Tobacco Issues," Mathematica, fielded September–November 1997.

"An Air Quality Survey of Respirable Particles and Particulate Carcinogens in Delaware Hospitality Venues Before and After a Smoking Ban," Repace Associates, conducted November 15, 2002 and January 24, 2003.

"One Year Anniversary Clean Indoor Air Survey," Mason and Dixon Poll, fielded October 24 through 27, 2003.

Grantee Websites

www.tobaccofreedelaware.org, no longer active, provided information about the coalition and its policy successes. Wilmington, DE: Tobacco Free Delaware, 1999.

www.ysmoke.org provides information about the Delaware Kick Butts Generation and a schedule of its activities. Wilmington, DE: Tobacco Free Delaware/Kick Butts Generation, 2001.

Presentations and Testimony

Six coalition members, "The Tobacco Excise Tax Increase," to the House Revenue and Finance Committee, January 28, 1998, Dover, DE.

Deborah P. Brown, "The Tobacco Excise Tax Increase," to the Senate Health and Social Services/Aging Committee on Health Insurance, March 18, 1998, Dover, DE.

31 coalition members, "The Tobacco Excise Tax Increase," to the House Revenue and Finance Committee, March 25, 1998, Dover, DE.

Deborah P. Brown, "Benefits of a Clean Indoor Air Act," to the House Health and Human Development Committee, March 2, 2002, Dover, DE.

Deborah P. Brown, "Benefits of a Clean Indoor Air Act," to the House of Representatives, May 2, 2002, Dover, DE.

Deborah P. Brown, "Benefits of Keeping the Clean Indoor Air Act Intact," to the House of Representatives, June 26, 2002, Dover, DE. Invited to the floor by Representative Robert Gilligan.

Deborah P. Brown, "Benefits of Keeping the Clean Indoor Air Act Intact," to the House Natural Resources and Environmental Management Committee, January 22, 2003, Dover, DE.

John D'Angelo, "Benefits of An Excise Tax Increase," to the Revenue and Finance Committee, May 28,2003, Dover, DE. Invited by Representative Deborah Hudson.