

# Enforcement of Tobacco Control Law

## A Guide to the Basics



# **Enforcement of Tobacco Control Law: A Guide to the Basics**

## **Booklet prepared by:**

Debra Efroymsen and Syed Mahbubul Alam

Editors: Sian FitzGerald and Lori Jones

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Finally, HealthBridge thanks Health Canada for its financial support to the workshop and the production and publication of this booklet.

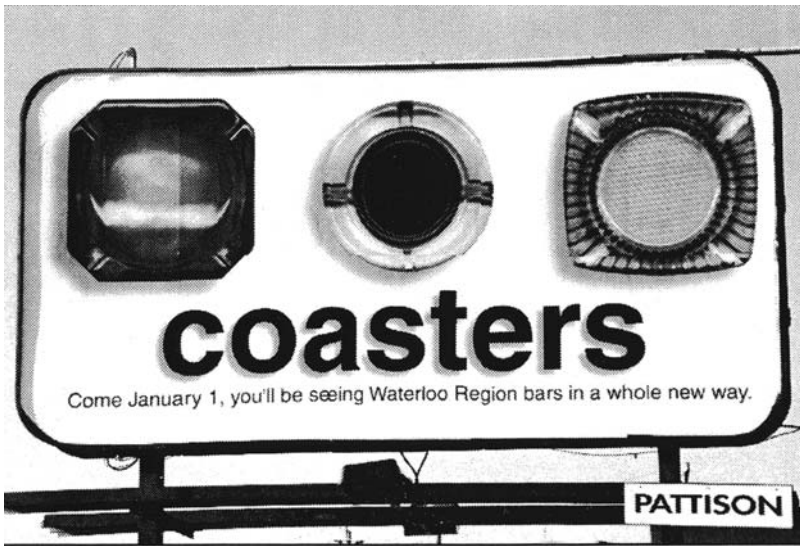
## **Foreword**

This booklet is intended for those who are drafting a tobacco control law or amending an existing weak one, who are starting to think about enforcement issues, or who are struggling with the enforcement of an existing law. Without going into great detail, this booklet attempts to provide an overview of key issues and sources of more information.

Perhaps most important, this booklet is meant to provide encouragement: it is possible to succeed in the difficult work of enforcing tobacco control laws, and thereby in improving people's health and wellbeing.

Because the authors live in Bangladesh and are most familiar with the situation there, this booklet draws heavily on examples

from that country. But most of the issues are universal, and approaches should easily be adaptable to other countries as well.



Billboard ad by college student, November 22 to December 19, 1999

*Canadian ad promoting support for smoke-free law*

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## **Introduction**

The passage of a strong comprehensive tobacco control law that bans all forms of promotion and sponsorship, mandates smoke-free public places and workplaces, and places large clear pictorial warnings on tobacco packages is an essential step for protecting public health, the environment, and reducing poverty.

However, simply passing such a law is not enough. Many laws are passed that are never properly implemented, and thus fail to achieve the anticipated benefits. It would be an enormous waste of effort and resources if this were to be the case with tobacco control laws.

Yet, experience suggests that too often laws are written in such a way as to make them difficult if not impossible to enforce. They then fail to achieve anticipated reductions in tobacco use, and thus in morbidity, mortality, and other harms.

This booklet offers guidance on law implementation at a number of different stages: from drafting a law that is possible and easy to enforce, to gaining the support of law enforcement agencies to ensure proper enforcement, to mobilizing the public to comply with the law. It is hoped that this booklet will prove to be useful to those working in tobacco control as they support the process of drafting strong legislation, amending existing legislation, or strengthening enforcement. With the proper tools and effort, it is possible to succeed in reducing the ability of tobacco companies to attract consumers to their products, while also promoting health and sustainable environments over profits and death.



# smoke the fish not the kids!

**Don't smoke in your car.**

*Opening the window doesn't cut it!\**

*A smoky car is the same as a smoky bar.*



\*Measuring air quality to protect children from second hand smoke in cars  
- American Journal of Preventative Medicine November 06

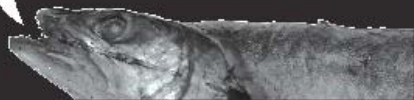
A message from



National Highway  
Traffic Safety  
Administration  
www.nhtsa.gov



National Fire  
Protection  
Association  
www.nfpa.org



*Canadian ad*

## **Background**

Knowledge of the deadly harms caused by tobacco products is not new, but the concerted international effort to reduce the use of tobacco through law and policy is more recent. A major advance occurred with the drafting and acceptance of the WHO Framework Convention on Tobacco Control (FCTC), which established a set of guidelines for the minimum actions that governments must take to reduce tobacco use in their countries.

The process of drafting and negotiating the FCTC proved highly educational to government officials and members of civil society. The process raised people's awareness of the importance and utility of laws, as opposed to just public education, in reducing tobacco use. It also educated people about the specific measures needed and, to a lesser extent, the specific language that is needed in national laws to meet the basic provisions set forth in the FCTC.

Now that most countries have ratified the FCTC, the next step is to draft or amend laws to match, or preferably exceed, the provisions in the FCTC in order to meet the legal requirements of treaty ratification. The process of drafting and passing national legislation has not been any freer of tobacco company interference than was the negotiation of the FCTC itself. As a result, many countries have failed to enact ideal legislation and are facing difficulties in enforcing laws that either were not carefully written or were perhaps deliberately drafted so as to be difficult to enforce.

Fortunately, with the momentum provided by the FCTC, governments around the world are going through the process of



revising and updating their legislation nearly simultaneously and can learn from each other. Some countries, such as Thailand and South Africa, have had strong comprehensive legislation in place for many years, and can serve as examples to the latecomers in the field. Such sharing is facilitated by modern communication systems so that both governments and civil society can learn from the loopholes, obstacles, and successes, and also discover strong mechanisms for effective enforcement of their laws.

### **Step One: Drafting a law with enforceable provisions**

In the process of law drafting, struggle and compromise often occur between those attempting to draft a strong law and the industry representatives eager to weaken it or water it down. One component which often gets weakened during the negotiations is enforcement provisions. If the industry does not succeed in watering down provisions to allow advertising and sponsorship under certain conditions, or smoking in certain public places (for example by excluding restaurants from the legislation or adding smoking areas), or by weakening pack warnings, it will surely attempt to include language in the law that makes it difficult to enforce.

This can be done by adding contradictory or unclear language. For instance, the current tobacco control law in Bangladesh specifies a number of smoke-free places, but then explains that any manager of a public place can designate a smoking area within that public place - with no limitations placed on the size or separation of that smoking area. Similarly, the section on advertising in the same law consists of a number of sub-headings, making it very difficult to understand what the law

actually covers and what it omits. An obvious lesson here is that the clearer the language, the easier it will be to implement the law. (In the case of Bangladesh, these problems were fixed in the regulations passed a year after the law.)

Clarity includes<sup>1</sup>:

- ★ Avoiding any weakening of provisions, for example through including a designated smoking room or smoking area (in addition to their ineffectiveness at maintaining a healthy environment, designated smoking rooms create an uneven playing field, benefiting businesses big enough to include them, and are costly to build and regulate);
- ★ Clear definitions of key terms;
- ★ Clear duties of persons responsible for premises;
- ★ Sanctions clearly defined for all violations, stronger for shops/restaurants and companies than for individual smokers;
- ★ Clear lines of authority and duties for inspection and enforcement.

If/where these are not clear in the law, they must be addressed to the extent possible in regulations.

Another way that enforcement is made difficult is when enforcement powers are delineated so narrowly that only one or two individuals in the entire country have those powers. While others may observe and comment on violations, they may have been given no power for actual enforcement. Alternatively, the designated enforcers may be too busy with other law violations to have the time to address tobacco control law; or the

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<sup>1</sup>Thanks to Rose Nathan for these suggestions.

enforcement provisions may be so cumbersome as to prevent them ever being brought into force. The reverse of this situation exists in Bangladesh, where rather than having to bring offenders to court, the court can actually go to the offenders, through what is known as a mobile court. A magistrate may bring out this court which has the power to enforce the law by, for example, removing banned advertising and fining offenders.

Law enforcement is also weakened when fines are inadequate to act as a deterrent. This is particularly the case in terms of fining companies, which could consider fines for advertising as merely another advertising expense. The Thai government dealt with this many years ago by ensuring different fine categories for individuals, shopkeepers, and companies, so that each level of fine is reasonable and sufficient. Similarly, the onus of making places smoke-free should be not on the individual smoker, but rather on a venue's manager or owner.

Another important contribution would be to give certain enforcement powers to the general public. That is, while the public could not directly fine a violating company, it should be able to demand that smokers not smoke in public places, and be empowered to report violations to government officials-with a tracking procedure in place that allows them to discover whether or not action was taken.

The law itself could contain <sup>2</sup> :

1. **Background on and interpretation of the law**, to answer all questions inspectors likely will have, such as:
  - a. Need for and benefits of the smoke-free law
  - b. All applicable laws and what they say

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<sup>2</sup> Thanks to Rose Nathan for the information in this section.

- c. Agencies with inspection/enforcement authority and their responsibilities
  - d. Inspection powers and duties
  - e. Acts or failure to act that constitute a violation
  - f. Available sanctions and how/when to apply them
2. **Inspection and enforcement roles/responsibilities and coordination.** For example, in Turkey and France, Ministry Circulars lay out duties and procedures of sub-national levels of government. Also in France, a special staff position has been created for coordination. Inspection and enforcement measures are usually determined based on resources and priorities.
3. **Inspections:** where-how-what and how often. The inspections can target specific places of higher priority, be randomized, respond to complaints, or occur following a schedule (routine). Inspections can see if:
- a. smoking is occurring
  - b. required signage is posted
  - c. ashtrays are present
  - d. the business has a no-smoking policy in place

In addition to observations, inspection can also include talking to customers/visitors and staff. In many places, there is a complaint (phone) line, which in some cases is handled by NGOs.

Decisions about where to inspect can be based on places where:

- a. smoking was common before the law
- b. managers may not realise that the law applies to their premises
- c. legislative proposals have been altered during the process
- d. compliance is expected to be challenging (e.g., bars)
- e. management is likely to use exemptions in the law.
- f. many people are present
- g. there were no pre-existing voluntary controls
- h. enforcement officers do not usually visit

Such measures can change over time, taking into consideration confidence in the management, history of compliance, and number of complaints received.

#### 4. Evidence and inspection/investigation records

Evidence can include photos, videos, and statements made by witnesses. Records can consist of inspection and investigation forms, witness statements, and sanctions forms, with notices given to the violator. All records should, of course, come complete with instructions about their use, including how to fill them out, where to save/send them, and how to preserve any needed evidence

#### 5. Enforcement approach

Different jurisdictions have different approaches to enforcement, although a common focus is on encouraging public support and voluntary compliance. Most jurisdictions seek to fine businesses as well as smokers for violating no-smoking laws, while others fine only businesses rather than individual smokers. In the United

Kingdom, a differentiation is made between violating and misunderstanding the law or lacking diligence in its enforcement, in which case only advice and guidance is given, with penalties being used only in cases of persistent lack of cooperation or antagonism.

In order to save scarce inspection resources, some jurisdictions build tobacco control inspections into other inspection programs such as for food safety or other health and safety laws. Where these other inspectors are not specifically authorized to act under the tobacco control law, they can still provide guidance to violators, report non-compliance to authorized officers for follow up, etc.

## **Step Two: Education on and dissemination of the law**

Laws are of little use if nobody reads them. Unfortunately, the very nature of laws involves legal language that makes them difficult for an amateur to decipher. It is therefore important to ensure that those charged with enforcing the law actually understand what it covers and excludes.

Furthermore, in some cases the government does not print sufficient copies of the law to reach all those who require it. It is important to ensure that those with law enforcement responsibilities actually have a copy of the law (and preferably also of a document written in easy-to-understand language which explains the law and their responsibilities). If necessary, civil society organizations can request permission from government to reprint and distribute the law, and serve as a resource centre to which people can turn to seek explanations of the law.

For instance, tobacco industry personnel commonly attempt to misguide local government officials in small towns of Bangladesh. When the government officials fine a company for illegal advertising, or a smoker for smoking in a public place, the industry will claim that the advertising or public smoking is completely legal, and demand proof that it is not. Due to the existing close relationship between GO and NGO officials, the confused and intimidated official can call informed members of the Bangladesh Anti-Tobacco Alliance (BATA) and ask for the specifics about the clause that they are enforcing, and for reassurance that their actions are indeed legal. Having such a resource has proved to be of enormous assistance in law enforcement.

Key messages specifically on the smoke-free places portion of a law can include:

- ★ The right to breath safe, clean air at work
- ★ The need to protect the heath of workers and the public<sup>3</sup>
- ★ That second hand smoke is a serious health hazard
- ★ Global/national/local statistics
- ★ That there is no safe level of exposure to second hand smoke
- ★ That separate smoking areas and ventilation aren't effective
- ★ That smoking bans are positive for business
- ★ That bans are desired by the majority of the public
- ★ That bans are workable, as shown by other countries' experiences

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<sup>3</sup>Where some places are already smoke-free, the message can include the fact that not just hospital workers/students have the right to smoke-free air; what is good for them is also good for restaurant workers/etc.

### **Step Three: Involving a wide range of people in law monitoring and enforcement**

A critical component of law enforcement is monitoring - of both the enforcement and compliance with the law. Without knowledge of where and how the law is being violated, enforcement is not possible. Monitoring can include visiting smoke-free public places to ensure that smoking is not occurring, watching for illegal advertising (this can include monitoring media, checking streets for billboards and shops and other commercial venues for advertising, and investigating sponsorship of events) and reviewing tobacco packaging for appropriate warnings. Such monitoring, however, can be a major effort, especially in a large country.

It is thus normally not wise or feasible to leave law monitoring and enforcement entirely in the hands of a limited pool of legally-established enforcement officials. First, laws are virtually impossible to enforce without a strong measure of public compliance: it is simply not possible for officials to visit every public place, every shop, and every roadside stall to ensure that the law is not being broken. Second, there are many influences on law enforcement officials, some of which actually hinder active law enforcement. This includes not only interference by the industry, but also competing obligations. The enforcement of a tobacco control law will normally not take precedence over the enforcement of other laws, nor necessarily should it. Reducing the load on a limited number of enforcement officials by sharing the burden among those with a stronger stake in enforcement could do much to ensure greater compliance with the law.



Individuals or organizations who could be recruited to take part in law monitoring and enforcement include those who have long been working on tobacco control. If people understand the connection between a strong law and likely reductions in tobacco use, and thus associated poverty, disease, death, and environmental damage, they may be highly motivated to take part in law monitoring and enforcement. For example, NGOs in France have the right, by law, to take legal action against violators of smoke-free laws. The government can appoint NGOs to make written complaints and otherwise assist in monitoring and even enforcement.

But such people and agencies will require training as well as motivation and other support. As with enforcement officials, so with others assisting in law enforcement: copies of the law, and a simple explanation of its meaning, will be needed. Training can be provided to educate people about the extent and provisions of the law and about their role in monitoring and enforcement. Regular communication and feedback is needed to ensure that people stay motivated and are sharing information with the proper authorities-and that the information is being acted upon. Refresher training is needed when new people enter the field, to keep people up to date on changes, when a long gap has passed between trainings, and when laws are amended.

Ideally, a centrally-located organization could disseminate copies of the law, create and disseminate the supporting materials including limited copies of signboards and educational pamphlets, train those involved, coordinate law monitoring activities, and follow up on the reactions of authorities to reported violations.

## **Step Four: Public compliance and media**

As mentioned, a law cannot be enforced without a strong measure of public compliance. When the public resists the law, there is little that enforcement officials can do. A classic example here is that of France, where an initially weak law was widely disregarded by a sceptical public, and no-smoking signs served as decoration rather than as an indication of escape from omnipresent cigarette smoke. In contrast, a new stronger law has been accompanied by a strong public education campaign and, unlike the original law, is widely complied with, leaving little for law enforcers to do.

As in Thailand, so in France: by advancing progressively, in stages, the public had an opportunity to understand the importance of the law, and officials to test out their strategies for implementation, rather than attempting to do too much at once. A similar approach is usually also taken for pack warnings and ad bans. However, with strong momentum for tobacco control, it should now be possible to make enormous leaps in the strength of legislation without having to go through several stages. What remains essential is gaining public support, for which the media plays an essential role.

The experience in Canada and other countries shows that within 3-6 months, the law should become virtually self-enforcing with little left for law enforcers to do—assuming that the appropriate groundwork has been laid. Once signage is in place, public enforcement can be as simple as pointing to the signs. While governments will need to make some expenditure initially, those expenditures should decrease significantly within a few months. Further, immediate cost savings are often evident, for instance on hospitalizations for asthma.

In Thailand, public compliance with smoke-free places was based on extensive public awareness of the dangers of second-hand smoke. However, it is not wise to wait to pass a law until a high level of public awareness exists, and the law itself can serve as the best information tool.

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## **Public Support Key for Success of Smoke-free France<sup>4</sup>**

France faced a huge challenge due to an initially weak, unenforced law. People were used to ignoring no-smoking signs, and there existed a pro-smoking culture. Despite these big challenges, the new law making most public places and workplaces in France smoke-free has been enormously successful. There is much to learn from France's experience, highlights of which are described here.

Enforcement in France occurred over two phases. On 1 February 2007, smoking was banned in most workplaces as well as government offices, healthcare facilities, educational facilities, and on transport. This was followed by a wider ban, put in place on 1 January 2008, in the hospitality sector: bars, cafés, restaurants, hotels, casinos, and discos.

Keys to success included the successful mobilization of public opinion and the media, so that people were supportive and ready to accept change prior to implementation. It is not enough for people to know about the harms of smoking; they must also be aware of the dangers of second-hand smoke and the viability of policies to protect people from these dangers.

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<sup>4</sup>A warm thank you to Sylviane Ratte and the the International Union Against Tuberculosis and Lung Disease (the Union) for providing this information.

Also critical to the success of the campaign was a study visit organized for journalists and Members of Parliament to Ireland and Italy which generated a significant amount of media coverage and proved to be extremely effective in convincing the study tour participants of the viability of implementing and enforcing smoke-free policies (seeing versus reading). The study tour also highlighted the value of working with trade unions vis-a-vis workers' rights to smoke-free workplaces and court cases establishing rights to smoke-free workplaces.

Key to the enforcement was not the assignment and motivation of a range of enforcement agencies, but rather ensuring public awareness of the political will to enforce the law. Generating public support involved a combination of demonstrations of employers' commitment and of media providing positive coverage; both of these generated an overall positive attitude towards the law. In the hospitality sector - which in every country typically strongly opposes smoke-free laws due to economic misinformation fed to them by the tobacco industry - close collaboration with the trade unions and business owners was absolutely key.



Such support should not be difficult to obtain, as research has shown that in country after country, despite fears of the hospitality industry (stoked by the tobacco industry), smokefree laws are good for business, or at the worst neutral, rather than harmful.

The focus on generating public support versus simply putting in place a strong enforcement system is a vital point. It is simply not feasible for enforcers to ensure compliance with the law if the public opposes it. The level and cost of the effort required would be too high to sustain, and the law could become even more unpopular due to the perception of its being forced on the population.

Public compliance, on the other hand, greatly lowers enforcement costs while ensuring a far higher level of enforcement, as well as the needed behavioural changes that will protect people even beyond the reach of the law. The law cannot ban smoking in homes, which are also workplaces for many; however, if people understand and accept the need for smoke-free environments, they are more likely to make their homes, and other places beyond the reach of the law, smoke-free.

The enforcement protocol in France is neither systematic nor exhaustive. Each responsible authority was briefed and received instructions to include the smoke-free legislation in their normal routine. Prefectures, police, and regional health and social directorates monitor and enforce the legislation; as mentioned above, however, the real effort is not placed on law enforcement but rather on ensuring public compliance.

Where inspection visits do occur, the inspector is instructed to look for 1) the presence of appropriate signage, 2) whether people are smoking, 3) the presence of ashtrays, and 4) compliance with rules regarding smoking areas.

In terms of fines, an important point is that fines in France are lowest for smokers caught smoking in public places, and are higher for managers and owners caught placing ashtrays in

smoke-free areas, not posting signs properly, or otherwise encouraging non-compliance with the law. While it is a difficult matter to catch individual non-compliant smokers, it is easier to catch non-compliant managers or owners, especially as the evidence is always present, such as tell-tale ashtrays, failure to hang the correct sign in a visible location, or cigarettes for sale.

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Signage is itself a major support for enforcement, as the simple placement of a sign notifying of a law and possibly including the fine for violations is a strong deterrent to smokers and a significant help to non-smokers wishing to avoid second-hand smoke. The ability of enforcement officials to fine on the spot, rather than take the case to a court, is also critical for increased effectiveness.

Other factors for success include the importance of media support. As long as the media is allowed to run tobacco ads, they are highly unlikely to support tobacco control measures. This is a simple business equation, as tobacco companies are likely to pull ads from any publication or other media that openly supports tobacco control. Gaining media support therefore usually starts with a comprehensive ban on all forms of advertising, promotion, and sponsorship of tobacco.

It is also helpful, although sometimes difficult, to convince health organizations to take a uniform stance in favour of strong legislation and its enforcement. It is important to have in place a large and reliable coalition willing to speak out even when this may bring on attack by opponents. Having strong allies greatly helps to prevent tobacco industry interference in the process of passing and enforcing a strong law; working together, it is easier to have a louder voice or to keep industry representatives out of government meetings.

For governments, it is important to remember that NGOs can play a vital role. It pays to reach out to involve them, especially in ensuring nationwide coverage. Reaching out to unions, hospitality venues, and others likely to oppose the law can also increase the chances of smooth enforcement. Messages can include the reasons for the measure, how businesses can prepare themselves and their customers, and "tips" on making places smoke-free and overcoming any opposition by smokers.

Again, it is vital to raise public awareness through a strong communication campaign highlighting the advantages of smoke-free places prior to the law coming into effect. Such a campaign will also serve to anticipate and counter the false "information" that will be used by the tobacco industry and its allies.

Last but not least, the more clear and simple the law, the easier it is for people to carry out inspections and enforcement measures, and for the public to comply. Watering down the law by, for example, allowing some forms of advertising, providing significant exemptions in smoke-free places, or allowing weak warnings that blend with the pack, not only reduces the benefits that will accrue from the law, but also makes the law more difficult to understand and thus enforce.

While face-to-face communication can be important, the most efficient way to reach the public is through the media. Media messages about the harmful effects of second-hand smoke and the importance of complying with a new law can reach the majority of the population quickly and effectively. Such messages can also address the reason why smoking areas, smoking rooms, and separate ventilation are not adequate measures; and can demonstrate that businesses will not be affected negatively by smoking or advertising bans.

The media can provide clear information about the law in simple terms for government, businesses, and the public to access. Print media can also easily replicate sample designs for signs and other informational material on the law for wide public dissemination.

If media messages are well-designed, they will result in public compliance, thereby easing the burden on enforcement officials. Achieving strong publicity for law enforcement actions by authorities can also help to ensure compliance by businesses.

Media is also the best way to communicate with government officials about their own weaknesses in law enforcement or the need to strengthen the law. This can occur at little or no cost, utilizing free media by producing interesting information for newspapers and radio to cover. The Internet, of course, is also an excellent source of media that is easily accessible and generally free, and has been used in many countries, including India, to spread positive messages about law compliance.



*In India, internet helped spread message of popularity of law.*



The experience in Bangladesh is also illuminating. The media at first highlighted the government's weaknesses in law enforcement, suggesting that laws in Bangladesh are never properly enforced and that the tobacco control law was no exception. The fact that people continued to smoke, even on the street, was offered as evidence that the law was useless. Not only media, but all those keen to demonstrate that laws in Bangladesh were useless pointed to continued smoking as clear evidence that the law had no utility. This disregarded the immediate and obvious changes the law had actually brought about: the end of virtually all TV and newspaper ads (formerly in full colour and occupying half the page of many newspapers on a daily basis), most billboards and eventually signboards; the greatly reduced smoking on public transport, and the strengthened (albeit not to the extent needed) cigarette warnings as well as the introduction of such warnings on bidi packs.

It required an extensive campaign on the part of NGOs to convince the media to change the angle of their reporting to highlight not the weaknesses of government enforcement but rather the tobacco companies' active violations of the law. If the companies were obeying the law, then government officials would have an easier time with enforcement. The media was asked to report on the issue that any company seeking to do business in a country would obey the laws of that country as a minimum standard, rather than a) try to water down existing laws or prevent passage of stronger ones, or b) violate existing laws. Such behaviour should not be considered acceptable or standard practice.

The media gradually came to understand this point of view and began to highlight the negative behaviour of the industry and its unwillingness to comply with law. Such a change in coverage

can do much to increase respect for the law and for governmental authority.

A further step in educating the media was to share information with journalists about the government's positive law enforcement actions. This included sharing information about local and national activities with local newspapers. When a government official found positive coverage about his or her activities in the press, motivation to continue such activities was strengthened, and others sought to replicate such behaviour in the hopes of gaining similar coverage (or simply because it was clearly the right thing to do).

The media also plays a critical role in law enforcement through its efficiency in carrying messages to people throughout the country. For instance, the government can use the media to publish new rules on pack warnings and smoke-free places and to inform officials of orders which get lost in regular communication channels. Such notices also serve to inform the general public that the government takes the law seriously - and so should everyone else.

For instance, when the WHO in Bangladesh published a paid ad in newspapers on smoke-free provisions, people's awareness of what places did and did not ban smoking was strengthened. When people objected to smoking in banned areas, such as on public buses, they could then show the ad as evidence that, indeed, buses should be smoke-free. This countered the factually incorrect objection of many bus employees that buses were not covered by the law.

\* \* \*

## **Instructions on no-smoking signage, the British example<sup>5</sup>**

"All smoke-free premises and vehicles need to display no-smoking signs that meet the requirements of the law. No-smoking signs make it clear which premises and vehicles are smoke-free and demonstrate that people are taking the necessary steps to meet the requirements of the new smoke-free law....

"The international no-smoking symbol in both signs must be at least 70mm in diameter. This symbol consists solely of a graphic representation of a single burning cigarette enclosed in a red circle with a red bar across it.

"Smoke-free premises sign must be at least A5 in area (210mm x 148mm).

"The smaller 'symbol only' sign, which consists of the international no-smoking symbol at least 70mm in diameter may instead be displayed at entrances to smoke-free premises that are: only used by members of staff, providing that the premises displays at least one A5 area sign, or located within larger smoke-free premises, such as a shop within an indoor shopping centre.

"You are free to design and print your own no-smoking signs as long as they meet the minimum requirements. These can be personalised by changing the words 'these premises' to refer to the name or type of premises."

<http://www.smokefreeengland.co.uk/resources/guidance-and-signage.html#signage>

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<sup>5</sup>This box is taken directly from the smokefree England website, which provides a wide range of materials and signage.

## **Step Five: Encouraging GO-NGO collaboration**

While it is obvious that law enforcement is not possible without government involvement, it is also often the case that the role of NGOs is essential. Achieving fruitful collaboration, however, can be a more difficult matter than understanding why it is necessary.

While it is common practice among some NGOs to criticize government for failing to do its job - without taking the effort to assist them to improve their actions - a more useful approach can be applied. Government officials are often overworked, and have too many responsibilities to assign sufficient time to all of them. Rather than blaming them for failing to take action, NGOs can assist them to carry out their jobs in a more effective way.

For instance, when officials wish to take action against illegal advertising, they may find it an insurmountable task to gather evidence. NGOs can provide valuable assistance by providing such evidence - for example, in the form of photographs with captions showing the violation, where it took place, and when the photograph was taken - and highlighting where in the law it is stated that those activities are illegal. Regularly providing this information to government officials will greatly facilitate the task of enforcement.

When government and NGO officials form friendly, collaborative working relationships, the work is easier, both are more motivated, and both have more positive associations with their work. This has been observed, for instance, in government officials transferred to a new posting in a different town. When the official has had a friendly relationship with local NGOs, and received praise in writing for his actions in law

enforcement, he is more likely to make enforcement of the tobacco control law a priority in his new posting.

For example, in one area of Bangladesh, the local official, due to overwork, first resisted doing anything about violations of the tobacco control law. A local NGO continued to push - gently but persistently - and finally began to make ground. Once the official took action, the Bangladesh Anti-Tobacco Alliance wrote him a thank you letter, praising him for his efforts which succeeded in removing all advertising from the town. When the official was transferred to another town, he wrote to BATA informing them of the move and his intentions to make his new posting tobacco ad-free. When he was later transferred to the Ministry of Establishment, he brought with him documentation of the praise he received from BATA and expressed his intention to continue working actively to implement the law.



*Removing illegal cigarette ad in billiard centre, Bangladesh*



*Removing illegal cigarette signboards, Bangladesh*

\* \* \*

## **Smoke-Free Public Places and Workplaces: the Canadian Experience<sup>6</sup>**

Canada has many valuable lessons to share in terms of adapting to political realities and ensuring effective adoption and implementation of smoke-free provisions despite strong opposition by the tobacco industry and its allies.

The city of Ottawa is important both because it is the capital of Canada and because it is situated in the most populous province of Ontario. Ottawa became a model for effective smoke-free local legislation, passing a law mandating 100% smoke-free public places and workplaces, including restaurants, bars, casinos, bingo, bowling, and billiards. (Although provincial legislation would have been preferable, the government of the day would not support a provincial law banning smoking in all workplaces and/or public places. The solution was to seek passage of such laws in communities throughout the province. Once a critical mass of local smoke-free laws had been passed, the province enacted province-wide legislation.)

Significantly, the Ottawa law, which came into effect on 1 August 2001, included no designated smoking rooms. As noted elsewhere in this document, designated smoking rooms are problematic for many reasons:

- ★ they fail to protect non-smokers from tobacco smoke,
- ★ they make laws far more difficult to enforce,
- ★ they are costly to build and regulate,
- ★ they are unpleasant and unsafe for those who must work in them,

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<sup>6</sup>Thanks to Melodie Tilson for the information for this section.

- ★ they do not create the needed level playing field needed to achieve compliance among businesses who fear unfair competition as smokers will be more likely to choose venues with the funds or space to build a designated smoking room.

Keys to success in the Ottawa experience include the strong provisions, the partnership between key health organizations and government, a high level of educational measures to bring the public on board, and an effective enforcement strategy.

The various organizations involved played different but complementary roles to ensure public support for the bans - and thus to increase the likelihood of compliance following their passage. The public health department (government) held public consultations, educated the public and businesses, got media coverage of the bans, and took the lead on enforcement.

The key NGO involved was the Ottawa Council on Smoking and Health, which secured broad public support by mobilizing the "silent majority" (most people favour smoking bans, but it is industry that tends to be the most vocal). The Council also conducted a public education campaign both before and after implementation, got media coverage, lobbied local politicians to support the law, and monitored implementation. Key messages of the campaign were that the ban is important for health, that a level playing field with no exceptions is critical, that economic losses are highly unlikely to occur, and that ventilation is no solution.

In terms of enforcement, key measures included putting the onus for respecting the law on proprietors rather than individual smokers, ensuring adequate resources, mandating stiff penalties, and widely publicizing what penalties did occur.



In order to ensure high visibility for the Smoke-Free Ottawa campaign, ads were widely distributed and displayed early in the campaign, including on the backs of buses, on transit shelters, and in newspapers. The ads aimed to raise awareness of the campaign and to draw people to the website for more information. Such early measures are critical for ensuring not only law passage, but likely high compliance with the law following its passage.

The Ottawa campaign also included public consultations, which raised awareness of the proposed smoke-free law and the reasons for it and ensured that from the beginning the voice of industry was countered by that of people in support of the law.

Media attention was also critical throughout the campaign. Well-known figures were enlisted to participate in a news conference in support of the proposed law on the day before a critical vote; a key message was that industry arguments that smoke-free laws hurt businesses are not backed up by facts. For instance, one article says, "Smoking bylaws don't hurt business. That's what a panel of experts was saying on the eve of today's showdown over a proposed smoke-free bylaw" (*6 April 2001, Ottawa Sun*).

While work prior to the passage of the law was critical to success, that by no means indicated that once the law was passed, the work was over. As elsewhere in the world, in Ottawa much remained to do upon passage of the law, which was immediately attacked by the industry. It was important to stay on top of the issues and keep pressure on the city, to avoid any possibility that local government would cave in under industry pressures. This meant yet more meetings and communication with local government, and of course more publicity through the press.

Another major activity of supporters of the law following its passage was the generation of positive publicity. In addition to generated news stories, organizations placed ads in local newspapers showing that people working in smoke-free venues were pleased with the change and encouraging people to speak out to business owners in favour of the law.

The lessons from Canada are similar to those of other places: a strong law, partnership among government and NGOs, use of the media, and dedication to countering industry messages with useful facts and information all led to success. As challenging as such a multi-pronged effort may seem, the work does get easier over time. Because the majority of the population actually supports tobacco control laws, the opposition is likely to weaken over time.

**MUNICIPAL ELECTION 2000**  
*The one election issue no candidate should butt out of.*

## Don't you and your family deserve the right to breathe clean air wherever you go?

Volunteers from the Ottawa-Carleton Council on Smoking and Health attended all candidate meetings or phone candidates and asked for their position on a smoke-free Ottawa by 2001. This is how we rate their support.

**Rating System**

Strong supporter  3

Somewhat Supportive  2

Not Supportive  1

Position Unknown  0

**Secondhand smoke harms even you, especially children, because they breathe more rapidly than adults do. Secondhand smoke contains over 4000 chemicals, including:**

- **ARSENIC** - a chemical used to kill bugs and weeds
- **CYANIDE** - a gas used in warfare
- **FORMALDEHYDE** - a chemical used to preserve dead animals

**No ventilation system offers protection. No one these chemicals, so designated smoking no one just get work, a chef for workers or patrons. The current system of smoking and non-smoking sections doesn't offer protection either. We need 100% smoke-free public places and workplaces.**

<p><b>Ward 1 - Bay</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Mayor Andrew Baker</b></li> <li><input checked="" type="checkbox"/> <b>Charmine Cote</b></li> <li><input checked="" type="checkbox"/> <b>Bob Chiu-oh</b></li> <li><input checked="" type="checkbox"/> <b>James A. Hall</b></li> <li><input checked="" type="checkbox"/> <b>Kate Mills</b></li> <li><input checked="" type="checkbox"/> <b>Shirley Nunn</b></li> <li><input checked="" type="checkbox"/> <b>Paula Nunn</b></li> <li><input checked="" type="checkbox"/> <b>George Sawik</b></li> </ul> <p><b>Ward 1 - Ottawa:</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Frank Kicking</b></li> <li><input checked="" type="checkbox"/> <b>Carry Lohndt</b></li> <li><input checked="" type="checkbox"/> <b>John Maynard</b></li> </ul> <p><b>Ward 2 - Irons</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Robert Brown</b></li> <li><input checked="" type="checkbox"/> <b>Luc Bouchard</b></li> <li><input checked="" type="checkbox"/> <b>Ed Campbell</b></li> <li><input checked="" type="checkbox"/> <b>Marie Therese</b></li> </ul> <p><b>Ward 3 - BellSouth Region</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Joe Harker</b></li> <li><input checked="" type="checkbox"/> <b>Melody McGeehan</b></li> </ul> <p><b>Ward 4 - Kanata</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Alan Mosker</b></li> </ul> <p><b>Ward 5 - West Guelph</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>David G. Dewey</b></li> <li><input checked="" type="checkbox"/> <b>Dwight Eastman</b></li> <li><input checked="" type="checkbox"/> <b>David Whitman</b></li> </ul> <p><b>Ward 6 - Eastbank</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Reay Hill</b></li> <li><input checked="" type="checkbox"/> <b>Shirley Lewis</b></li> <li><input checked="" type="checkbox"/> <b>Joan Marriage</b></li> </ul>	<p><b>Ward 7 - Bay</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Alex Colton</b></li> <li><input checked="" type="checkbox"/> <b>Joe Jones</b></li> <li><input checked="" type="checkbox"/> <b>Jeff Sweeney</b></li> <li><input checked="" type="checkbox"/> <b>Geoffrey Sharpe</b></li> </ul> <p><b>Ward 8 - Bayshore</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Rich Chaudhri</b></li> <li><input checked="" type="checkbox"/> <b>Al Lowry</b></li> </ul> <p><b>Ward 9 - Riverside/Riviera</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Geoff Hunter</b></li> <li><input checked="" type="checkbox"/> <b>Al Rogers</b></li> </ul> <p><b>Ward 10 - Chaudiere Southside</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>George Barrett</b></li> <li><input checked="" type="checkbox"/> <b>Diane Dixon</b></li> <li><input checked="" type="checkbox"/> <b>Rob Landry</b></li> <li><input checked="" type="checkbox"/> <b>Ashley Hargis</b></li> </ul> <p><b>Ward 11 - Beacon Hill/Cityville</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Michael Hollander</b></li> <li><input checked="" type="checkbox"/> <b>Pat Clark</b></li> </ul> <p><b>Ward 12 - Hinton/Beacon</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Shelby Motherhead</b></li> </ul> <p><b>Ward 13 - Hinton/Nickel</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Richard Gunning</b></li> <li><input checked="" type="checkbox"/> <b>James Legrand</b></li> </ul> <p><b>Ward 14 - Somerset</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Elizabeth Arnold</b></li> <li><input checked="" type="checkbox"/> <b>Chris Buckley</b></li> </ul>	<p><b>Ward 15 - Hinton/Nickel</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Kevin Durr</b></li> <li><input checked="" type="checkbox"/> <b>Ray Kowalski</b></li> <li><input checked="" type="checkbox"/> <b>Shirley Little</b></li> </ul> <p><b>Ward 16 - River</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Clara Houghton</b></li> <li><input checked="" type="checkbox"/> <b>Shirley Stewart</b></li> </ul> <p><b>Ward 17 - Capital</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Don Bicknell</b></li> <li><input checked="" type="checkbox"/> <b>Chris Downak</b></li> </ul> <p><b>Ward 18 - Alta Vista</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Alan Higgins</b></li> <li><input checked="" type="checkbox"/> <b>Paul Hume</b></li> </ul> <p><b>Ward 19 - Cumberland</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Charles Lewis</b></li> <li><input checked="" type="checkbox"/> <b>Phil McNulty</b></li> <li><input checked="" type="checkbox"/> <b>John Proulx</b></li> <li><input checked="" type="checkbox"/> <b>Robert Van der Meer</b></li> </ul> <p><b>Ward 20 - Osgoode</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Clayton Fazio</b></li> <li><input checked="" type="checkbox"/> <b>John Coy</b></li> <li><input checked="" type="checkbox"/> <b>Doug Thompson</b></li> </ul> <p><b>Ward 21 - Barrhaven</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>Clara Rowan</b></li> <li><input checked="" type="checkbox"/> <b>James Stewart</b></li> </ul>
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**Your vote has power.**  
**Don't let your right to breathe clean indoor air go up in smoke.**

Ottawa-Carleton Council on Smoking and Health, in partnership with: Academy of Medicine, Allergy and Environmental Health Association, Canadian Cancer Society, Ottawa City, Ottawa City Council Support, City Centre for Addiction and Mental Health, Clean Air Campaign, Health and Safety Research Institute, Regional Health Board, Support for the Lung Association, Ottawa-Carleton Region, The University of Ottawa, St. Joseph's Health Centre.

*Encouraging people to vote for the law*

SMOKE-FREE  
O<sub>2</sub>TTAWA  
Let's do it!  
To have your say, visit [www.smokefreeottawa.com](http://www.smokefreeottawa.com) or call 724-4212.



If you support a 100% smoke-free bylaw, please mail this card with your comments to Mayor Bob Chiarelli.

Name/Nom : \_\_\_\_\_

Address/Adresse : \_\_\_\_\_

Comments/Commentaires : \_\_\_\_\_

Signature : \_\_\_\_\_

My Councillor is : \_\_\_\_\_  
Mon/ma conseiller(ère) est : \_\_\_\_\_

Si vous êtes en faveur d'un règlement 100 % sans fumée, veuillez envoyer cette carte avec vos commentaires au maire, Bob Chiarelli.

M./M. Bob Chiarelli  
Mayor/maire  
110, av. Laurier Ave. West/ouest  
Ottawa, ON  
K1P 1J1

Ottawa-Carleton Council on Smoking and Health  
Conseil d'Ottawa-Carleton sur le tabagisme et la santé  
724-4212  
[www.smokefreeottawa.com](http://www.smokefreeottawa.com)  
[www.ottawasansfume.com](http://www.ottawasansfume.com)

*Promotional materials: stickers and postcard*



# Smoke-Free Ottawa still needs you!

The proposed by-law to ban smoking in all public places and workplaces requires the single most important measure City Council can take to improve the health of Ottawa citizens. The by-law was approved by the Committee on Health, Recreation and Social Services on April 17. It must earn the

vote of a majority of City Councillors on April 29 before it becomes law.

Your City Councillor needs to hear from you before the vote. The administration MUST spend out more if we are to protect the health of Ottawa's citizens from second-hand smoke.



## So what do you say Ottawa?

*"My husband has been a non-smoking bartender for more than 20 years. I am afraid I may lose him early in his job -- which he loves -- because he'll smoke. So he should have some beyond any smoker's right to smoke in his workplace."* KATE TULLO



*"As a former three-pack-a-day smoker (quit in October 2002), stopping was the hardest and best thing I've ever done. With a smoke-free environment maybe my daughter won't ever have to go through it."* KAREN L. MORTON

*"I tried to like bars when they first were introduced there. One major source of financial losses by bar owners did not come true, as people with willies and alphas were finally able to visit these places. I was shocked when I saw so many of them and had to cope with second-hand smoke again. I am in there again!"* J. BRUCE FLETCHER



## Let's make all our voices heard.

Call your City Councillor and say you support a smoke-free Ottawa:

Mayor Rob Chowell	380-5655	Councillor Michel Babinoux	380-5651
Councillor Herb Ewing	380-5671	Councillor Malcolm Bellor	380-5652
Councillor Peter Brown	380-5678	Councillor Jacques Legendre	380-5655
Councillor Alex Hecker	380-5679	Councillor Elizabeth Foy	380-5658
Councillor Alex Markov	380-5675	Councillor Steven Lyle	380-5656
Councillor Dwight Gaudin	380-5676	Councillor Andy Stewart	380-5659
Councillor Janet Stangor	380-5674	Councillor Dale Doucet	380-5657
Councillor Alex O'Brien	380-5677	Councillor Peter Hulse	380-5654
Councillor Dale O'Connell	380-5673	Councillor Paul McKeown	380-5653
Councillor Scott Hunter	380-5670	Councillor Craig Thompson	380-5650
Councillor Dave Dewar	380-5660	Councillor Sean Steele	380-5651

If you are not sure who your City Councillor is, call the City of Ottawa 24-hour Information Line at 380-5655.

This ad has been sponsored by the following organizations:

children's cardiac centre of ottawa inc health

progress head and neck centre

centre for Ottawa's elderly's interest -  
Committee of Ottawa's seniors



3875 rue de la Paix, Ottawa



1000 Avenue Pasteur, Ottawa



1000 Avenue Pasteur, Ottawa

Advocacy advertisement

## Provincial laws clearly allow smoking bans

Re: Lawyer takes on smoking ban, July 6.

It is unfortunate that the *Citizen* did not cover the news conference where we released a legal opinion on PUBCO's planned challenge of Ottawa's no-smoking bylaw. If you had, Ron Corbett wouldn't have just had to reprint lawyer Arthur Cogan's letter unquestioningly. If Mr. Corbett had spent any time investigating Mr. Cogan's claims, he would have found they are not based in reality.

The letter says that the Tobacco Control Act is "superior legislation to the bylaws passed by a particular municipality." The Tobacco Control Act, though, says "if there is conflict between this Act and a municipal by-law that deals with smoking, the provision that is more restrictive of smoking prevails."

The PUBCO letter also says the city "surpassed its legislative authority" under the

Municipal Act by prohibiting smoking. However, the Municipal Act clearly states, "The council of a local municipality may pass a by-law designating public places or workplaces as places in which smoking tobacco or holding lighted tobacco is prohibited." And the Municipal Act goes further: "In the event of a conflict between a by-law and a provision of any Act or regulation, the provision that is the most restrictive of smoking prevails."

In view of the clear legal authority behind the bylaw, I question why PUBCO is publicly promoting its challenge, yet will not actually bring it before the courts. Is it to create confusion among the public in advance of Aug. 1? Or is it trying to foster a culture of lawlessness?

Dr. Atul Kapur, Ottawa, President, Physicians for a Smoke-Free Canada

## Smoking ban is not bad for business: health council

BY BEV WAKE

Studies suggesting Ottawa's smoking ban is bad for business are misleading and premature, the Ottawa Council on Smoking and Health says.

The council, which lobbied long and hard for the city of Ottawa to adopt a smoking bylaw, says all existing studies suggest that while there may be a temporary setback after a smoking ban is implemented business will be back to normal within a year.

Council president Carolyn Hill says members had hoped the smoking debate would end with the adoption of the bylaw Aug. 1, but in some ways it has heated up.

Earlier this month, the Pub and Bar Coalition of Ontario (PUBCO), which is fighting Ottawa's bylaw, released a survey of one-third of its members suggesting business had dropped 22 per cent in September compared with the same month last year. In a rally at City

Hall later that week, which attracted about 80 protesters, PUBCO called council's lack of response to the economic fallout "hard-hearted and incomprehensible."

At least five city councillors have said they would be willing to revisit the bylaw.

Ms. Hill and council members Tim Woods and Melodie Tilson dismissed the survey results. "They call it an economic analysis but it's a survey of one-third of members with no economic evidence," she said. "We have peer-reviewed studies that show there are no negative effects in the medium to long-term, within a year."

An assessment on the economic impact of smoke-free workplaces prepared for Nova Scotia in September, for example, found that "without exception, every objective study using official sales tax data demonstrates that smoke-free legislation has no adverse impact on restaurant, bar, hotel and tourism receipts."

4 NEWS

The Ottawa Sun, Thursday, August 2, 2001

### SMOKING BAN

# Ottawa starts afresh

## Non-smokers raise a glass to new bylaw

WITH reason to celebrate, anti-smoking advocates took to the streets — and the pubs — yesterday to toast the first public smoke-free day in the city.

While persistent smokers were relegated to smoggy outdoor patios, non-smokers enjoyed cool drinks in the air-conditioned indoors — breathing easy.

Kathleen HARRIS

"I have been waiting for this day for years," cheered Carol McDermid, one of dozens of pub crawlers welcoming in the city's smoking ban bylaw that kicked in yesterday. "I haven't been able to go out because my chest just goes into spasms. Now I can go where I want. I'm thrilled."

Carolyn Hill, president of the Ottawa Council on Smoking Preven-



A GROUP of local non-smokers raise a toast to Ottawa's newly smoke-free bars during a pub crawl down Elgin St. yesterday.

FVI BYLAW

Do you plan to frequent bars and restaurants more often now that they are smoke free? Register your opinion at [www.fviottawa.com](http://www.fviottawa.com).

Tony Cashwell/SUN

More newspaper coverage



\* \* \*

## **Successful Law Enforcement: Examples from Bangladesh<sup>7</sup>**

Recognizing that the government cannot do everything at once, WBB Trust (Work for a Better Bangladesh) has chosen to focus its efforts on a few main issues: packet warnings, smoke-free zones, and ads. When WBB tried to focus on removing illegal advertising, the tobacco companies caused problems by claiming that the law was not being implemented properly anywhere, as the police continued to smoke, everyone smoked on the streets, etc. Such charges were absurd, as those activities were nowhere banned in the law.

When the newspapers published this news, they gave the public the idea that the law was being violated and was just like other laws that have meaning only on the books, but are not implemented. Such a hopeless attitude easily led people to disregard the law.

When WBB realized what was happening, it decided to take action and indicated to the government and the public that the law could indeed be taken seriously. It emphasized that the main source of violations was not the general public, but the tobacco industry. WBB designed a survey form (see Appendix 3, Sample Survey for Law Monitoring) then sent it to partner NGOs throughout the country to gather information about actual violations. This proved to be not only a great way to gather information throughout the country at little or no cost, but also to build the capacity of local NGOs to understand the law in detail and to learn how to become involved in monitoring.

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<sup>7</sup>Contributed by Syeda Anonna Rahman, Project Officer, WBB Trust (Bangladesh).



WBB and Bangladesh Anti-Tobacco Alliance (BATA) network NGOs compiled the results and asked those who had collected the information to share it with local officials. They also investigated whether action was taken. Given that government authorities have many responsibilities beyond tobacco control, WBB felt it should take a friendly, cooperative approach rather than an attacking one - on the belief that it was lack of time, not lack of interest, which prevented officials from taking action.

This process was helped by a staged approach, starting with a strong, active tobacco control NGO. When the NGO shared its findings with local officials, the officials promptly took action, removing all the cigarette signboards from shops. WBB then shared that information with the other NGOs in its network so that they could inform local officials not only of the law violations and how to address them, but where such action had already taken place (thus reassuring them of the possibility, and perhaps inspiring a bit of competition). Information on government action to enforce the law proved quite popular with media and much positive coverage was thus generated-which naturally pleased the local officials, who saw their work described glowingly in the press. The information was also shared with central authorities in Dhaka and led to a ripple effect, by which local authorities in different parts of the country, including Dhaka, began to remove illegal advertising.

*Capacity building for  
local NGOs for law  
enforcement:  
(3<sup>rd</sup> National  
Workshop on Tobacco  
Control, Bangladesh)*





*Removing tobacco advertising in Bangladesh*





*Removing tobacco advertising in Bangladesh*



*Mailing of the gazette (tobacco control law) in Bangladesh*

Other success factors:

- ★ Many government officials did not have a copy of the law. WBB thus obtained government permission to copy the official gazette and distribute it to officials throughout the country.
- ★ Later, BATA collected media coverage on the fact that implementation of the law was being hampered by local officials not having a copy of the gazette. By sharing this information with the central government, WBB was able to motivate them to print and distribute additional copies.
- ★ In order to build the capacity of local NGOs to work on law monitoring, WBB organized a series of workshops (with financial support from BI) at the national and divisional levels to teach people about the content of the law and how they could become involved in monitoring

and enforcing it. These workshops also proved excellent opportunities for people to learn from and motivate others, as they were at different stages in their work and particularly profited from the practical experiences of those in a similar situation, for example no staff, no budget, but a desire to do something positive for the country. The workshops led to a significant change in mentality among many NGOs: rather than blame the government or WBB for not doing more, they began to take on more responsibility themselves and to share ideas about how they could play an important role in law implementation.

- ★ WBB believes that while it is the responsibility of government to draft and pass laws (of course preferably with input from civil society), it is the responsibility of everyone to implement the laws. NGOs and others can and should play an important role in ensuring that the public and industry comply with the law, thereby not only supporting tobacco control, but also contributing to a law-respecting and law-abiding ethic which is essential to civilization.

\* \* \*

While the enforcement of a tobacco control law is important for its own merits, it is also important to learn how to overcome problems with law enforcement, and weak law drafting, for the sake of good governance generally. It is a dangerous habit for governments and civil society to anticipate that laws will not be enforced, or not to consider enforcement issues when drafting laws.

Key issues to remember include the importance of drafting strong laws with workable enforcement mechanisms; educating

key stakeholders on the law and ensuring that those who need a copy have access to one; involving a wide range of people in law monitoring and enforcement; generating public compliance particularly through media support; and encouraging GO-NGO collaboration.

Tobacco control can serve as a model for other areas as well - just as the actions of reining in the tobacco industry can serve as a model for dealing with other harmful multinational companies.



*Vietnam workshop on creating smoke-free health facilities*

## Appendix 1. Problems and solutions<sup>8</sup>

**Problem:** Text of law is unclear, people do not understand where they can/cannot smoke, what form of advertising is/isn't allowed, which pack warnings do and do not comply with law.

**Solution:** Law amendment, either through rules, directives, or revised law. Try for the simplest, least complicated solution.

**Problem:** Sanctions (such as fines) not included or too weak.

**Solution:** Amend law/rules to include appropriate punishment, with strongest punishment being for tobacco companies, then managers of public places/those who display ads, and mildest for individual violators (smokers). Since the tobacco industry spends vast resources on product promotion, even moderate fines may not serve as a deterrent, so it is important to ensure that fines for companies are sufficiently impressive and include (possibly mandatory for repeated offences) jail sentences.

**Problem:** Lack of support from public and/or key policy makers/those responsible for enforcement/law amendment.

**Solution:**

- **If problem is lack of understanding/knowledge of need for law:** Explain why law is important, expand public knowledge of tobacco (to health, environment, economy)and why tobacco control legislation can reduce those harms.
- **If problem is lack of knowledge in population on the existence/details of legislation:** Publicize the legislation, preferably with media, including significant details.

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<sup>8</sup> A warm thank you to Sylviane Ratte for providing the material from which this section was adapted.



- **If problem is reluctance of law enforcement officials to act:** Try to understand what actual problem is. Does the law assign the wrong people (not enough, too busy)? Do those assigned/their supervisors need to understand the importance of enforcement? Do those assigned have a copy of the law/ understand what the law contains and their responsibilities? Depending on the problem, solutions could be law amendment (enforcement provisions), meetings with those assigning enforcement tasks, and/or provision of copies of law and a simple explanation of what it means and how to enforce it.
- **If problem is active tobacco industry resistance to law:** push for stronger penalties, including jail sentences rather than fines; work with the media to spread the message that illegal activities are immoral and unethical.
- **If problem is tobacco industry propaganda against the law, to reduce public compliance:** Work with media to counter the messages from tobacco industry. E.g. right to advertise: corporations are not individuals and do not enjoy free speech rights; Tobacco is not a normal consumer product. Right to smoke: Right of everyone to clean air.

**Problem:** Lack of capacity/confidence of governments to enforce law/ fear of costs.

**Solution:** For NGOs, remember that your role is to support, not criticize, government. NGOs can play an important supportive role by assisting with monitoring of violations, reporting this information to government, and assisting government to take corrective action. NGOs can help ensure that the appropriate officials have a copy of the law and understand it; and that the media is reporting on the need for stronger enforcement and

highlighting key areas for change. For governments, it is important to remember that a new system for enforcement need not be created; existing mechanisms can be modified/adapted at little cost (financial or manpower).

**Problem:** Inability of central level to ensure/monitor compliance throughout country.

**Solution:** Build the capacity of local officials, in terms of gaining understanding of the content of the law and their responsibilities for enforcement. Enlist the support of NGOs and/or other agencies to support monitoring and to help train local officials. In short, rely on decentralization rather than assuming that everything can be handled at the central level.

**Problem:** Lack of information sharing among government departments or other interested agencies.

**Solution:** Create/activate a national-level inter-ministerial body to discuss issues and progress; establish local taskforces/cells, involving tobacco control NGOs as well as relevant government agencies including police; establish a two-way information-sharing system (local level report on monitoring and compliance; central level provide feedback and respond to requests for materials/other assistance); consider using a website or other means to make



*Workshop on smoke-free workplaces, India*

information on violations and government action available to interested parties/the public.

**Problem:** Government refuses to take action for law enforcement, despite many concerted efforts.

**Solution:** Attempt to establish a system in which NGOs and the public have the right to enforce the law, at least until the government begins to take action. This should include the right to monitor, inform police, and follow up on actions for enforcement, and publicize this information.

### **Other solutions**

- Clearly designate the authorities responsible for enforcement; make sure you choose the appropriate officials (in terms of time, access, sufficient number and authority)
- Provide material to enable successful enforcement
  - Signage for smoke-free places and smoking zones
  - Sufficient copies of the law and of materials explaining in simple language the meaning of the law and approaches to enforcement
  - Guidance to dealing with any difficult issues that may occur (resistance by those being penalized, attempts by the industry to confuse local officials on the content of the law)
  - Possibly resource centre to provide emergency information and support when questions arise (case study: WBB)
- Generate support for law enforcement through active collaboration with NGOs and media

- Invite media and NGOs to workshop to discuss obstacles to law enforcement and how to address them
- Regularly provide media with information on government efforts for law enforcement
- Remind media that the key problem with enforcement is often the industry, not individuals
- Apply model sanctions and publicize them (share information with interested parties to counter suggestions that the government is not enforcing the law, or that the law is not enforceable; such criticisms not only weaken tobacco control law, but reduce interest among the public and policymakers to address other urgent issues with law, and contribute to belief that the population is not law-abiding - a dangerous belief!)
- Conduct regular inspections: Are non-smoking zones properly signed? Do they have ashtrays or other evidence of smoking? Are smoking zones clearly delineated and completely separate from non-smoking zones?
- Is there any illegal advertising? Do all tobacco packs as mandated by law display the appropriate warning?
- Share information from monitoring and enforcement activities within and beyond government, including with media; ensure ongoing public support for legislation (that too can be monitored through public opinion polls).

**Note on smoking zones:** Some people feel that 100% smoke-free environments mean that no provisions should be made for smokers. It is important to be pragmatic on this point. In cases where there is no way to establish a separately-ventilated, completely distinct area that will not affect non-smokers, such as on airplanes or buildings with one ventilation system, then

places should be entirely smoke-free. However, if provisions are too strict (draconian), smokers are likely to disobey the law, as they currently do by smoking in airline lavatories or even in their seats under a jacket (!).

This can extend to smoking in bathrooms in public buildings. Where possible, limited and unappealing environments can and should be created for smokers, separately ventilated to the outdoors. The point, after all, is not to make life miserable for those unfortunately addicted to smoking, but to protect non-smokers. Of course it is vital to remember that there is a big difference between making one large space partly smoke-free (in other words, completely smoky) and allowing smoking where the smoke will not infiltrate other parts of the building. In Bangladesh, one solution has been to make an entire building smoke-free and establish a tin shed next to it as a clearly designated smoking zone. This also eases enforcement, as people can point to the place where smokers can go.

**Note on signage/enforcement of non-smoking zones:** In the law, it is helpful if, in addition to penalties for smoking in non-smoking zones, there are penalties for the managers of public places who fail to display clearly visible signs indicating non-smoking zones, and who provide ashtrays in non-smoking zones. That way, enforcement will be strengthened as it will not be necessary to catch someone in the act of smoking.

*No smoking in  
hospitals sign,  
Vietnam*



## Appendix 2. Signage and guidance for smoke-free cities

WWW.SMOKEFREELIVERPOOL.COM

I want to work, Smoke free

Count yourself in - put em out!  
**Liverpool**<sup>1st</sup>

LIVERPOOL 2008  
EUROPEAN CAPITAL OF CULTURE

WWW.SMOKEFREELIVERPOOL.COM

Europe has made great strides recently in reducing smoking in public places and workplaces, and thus has much experience to share with the world. While the experience of a similar country in terms of culture and language may be more relevant, it can still be helpful to see how other countries approach the issues of signage and of guidance for those responsible for making the place they own or manage smoke-free.

A few resources include:

Scotland: in many languages:

<http://www.clearingtheairscotland.com/faqs/guidance.html>

Ireland:

[http://www.otc.ie/smokefree\\_publications.asp](http://www.otc.ie/smokefree_publications.asp)

England

<http://www.smokefreeengland.co.uk/resources/guidance-and-signage.html>

France:

[http://www.tabac.gouv.fr/IMG/pdf/Interdiction\\_de\\_fumer\\_3.pdf](http://www.tabac.gouv.fr/IMG/pdf/Interdiction_de_fumer_3.pdf)

**T.C.**  
**TÜTÜN VE ALKOL PİYASASI**  
**DÜZENLEME KURUMU**

**Ana Savfa** >Yasal ve Sağlık Uyarıları Örnekleri

Bu Kararda usul ve esasları belirlenen yasal uyarı yazıları ve sağlık uyarıları örnekleri, aşağıdaki linklerden temin edilerek bastırılabilir.

**Tütün ürünleri tüketiminin yasaklandığı yerlerde asılması zorunlu olan yasal uyarı yazıları:**

Kamu kurumlarına ait binalar ve özel hukuk kişilerine ait üretim, ticaret, sosyal, kültürel, spor, eğlence ve benzeri amaçlı, birden fazla kişinin girebileceği binaların kapalı alanları ile açık havada yapılan her türlü spor, kültür, sanat ve eğlence faaliyetlerinin yapıldığı yerlerde ve bunların seyir yerlerinde asılacak yasal uyarı yazısı (asgari ebat)

50x70



Karayolu, demiryolu, denizyolu ve havayolu toplu taşıma araçlarında asılacak yasal uyarı yazısı (asgari ebat)

A5



Taksi hizmeti verilen toplu taşıma araçlarına asılacak yasal uyarı yazısı (asgari ebat)

A6



**Perakende tütün ürünleri satışı yapılan yerlerde asılacak yasal uyarı yazısı:**

Perakende tütün ürünleri satışı yapılan yerlerde asılacak yasal uyarı yazısı

A4



*Turkish government website with sample smoke-free signage*



# SMOKE-FREE BARS, CLUBS, HOTELS & RESTAURANTS

## Guidelines for Bar and Waiting Staff

### The law

From 6am on 26 March 2006 smoking is not permitted in enclosed\* public places, including bars, hotels, all types of clubs, cafés and restaurants.

Proprietors cannot permit customers or members to smoke in these premises. If they do, they will be liable to a Fixed Penalty Fine of £200.

### Why

Second-hand smoke kills and causes lung cancer, heart disease and respiratory illnesses in adults and a variety of conditions in children.

There is no safe level of exposure to second-hand smoke, so ventilation is not a solution.

### If someone breaks the law

1. Draw their attention to the 'No Smoking' signs.
2. Advise them that smoking is prohibited by law and politely ask them to stop smoking.
3. Advise them of any place where smoking is permitted, such as beer gardens or shelters.
4. Refuse service to anyone who continues to smoke and ask them to leave.
5. If a customer refuses to leave, follow usual procedures for dealing with anti-social behaviour.
6. If threatened, seek the assistance of the police. Do not put yourself in any danger.



**SMOKING IN THESE PREMISES  
IS AGAINST THE LAW.**

\*Premises which have a roof and walls on more than 50% of its perimeter.

*Scottish sign for bar staff*  
(<http://www.otc.ie/comm pub. asp#signage.asp>)

### Appendix 3. Sample Survey for Law Monitoring<sup>9</sup>

Organization name:

Site where information was collected:

#### Tobacco Advertising

If there is any advertising of tobacco products in your locale, mark the appropriate boxes:

- Billboard
  - Signboard on shop or other business
  - Ad preceding movie at cinema
  - Satellite TV ad
  - Ad in local newspaper/magazine
  - Signboard using logo/colors of cigarette brand
  - Miking
  - Other: \_\_\_\_\_
  - There is no advertising whatsoever.
- Poster
  - Leaflet
  - Streetside stall
  - Cable TV channel ad
  - Wall poster

#### Tobacco promotion

Do tobacco companies/those related to them offer any items with tobacco logos as free gifts, or gifts in return for purchasing cigarettes?

- Gifts
- Scholarships
- Tournaments
- Free cigarettes (specify places):
- Prizes
- Other: \_\_\_\_\_
- There is no such activity in this area.

<sup>9</sup>This survey is taken from WBB in Bangladesh, and would need to be adapted to suit the actual laws of the country. This form is sent to NGOs throughout the country that are part of its network to collect information on enforcement issues and share with officials, media, and others.

### **Pack warnings**

Do all relevant tobacco products (those covered in law) contain the mandated warnings? If not, describe below:

### **Smoke-free areas**

Are the following areas completely smoke-free (no-smoking signs posted; no ashtrays; no signs of smoking), mostly smoke-free (not all the above conditions met but little sign of smoking), or generally allow smoking (direct evidence of people smoking)? Also note whether there are separate areas for smoking/non-smoking, and if so, what is the form of separation-division of one room/area, or separate rooms; observation includes looking for signage, presence of ashtrays and cigarette butts, and direct observance of public smoking.

	100% smoke- free	Mostly smoke- free	Widely allow smoking	No information/ other
Hospitals/health clinics				
Play group, kindergarten				
Primary schools				
Secondary schools				
Colleges				
Universities				
Buses				
Trains				
Launches (boats)				
Taxis				
Govt. offices				

Courtrooms				
NGO offices				
Other offices				
Restaurants				
.....				

Comments about smoke-free:

### Health promotion

Are there any messages about the harm of cigarettes in your area?

- Local newspaper       Sticker
- Leaflet                       Miking
- Wall painting               Poster
- Other:
- There are no anti-tobacco messages.

Have any of the following tobacco control activities taken place in your area in the past six months?

- Discussion meeting/seminar       Rally
- Contest                       Information in newspaper
- Mobile court (law implementation activities)
- Other:
- There have been no tobacco control activities in this area in the past six months.

## Appendix 4. Tips and Lessons Learned<sup>10</sup>

### Building confidence and capacity for successful enforcement

- Designate the authorities responsible for enforcement
- Develop training (as needed) for enforcement authorities
- Provide material to enable successful enforcement (signage, guidance)
- Prepared for objections and plan how to handle them
- Show will to enforce
- Apply model sanctions and promote them in media
- Conduct regular inspections
- Monitor regularly and communicate on progress and support for legislation

Where enforcement is difficult to achieve using the police or other legally designated authorities, consider empowering NGOs and the public to enforce the law.

### Successful ingredients of a law:

1. Political will and sustained commitment
2. Clear, simple, enforceable, universally protective legislation
3. Communication, information, public support

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<sup>10</sup>Again, thanks to Sylviane Ratte and the Union for this information.

4. Consultation, coalition with trade unions, stakeholders, civil society involvement
5. Will, confidence and capacity to enforce
6. Countering tobacco industry and other opposition
7. Evaluation and monitoring

### **Clear, simple, enforceable, universally protective legislation**

- All indoor workplaces, public places transport 100% SF (no exemptions, no separate smoking provisions)
- Clear definitions, applicable sanctions
- Responsible authority in charge of enforcement
- Removal of ashtray, mandatory signage
- Simple fine system for violations
- If you do not have a gold standard legislation, you can still achieve 100% SF or near it
- Consultation, coalition with trade unions, civil society involvement
- Enlist as many organisations, individuals voices to support SF implementation and enforcement.
- Bring opponents to your side, neutralize opposition

### **Confidence and capacity to enforce**

- Designate enforcers
- Capacity to fine/ sanction
- Guidelines to enforce - inspection protocol
- Training for enforcers
- Mechanism for signalling violations

- Distribution supporting material (signage, guidance documentation)
- Monitoring compliance - Communication on compliance/sanctions

### **Remember: enforcement is mostly public compliance**

- If population is supportive, communication is well done, people understand rationale for smoke free, legislation can be almost self-enforcing.
- Some countries have used the threat of litigation by employees on employers to get better enforcement.
- What is essential is to show seriousness and will to enforce (this can be done by few well publicized cases of sanction/fine of violators).
- You can use existing enforcing systems.

### **Guidance**

Guidance for managers can be very useful, including:

- Rationale and explanation of legislation
- What is expected of them
- How to handle problems they may face
- Questions and answers
- Useful website/addresses

### **Wide distribution of mandatory signage**

Countering tobacco industry and other opposition

- Monitor tobacco industry disinformation
- Respond rapidly

- Deflect unfounded fears (political loss, economic loss)
- Use evidence base/scientific data

### **Common themes - scare mongering**

- Economic loss especially for hospitality sector
- Unfeasible enforcement /police state
- Denying health impact
- Freedom issues
- Pushing ineffective means (voluntary codes, ventilation)

### **Evaluation - Monitoring**

- Public support
- Compliance
- Air monitoring
- Health impact
- Economic impact
- Use results in communication

### **Conclusion**

- It can be done everywhere, each jurisdiction will have its own way
- Use good examples, experience, resources around the world
- Be creative, make the most of what you have, especially on enforcement
- Plan well, stay determined, focused



## **It can be done anywhere**

- FCTC obligation to protect
- Use good examples, experience, resources around the world
- Be creative, make the most of what you have

Plan well, stay determined and focused, learn from others, and you will succeed!

## **Appendix 5. Additional resources**

The UK Chartered Institute of Environmental Health national smoke free legislation training programme has a number of useful tools and resources as well as key contacts to build capacity to enforce the law:

[http://www.cieh.org/events/diary/national\\_smokefree\\_legislation\\_training\\_programme.htm](http://www.cieh.org/events/diary/national_smokefree_legislation_training_programme.htm); see also

<http://www.idea.gov.uk/idk/core/page.do?pageId=6493757>

Other sources for information on creating a plan to enforce the law include:

Scotland: enforcement protocol

<http://www.clearingtheairscotland.com/faqs/enforcement.html>

Ireland: [http://www.otc.ie/smokefree\\_enforcement.asp](http://www.otc.ie/smokefree_enforcement.asp) and

[http://www.otc.ie/smokefree\\_locall.asp](http://www.otc.ie/smokefree_locall.asp)

Smoke free Birmingham:

<http://www.birmingham.gov.uk/smokefree>

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