

Q&A

How can localities reduce smokeless tobacco use among youth, particularly young athletes?

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A: Localities can expand local smokefree air laws to prohibit smokeless tobacco use in select areas.



In California, more than 103,000 youth, aged 12 to 17, use smokeless tobacco, with prevalence rates as high as 5.7 percent of youth in rural counties.^{1,2} Studies show consumption of smokeless tobacco products is common among young athletes, especially baseball players, who perceive high use of smokeless tobacco among teammates.³⁻⁹ After participating in or watching sports, youth model the behavior they observe from professional athletes, teammates, coaches, and commentators.^{3,9,10} Smokeless tobacco products are more strongly associated with sports than cigarettes, due in part to the tobacco industry's marketing efforts and the misconception that smokeless tobacco is a safer alternative.³ However, research shows smokeless tobacco is not a safe alternative; smokeless tobacco is known to release more nicotine into the bloodstream than cigarettes and causes cancer, heart attacks, and strokes, among other health problems.^{3,11} Youth are particularly susceptible to the tobacco industry's misleading marketing, as demonstrated by the fact only 41.2 percent of high school seniors nationwide believe there is great harm associated with the regular use of smokeless tobacco.³

To address smokeless tobacco use among youth, localities can enact tobacco-free ordinances that prohibit the use of smokeless tobacco products in youth-sensitive areas. The California Constitution vests local governments with broad authority to adopt and enforce laws to protect the health and general welfare of the people.¹²⁻¹⁴ This constitutional authority is known as the police power, and local jurisdictions in California may use their police power to regulate and restrict the use of all tobacco products, including smokeless products. So long as it isn't preempted by state law, "[a] law is a valid exercise of the police power unless the law is manifestly unreasonable, arbitrary or capricious, and has no real or substantial relation to the public health, safety, morals or general welfare."¹⁵ A tobacco-free ordinance generally will be upheld provided (1) it is "reasonably related to promoting the public health, safety, comfort and welfare" and (2) "the means adopted to accomplish that promotion are reasonably appropriate to the purpose."¹⁶

It is easy to demonstrate tobacco-free ordinances are reasonably related to public health. As recognized by the California Court of Appeals, "the government unquestionably has a legitimate interest in discouraging tobacco use."¹⁷ Even though smokeless tobacco does not produce dangerous byproducts like the secondhand smoke produced by cigarettes, it remains a threat to public health. Smokeless tobacco contains at least 28 carcinogens and causes oral, esophageal, and pancreatic cancers.^{3,18} It also increases the risk for many other health problems, such as heart disease and tooth decay.^{3,19} It is particularly harmful for youth because of adolescents' susceptibility to nicotine addiction and the impact of nicotine on brain development.^{3,20}

Laws restricting the use of smokeless tobacco products in public places are also reasonably appropriate to reducing tobacco use by youth. Evidence shows laws prohibiting smoking reduced tobacco consumption simply by limiting the places in which smoking could occur.²¹⁻²³ Tobacco-free laws also de-normalize youth perception of tobacco use.³ By adopting tobacco-free policies, localities can change these norms and curb youth tobacco use.^{3,5} This strategy builds on the success of smokefree air laws, which not only reduced public exposure to secondhand smoke but also changed public perception of smoking.

Q&A



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Law & policy innovation for the common good

Comprehensive Smokefree Places Ordinance A Model California Ordinance Regulating Smoking in Indoor and Outdoor Areas (with Annotations)

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Localities interested in using policy to address the problem of smokeless tobacco use by youth can adopt the “tobacco-free” option in ChangeLab Solutions’ [Model Comprehensive Smokefree Places Ordinance](#) and apply it to places where smokeless tobacco use is a public health concern, such as parks, sports stadiums, athletic fields, and other areas frequented by youth. The National Collegiate Athletic Association (NCAA), Minor League Baseball (MiLB), and many college campuses, including the University of California system, have already adopted tobacco-free policies that include a prohibition on smokeless tobacco use.^{24–26} These comprehensive policies demonstrate the viability of tobacco-free initiatives. If your jurisdiction is interested in tobacco-free policies, please [contact ChangeLab Solutions for technical assistance](#).

1. California Department of Public Health Tobacco Control Program. County and Statewide Archive of Tobacco Statistics. *Calif Tob Control Surv*. www.cstats.info/.
2. California Department of Finance. Population Projections by Race/Ethnicity, Detailed Age, and Gender, 2010-2060. 2014. www.dof.ca.gov/research/demographic/reports/projections/P-3/.
3. US Department of Health and Human Services Office of the Surgeon General. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General*.; 2012.
4. Bracken N. *National Study of Substance Use Trends Among NCAA College Student-Athletes*. Indianapolis, Indiana; 2012. www.ncaapublications.com/productdownloads/SAHS09.pdf.
5. Eaves T. The Relationship Between Spit Tobacco and Baseball. *J Sport Soc Issues*. 2011;35(4):437-442. doi:10.1177/0193723511429826.
6. Sinusas K, Coroso JG. A 10-yr Study of Smokeless Tobacco Use in a Professional Baseball Organization. *Med Sci Sport Exerc*. 2006;38(7):1204-1207. doi:10.1249/01.mss.0000227303.80783.46.
7. Severson HH, Klein K, Lichtensein E, Kaufman N, Orleans CT. Smokeless Tobacco Use Among Professional Baseball Players: Survey Results, 1998 to 2003. *Tob Control*. 2005;14:31-36. doi:10.1136/tc.2004.007781.
8. Cooper J, Ellison JA, Walsh MM. Spit (Smokeless)-Tobacco Use by Baseball Players Entering the Professional Ranks. *J Athletic Train*. 2003;38(2):126-132.
9. Walsh MM, Ellison J, Hilton JF, Chesney M, Ernster VL. Spit (Smokeless) Tobacco Use by High School Baseball Athletes in California. *Tob Control*. 2000;9(Suppl II):ii32-ii39.
10. Smokeless Tobacco: Impact on the Health of our Nation’s Youth and Use in Major League Baseball: Hearing Before the H. Comm. on Energy and Commerce, 111th Cong. 2 (2010).
11. National Institute on Drug Abuse. *Smokeless Tobacco – December 2009*.; 2009. www.drugabuse.gov/sites/default/files/smokeless.pdf.
12. Cal. Const. art. XI, § 7.
13. *Birkenfeld v. City of Berkeley*, 17 Cal.3d 129, 140 (1976).
14. *Miller v. Bd. of Pub. Works*, 195 Cal. 477, 484 (1925).
15. *Massingill v. Dep’t of Food & Agriculture*, 125 Cal. Rptr.2d 561, 564 (Ct. App. 2002).
16. *Sunset Amusement Co. v. Bd. of Police Comm’rs*, 7 Cal.3d 64, 72 (1972) (citations omitted).
17. *Walgreen Co. v. City and County of San Francisco*, 110 Cal. Rptr. 498, 510 (Ct. App. 2010).
18. Mazurek J, Syamlal G, King B, Castellán R. Smokeless Tobacco Use Among Working Adults - United States, 2005 and 2010. *Morb Mortal Wkly Rep*. 2014;63(22):477-482.
19. Henley SJ, Thun M, Connell C, Calle E. Two Large Prospective Studies of Mortality Among Men Who Use Snuff or Chewing Tobacco (United States). *Cancer Causes Control*. 2005;16(4):347-358. doi:10.1007/s10552-004-5519-6.
20. Dwyer J, McQuown S, Leslie F. The Dynamic Effects of Nicotine on the Developing Brain. *Pharmacol Ther*. 2009;122(2):125-139. doi:10.1016/j.pharmthera.2009.02.003.The.
21. Longo DR, Johnson JC, Kruse RL, Brownson RC, Hewett JE. A prospective investigation of the impact of smoking bans on tobacco cessation and relapse. *Tob Control*. 2001;10(3):267-272. www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1747578&tool=pmcentrez&rendertype=abstract.
22. Centers for Disease Control and Prevention. Highlights: Clean Indoor Air Regulations. 2000. www.cdc.gov/tobacco/data_statistics/sgr/2000/highlights/clean/index.htm. Accessed February 19, 2015.
23. US Department of Health and Human Services Office of the Surgeon General. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Rockville, MD; 2006.
24. National Collegiate Athletic Association. *NCAA Division I Manual*. Indianapolis, Indiana; 2014. www.ncaapublications.com/productdownloads/D115OCT.pdf.
25. American Nonsmokers’ Rights Foundation. *Smokefree and Tobacco-Free U.S. and Tribal Colleges and Universities*. Berkeley, CA; 2014. www.no-smoke.org/pdf/smokefreecollegesuniversities.pdf.
26. American Nonsmokers’ Rights Foundation. *Smoking Policies at Major League Baseball Stadiums*. Berkeley, CA; 2014. www.no-smoke.org/pdf/majorleaguebaseballstadiumpoliices.pdf.

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