

## **Anti-Tobacco Legislation**

### **Recent League Activity**

In 2015, the League partnered with the American Heart Association, American Cancer Society Cancer Action Network, and American Lung Association of New York to push the Senate and Assembly to include electronic cigarettes in the Clean Indoor Air Law. The Assembly passed the bill in June but the Senate referred the legislation to the Rules Committee, effectively killing the bill for the 2015 session.

The Tobacco Control Program in the Department of Health has endured significant and ongoing budget cuts in recent years. Governor Cuomo's 2013-2014 Budget Proposal consolidates all of the Department of Health's public health programs in six pools and includes an across-the-board reduction. The League is deeply concerned that the Executive Budget Proposal eliminates the vast majority of the funding dedicated to the Tobacco Control Program and consolidates numerous prevention programs into competitive pools that will have funding awarded based on an RFP process with awards determined by the Department of Health. While not as high as those prosed by the governor, the final budget did include cuts to anti-tobacco programs.

In 2009, the League continued to work with the Tobacco Coalition to amend the Public Health Law to prohibit the sale of flavored cigarettes, which appeal primarily to children. The measure passed the Assembly and was referred to the Senate where it died in committee.

### **Past League Activity**

During the 1993 legislative session, the League lobbied successfully for an increase in the excise tax on cigarettes, raising that tax 17 cents per pack. Legislation, known as the PRO-KIDS bill would prohibit smoking on school grounds and other places such as fast food restaurants and day care facilities, which children frequent. It would also ban fixed advertising of tobacco products. A watered-down version of the original bill finally passed the Assembly the day before the legislature recessed; the Senate did not address it. In the 1994 session, the Coalition for a Healthy New York, of which the League is a lead organization, lobbied vigorously for this measure, which passed the Assembly early in the session and was propelled through the Senate by the artful lobbying effort of the Coalition. Signed into law, it took effect September 1, 1994.

In addition to PRO-KIDS, the League has worked for a range of anti-smoking legislation designed to promote better public health. The League supported:

- Legislation, which would prohibit the erection or maintenance of billboards advertising tobacco products within 1000 feet of schools. League support has been ongoing since 1994, as these bills have consistently passed the Assembly, but have not been addressed by the Senate.
- Legislation, which would require cigarette manufacturers to disclose the chemical substances used in the manufacture of cigarettes. Passed in Assembly in 1995; no Senate sponsor.

- Legislation allowing the state to recover the cost of Medicaid benefits NYS currently pays for illnesses caused by tobacco products. Introduced late in 1995 session; no action taken; no Senate sponsor.
- Legislation amending Public Health Law and Tax Law allowing local health departments to license tobacco retailers and increase enforcement of current restrictions on access a minor has to tobacco products. It would also create a public health programs fund to provide pro-health messages concerning the health risks of tobacco use. In the 1995 session, League lobbied aggressively and did considerable public relations work around this legislation, known as the “Healthy Children Act,” to educate legislators in anticipation of action in future sessions. No Senate sponsor.

In 1996, the League opposed Senate legislation, introduced late in the 1995 session, by the Senate Rules Committee. This legislation referred to as the “Tobacco Industry Relief Act,” this legislation would weaken New York State’s Clean Indoor Air laws, repeal strong local smoke-free laws in NYC, Suffolk County and other areas; and would preempt other localities from passing stronger restrictions in the future. This was one-house legislation and the Assembly took no action.

Also in the 1996 and 1997 legislative sessions the League lobbied extensively for passage of legislation which would not only protect children from the dangers of second-hand smoke, but also from the impact of the tobacco industry’s advertising efforts to entice teenagers to begin smoking.

The League and the Coalition for A Healthy New York were successful in preventing “preemption” legislation from passing either house of the NYS legislature. Local Leagues, particularly in Erie, Westchester, and Nassau Counties had been successful in passing through their county legislature or through their Health Department stricter anti-smoking measures than the state standard. Suffolk County’s law was challenged successfully in court.

Early in 1997, Governor Pataki announced his tobacco control initiative. This multifaceted approach would:

- 1 Improve enforcement of the Adolescent Tobacco Use Prevention Act (ATUPA).
- 2 Ban self-service of tobacco products in groceries and convenient stores.
- 3 Provide for media and education programs.

The Coalition for a Healthy New York encouraged the governor to work with the Coalition to pass legislation with this initiative in it. Unfortunately, no legislation materialized. Legislation called the Healthy Children Act, which incorporated much of the governor’s initiatives, was also not addressed.

However, after negotiations with the governor’s office by Coalition members, \$2.5 million was added to the 1997-98 state budget for enforcement of ATUPA. Provisions include:

- Spot checks to heighten compliance of vendors selling tobacco products to minors.
- Public education efforts to inform minors of the health hazards of tobacco use.
- An evaluation of the state’s efforts to reduce the use of tobacco by minors.

Legislation sponsored in the Assembly to allow the state to recover the costs of Medicaid benefits caused by the use of tobacco products was not reintroduced in 1997 due to class action lawsuits brought by several attorneys general, including NYS Attorney General Dennis Vacco.

During the 1998 legislative session the Assembly passed several pieces of legislation which would; increase penalties for selling to minors, decrease the availability of self-service displays in convenience stores and supermarkets, and restrict billboards within 1000 feet of schools and day care facilities. However, the Senate took no action on any of these bills.

The 1999 legislative session brought new hope for tobacco legislation as the Attorney General's law suit against big tobacco was settled and the prospect of \$25 billion over twenty-five years coming into the state of New York became a reality. As in 1998, anti-tobacco legislation, referred to above, again passed the Assembly, and was not addressed in the Senate.

Following on the heels of the Attorney General's historic federal tobacco settlement in 1999, the League and fellow anti-tobacco advocates had our most successful session ever! Six anti-tobacco bills passed both houses of the legislature and were signed by Governor Pataki. The bills included:

1. The Cigarette Fire Safety Act. NY is the first state to require (by 2003) manufactures to sell self-extinguishing cigarettes. This is widely expected to spur Congress to pass national legislation.
2. Increased penalties for ATUPA violations. This would increase the penalties for retailers who sell cigarettes to minors.
3. License flipping in the event of revocation of cigarette dealers license. This legislation would prevent dealers from "flipping" their licenses to their spouses or other relatives in order to escape revocation of a license when they are guilty of selling tobacco to minors.
4. Limits sale of "Bidis" to tobacco shops. Bidis are specially wrapped cigarettes that taste better than regular cigarettes therefore, they are particularly sellable to teens.
5. Restricts sale of herbal cigarettes by including them among tobacco products in ATUPA.
6. The bootlegging legislation. Although not technically an anti-tobacco bill, this legislation would ban Internet sales of cigarettes. The Indian Nations in N.Y. are expected to fight this new law in court.

The League has continued to work with the Tobacco Coalition in support of measures to restrict the reach and desirability of smoking. In 2006, it supported Governor Pataki's Tobacco Prevention proposals, including a state cigarette tax of \$1 per pack and funding of the state's Tobacco Prevention Program at the \$95 million minimum level recommended by the U.S. Centers for Disease Control and Prevention (CDC). These prevention proposals became part of the 2006/2007 state budget. In 2007, the League again, working with the Tobacco Coalition, supported two bills to further regulate tobacco products. The first, supported by the Assembly would have amended the Public Health Law to prohibit the sale of flavored cigarettes, which appeal primarily to children. This legislation was not addressed by the state Senate. Disclosure of cigarette ingredient legislation has been a focus of Assembly legislation for the last five years beginning in 2000. This legislation consistently passes the Assembly Health Committee, but has not passed the Assembly and has no companion sponsorship in the state Senate. The tobacco industry is still powerful enough to keep this legislation from passing through the entire Assembly or being introduced in the Senate.

### **The Clean Indoor Air Act 2003**

The Clean Indoor Air Act, which bans smoking in ALL restaurants and bars statewide was passed early in the 2003 session and immediately signed into law by the Governor. This law has few exceptions and although patterned after the New York City law it is more stringent. The law took effect on July 24, 2003. The League has lobbied vigorously for this legislation for several years, and sees this new law as the most significant advance in public health in many years. In early December 2003, taking advantage of a loophole in the new law, the NYS Health Department (DOH) issued guidelines for “hardship exemptions” for the forty-three counties where no County Board of Health exists. Local Boards of Health are responsible for issuing these exemptions. In 2004, the League was successfully in opposing legislation that would have partially rolled back the benefits of the *Clean Indoor Air Act of 2003*. This legislation would allow smoking in certain places of public accommodation if they had in operation a state-certified air purification device.