SmokeLess States
Policy Focus

Guest Editorial

Delaware Breaks the Preemption Barrier

The "First State" is First to Restore Local Control in Clean Indoor Air

Robb Holcomb

$208: Preemption

The provisions of this chapter shall preempt and supersede any provisions of any municipal or county ordinance or regulation on the subject of this chapter enacted or adopted after June 26, 1994. (69 Del. Laws, c. 287, § 1.)

For nearly eight years, there was a divide between Delaware communities and their right to pass local clean indoor air ordinances. On May 31, 2001, however, Big Tobacco suffered a stunning loss when Gov. Ruth Ann Minner signed into law SB 99 — The Clean Indoor Air Act. With that signature, Delaware became the first state in the Union — and the first to repeal preemption and restore local control over clean indoor air quality.

Robb's SB 99 also includes some of the strongest, most comprehensive smokefree provisions found in any law, making public places and workplaces — including restaurants, bars and gaming venues — smoke-free.

The Little State that Could

How did a little state beat Big Tobacco? The answer is deceptively simple: The IMPACT Delaware Tobacco Prevention Coalition mobilized a formidable grassroots campaign and aimed it directly at the Delaware State Legislature. Of course, organizing such a campaign is anything but simple. Here are the key elements of the IMPACT Coalition's two-year effort.

Adventures in Alaska

Debra Flores

This September, members of the National Program Office (NPO) of SmokeLess States (SLS) had the distinct privilege of conducting a site visit in Alaska. Donna Grande, Elaine Ishihara, and I met with the Alaska coalition led by Annette Marley. To many, Alaska seems different from any other place — its unique landscape, people, and culture make this state unlike any other. However, beginning in Anchorage, we embarked upon a very busy agenda, during which we visited people in various Alaskan cities and villages.

It was here that we learned that despite Alaska's differences, many of its challenges — specifically those related to tobacco — are quite similar to the rest of the nation.

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Special Opportunities Abound

Since the beginning of July, the NUG has received 10 applications and awarded five special opportunity grants to date. The focus of these grants has included funding for the tobacco industry’s attempts to derail local clean indoor air ordinances, making the most of the recent economic downturn to raise the tobacco tax, and helping capacity for policy change among tribal governments. States involved since July include Minnesota, Montana, New York, and North Carolina. All current SUG grantees are eligible to apply for special opportunity grants. Proposals should focus on major tobacco control policy issues such as : • Reducing tobacco taxes • Strengthening or enacting clean indoor air policies • Incurring major public and private insurers and managed care organizations to provide tobacco cessation services to members • Preventing or eliminating prescription drug from nonnicotine tobacco control legislation

The funding for the Special Opportunity Grant Program comes from a grant from the Tobacco-Related Disease Foundation and the NUG to the AMR. Applicants for a special opportunity grants, a research unit made up of NUG staff and National Advisory Committee members, and audits the application and scores the application. The applications are scored on the policy change environment and the roadblocks to take action, the appropriateness and the realistic nature of the special opportunity, the strength of the strategy and having adequate matching funds. Special Opportunity Grants can be awarded within four weeks of receiving a successful application.

For more information on how to apply for a Special Opportunity Grant, contact Cathy Callaway, 312-644-4473.

Tucked the Long View

The IMPACT Coalition planned a 50-year campaign, giving itself years to prepare for the political battle that would cause once the bill was introduced. During Year One, Coalition members enrolled in “Smokeless Tobacco 101.” They studied the issues and the tobacco companies, then practiced how to talk to legislators. Members also built in-house expertise for grassroots action, collecting green postcards from supporters at every meeting, every presentation, and every tobacco event.

This year and contact information from these postcards (which were sent to the supporter’s legislators) were collected into a database, and used in Year Two to generate calls and direct to key legislators.

Played to their Partner’s Strengths. For instance, the public health department was funded by law from direct tobacco lobbying. However, it could lend itself to a public education campaign in Year One that built interest in the Coalition’s advocacy efforts, with billboards, news stories, and radio spots on the dangers of secondhand smoke. The IMPACT Coalition also sought help from national partners like the Campaign for Tobacco-Free Kids (CTFK), which conducted an opinion poll and paid for full-page advocacy ads and phone banks before key committee votes. The state voluntary health agencies made available databases of people with health conditions that made them particularly vulnerable to secondhand smoke. Those people are highly motivated to get involved and, have compelling stories to share with legislators.

Committee Sponsors: S, 98 co-sponsors sit on both sides of the aisle: Rep. Deborah Hensley (R-Fairmont), Rep. Robert J. Vaillancourt (R-Enfield), Sen. Patricia Bresee (D-Danville), and Sen. David McBride (D-Newcastle). Their path to sponsorship was unusual. As the public health department received calls about their secondhand smoke aid, at referred callers to the Coalition, which in turn, coordinated the calls with the state legislators. After being referred with consent calls, Rep. Hensley and Sen. Bresee contacted the Coalition, asking for the Coalition’s ideas for model legislation. Sen. McBride and Rep. Wilkens heard of the discussions and

If this (law) causes a person to lose an election, then it’s better to lose an election and to save people’s lives.


asked to join as sponsors. IMPACT Coalition lobbyists meet regularly with the sponsors and their staff. Lobbyists educated studiers on secondhand smoke issues, while elected officials altered lobbyists to behind-the-scenes political maneuvering.

Putting Polling Results to Good Use

At the start of Year Two, the IMPACT Coalition conducted an opinion poll. The poll found broad support for clean indoor air issues and local control; the results were remarkably consistent across party lines and geographic regions:

• Seventy-eight percent of Delaware voters were concerned about health effects of secondhand smoke; 70% supported the concept of a smokefree law.
• Voting for smoking restrictions helped re-election prospects—67% of voters preferred a candidate who supported smokefree laws.
• Support for local control—70% agreed that local jurisdictions should have the right to pass their own smokefree laws.

The Coalition released the poll results in January 2002 and monitored the results in every communication they had with legislators or the media. Almost without exception, every S, 99% gun referendum referred to the poll, and legislators regularly cited overwhelming voter support as the reason they voted for the law.

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Hoping to Breathe Clean Air Indoors...

On May 31, 2002, Delaware adopted the most protective Clean Indoor Air Law in the nation — by making tobacco smoke public place smoke-free. The legislature supported this law, because they wanted to PROTECT YOU from the dangerous effects of secondhand smoke.

DID YOU KNOW:

- Secondhand smoke causes lung cancer and is a known risk to humans.
- Every year, 3 of 5 Delawareans die from tobacco-related diseases.
- More than 45,000 children in Delaware are under 18 today, still breathing the toxins from smoking.
- Delaware ranks third in the nation for having the highest rate of lung cancer.
- $120 of your household’s money went to smoke-related illness last year.
- Delaware paid $280 million last year in healthcare costs caused by smoking.

Please thank your legislators for protecting your right to breathe clean air and for helping to reduce healthcare costs related to smoking diseases.

Source: IMPACT Delaware Tobacco Prevention Coalition 2002
The reality is our constituents want it, plain and simple.”


I have to give a lot of credit to the grass roots organizations who took this up and ran with it. In my eight years in the General Assembly, I have never seen a more focused or more active group of people. We received telephone calls, e-mail, direct mail, and green postcards.

Rep. Donna Stein (D-District 30) / The Business Ledger, August 2002

Fund For Better Health Announces New Grant Winners

The AMA Foundation established the Fund For Better Health 2002 as its newest grant-making initiative. The program provides financial support to AMA-affiliated organizations and individuals for community service projects addressing three public health issues: health literacy, anti-tobacco, and violence prevention. Twenty-five Fund for Better Health 2002 grantees were announced at the AMA’s Annual Meeting in June. Each organization was awarded $1,000 in support of its local efforts, of which 11 were awarded for anti-tobacco projects. Learn more about the winners and their meaningful projects at www.ama-assn.org/ama/pub/category/7668.html.

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