

Bobby Jindal
GOVERNOR



Alan Levine
SECRETARY

State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 2, 2009

The Honorable Kay Katz, Chair
House Health and Welfare Committee
State Capital
P.O. Box 44486
Baton Rouge, LA 70804

Dear Representative Katz:

In response to House Concurrent Resolution No. 174 (HCR 174) of the 2008 Regular Session, the Louisiana Department of Health and Hospitals (DHH) submits the enclosed report. The report studies issues related to prohibiting the possession of tobacco products by persons under the age of twenty-one.

The Bureau of Primary Care and Rural Health within DHH is available to discuss the enclosed report and recommendations with you and the members of the House Health and Welfare Committee. Please contact Gerrelda Davis, interim director of the bureau, at (225) 342-2657 with any questions or comments you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Levine".

Alan Levine
Secretary

Enclosures

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The Honorable Willie Mount, Chair
Senate Health and Welfare Committee
State Capital
P.O. Box 44486
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Dear Senator Mount:

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State of Louisiana

Department of Health and Hospitals
Bureau of Primary Care and Rural Health

LOUISIANA'S YOUTH PREVENTION STUDY 2008 HOUSE CONCURRENT RESOLUTION NO. 174

Introduction

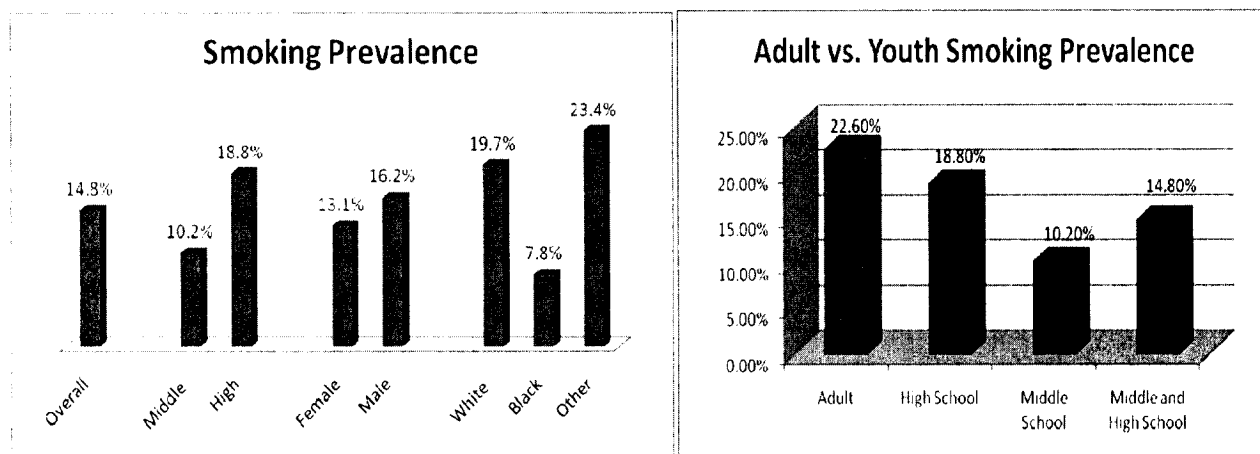
The purpose of this study is to collect and disseminate information related to prohibiting the possession of tobacco products by persons under the age of 21. The findings from this study will be reported to the Louisiana legislature in order to inform the House and Senate committees on health and welfare regarding best practices to reduce smoking among teenagers, reduce nicotine dependence in our state, and improve the health of Louisiana residents.

Burden of Tobacco on Youth

The tobacco-use prevalence among young people in Louisiana's public schools in 2008 was 14.8%¹, compared to the adult prevalence of 22.6% in 2007². Approximately 10.2% of middle school students smoke, while 18.8% of high school students smoke. According to gender, the prevalence among male students is 16.2% and among female students is 13.1%¹.

Data shows that over 22,000 youth under the age of 18 years old try cigarettes for the first time each year, and an additional 6,600 youth become new daily smokers each year in the United States³. In addition, about 29% of youth in Louisiana begin smoking between the ages of 11 and 14 years old. This behavior leads to a lifetime of dependence on tobacco, an increased incidence of developing chronic diseases, and also puts a monetary cost burden on the state in regards to healthcare. Nearly \$1.5 billion is spent in Louisiana on health care costs as a result of tobacco use. This addiction among Louisiana youth leads to 109,000 youth currently alive today who ultimately die from their own tobacco use.

Tables: LA Youth Tobacco Survey 2008



Synar Reports

In order to monitor and enforce current youth access laws in Louisiana, the Department of Health and Hospitals' Office of Addictive Disorders conducts compliance checks throughout the year to determine which tobacco and alcohol outlets are not complying with the current law prohibiting the purchase of tobacco to youth under the age of 21. According to annual Synar reports from the last two fiscal years, the number of citations issued decreased from **700 to 388**; while the number of fines, ranging from \$50 to \$800, assessed increased from **20 to 48**⁴.

Literature Review

According to a policy analysis administered by the Canadian Cancer Society in 2001, 42 states within the United States had implemented some type of youth possession law⁵. In some cases, the laws have been part of a broader effort to keep tobacco out of the hands of children. It was stated that the tobacco companies have aggressively campaigned for such laws in an effort to prevent the passage of more effective anti-tobacco measures. The study also stated that the most common provision is the prohibition on the purchase of tobacco by youth. This policy analysis pointed out that the mere existence of a law prohibiting youth from purchasing or possessing tobacco will do nothing to change the perception among youth of the easy accessibility of tobacco nor diminish the social acceptability of youth smoking in the absence of aggressive and sustained enforcement of the law.

In reviewing the literature presented in a meta-analysis by Dr. William C. Livingwood, The Impact Study of Tobacco Possession in Florida, the Florida International University (FIU) Study of Cited Youth and the Florida State University (FSU) Fame Study found that enforcement reduces youth tobacco use, even though the FSU Fame Study was limited to effects on getting youth to stop smoking⁶. The greatest impact from these studies regarding possession enforcement appears to be on declines in tobacco use close to schools. The study attributes the large decrease in youth tobacco use in Florida to comprehensive tobacco control programs with aggressive media campaigns and enforcement of possession laws.

The Impact Study of Tobacco Possession provided substantial evidence that possession enforcement has an impact on deterring children from using tobacco. The FSE Fame 1999 Follow-up Report analyzed for this meta-analysis concluded that enforcement has "no effect" on prevention. This conclusion that contradicts the possession enforcement study is based on youth respondents' retrospective about what influenced them to not think about using tobacco. Law enforcement should not reasonably be expected to have an effect on these children.

According to the American Cancer Society, the tobacco industry supports laws that penalize children for tobacco possession. They state that "this strategy would take the responsibility for the illegal sale off the seller (retailers) and put the responsibility on the minor, [diverting] the purpose of the laws which currently make the seller responsible for the illegal sale and also make enforcement of these "responsible sales" laws virtually impossible to uphold.

In 2007, the Campaign for Tobacco-Free Kids (CTFK) also conducted a study on state practices related to penalizing youth for buying, possessing, or smoking cigarettes. CTFK also agreed that the tobacco companies and their allies support youth-penalty laws as alternatives to other

laws that would produce larger and more rapid reductions in underage tobacco use. They stated that youth penalty laws can unfairly punish or stigmatize children who become addicted either when they are too young to know better or as a direct result of the tobacco industry's aggressive marketing to kids.

Other States

There are many variations of "youth possession" laws, in terms of the offense itself, the penalty imposed, and the agency responsible for enforcement. Offenses may include: purchase, attempt to purchase, possession and use. Some of the penalties are: confiscation of tobacco product, fine/ticket, community service, tobacco use and/or cessation counseling, suspension of driver's license and jail time. In 2007, all states and the District of Columbia prohibited retailers from selling tobacco products to minors, while 45 states also enacted laws that penalize youth for purchasing, using, or possessing cigarettes or other tobacco products with various penalties ranging from fines to jail time⁷.

According to the American Lung Association's *Overview of State Legislated Actions on Tobacco Issues*, most states define minors as persons under 18 years of age, however, enforcement varies widely.

- 4 states - Alabama, Alaska, New Jersey and Utah - define minors as persons under 19 years of age.
- 38 states and the District of Columbia require retailers to post signs at the point of purchase stating that selling tobacco products to minors is illegal.
- 19 states and the District of Columbia require a person selling tobacco products to check the identification of a purchaser who appears to be under a certain age.

Penalties to Minors:

- 45 states penalize minors for tobacco-related offenses.
- 36 states prohibit minors from possessing tobacco products.
- 18 states have language prohibiting the use of tobacco products by minors.
- 25 states order minors who are guilty of a tobacco-related offense to perform community service as well as, or in lieu of, a fine.
- 9 states - Florida, Minnesota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas and Vermont - may suspend the driver's license of a minor who violates their youth access law.
- 16 states - Colorado, Florida, Georgia, Idaho, Missouri, Montana, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Washington and Wyoming - require minors to attend smoking education/cessation programs in addition to, or in lieu of, other penalties for tobacco-related offenses.

Information gathered from informant interviews with other state health departments:

In Tucson, Arizona, a youth caught in possession of tobacco is issued a citation to appear in court. If the youth fails to appear in court to answer the charge, then his driver's license is suspended. If the youth happens to not hold a driver's license, he is "locked out" from obtaining a driver's license until the age of eighteen. Minors found guilty of possession are issued a \$40 fine and are required to attend a two-hour tobacco information class, which emphasizes the policies of tobacco. The current youth tobacco prevalence in Arizona is 22.2%.

The State of Texas' legal age to purchase tobacco is 18. However, there is a bill currently before the legislature that requests this age to increase to 19. The law prohibits the possession of products for youth 18 and under, but no penalties are enforced for possession. While Texas is fighting this battle, it is felt that one reason for not being able to enforce penalties is lack of funds. No funding is specifically allocated for youth tobacco prevention programs. The current youth tobacco prevalence in Texas is 21.2%.

Louisiana's Efforts

The Louisiana Tobacco Control Program

The Louisiana Tobacco Control Program is funded through a cooperative agreement between the Centers for Disease Control Office on Smoking and Health (CDC-OSH) and the Louisiana Department of Health and Hospitals (DHH). The program began receiving funding from CDC in 1993, and is currently under the direction of the Bureau of Primary Care and Rural Health's Chronic Disease Prevention and Control Unit.

The mission of the Louisiana Tobacco Control Program is to utilize evidence-based strategies in tobacco control surveillance, evaluation, program management, communication, and resource development to advance policies promoting a tobacco-free Louisiana.

The program's goals include:

- Prevent initiation of tobacco use among young people
- Eliminate exposure to secondhand smoke
- Promote quitting tobacco use among adults and young people
- Identify and eliminate tobacco-related disparities among specific population groups

The program's interventions are guided by the CDC's Best Practices for Comprehensive Tobacco Control Programs and include components related to:

- Community Interventions
- Health Communications/Media
- Cessation Interventions
- Surveillance and Evaluation
- Administration/Management

In collaboration with the Louisiana Public Health Institute's The Louisiana Campaign for Tobacco-Free Living, the Louisiana Tobacco Control Program plans and implements evidence-based interventions to increase the knowledge about the dangers of tobacco use among youth and influence youth behavior to live strong and healthy lives.

Youth Initiatives

Current youth initiatives in Louisiana include:

- The Louisiana Tobacco-Free Schools Program: A partnership with the Department of Education and local school boards across the state to implement "100% Tobacco-Free School" policies within each school district. This program aims to create healthy and safe environments, free from the tobacco industry's influence for Louisiana's youth. The program

also partners with school-based health centers and school nurses to provide cessation interventions for those who want to quit tobacco through the promotion of 1-800-QUIT-NOW and Fax-to-Quit Louisiana programs. This program also is developing relationships with local Parent Teacher Associations/ Parent Teacher Organizations and Title IV Safe and Drug Free School Coordinators to link schools with community programs and coalitions to support their movement for a tobacco-free Louisiana.

- The Youth Tobacco Survey is conducted every other year among Louisiana's public school students in middle and high school. Valuable information is collected and analyzed regarding youth attitudes and behaviors about tobacco use, media influences, and social influences. Organizations working in tobacco prevention in Louisiana can utilize this information for program planning and evaluation. The 2008 Youth Tobacco Survey Report is available online at www.latobaccocontrol.com
- Defy – A youth empowerment movement in Louisiana that challenges the influence of the tobacco industry and promotes tobacco-free life styles among youth. Youth, ages 11-17, are called to become leaders in their community to “defy the lies of the tobacco industry,” working in teams for social and policy changes to protect their peers and younger generations from the tobacco industry.
- Youth programming and events are coordinated throughout the year in local communities to increase awareness around national events like the Great American Smoke-Out in November, Kick Butts Day in March, and World No Tobacco Day in May.
- The Louisiana Youth Summit on Tobacco is an annual event in which youth from across the state are engaged in a weekend of leadership development and learn about the best practices for tobacco prevention. Youth are given the opportunity to develop three policy recommendations to present to the Louisiana legislature during a press conference on the steps of the State Capitol.

Recommendations/Best Practices

According to the Centers for Disease Control's *Best Practices* and the *Guide to Community Prevention Services*, there are four evidence-based interventions that states should consider to prevent youth initiation of tobacco:

- Increasing the unit price of tobacco products
- Conducting mass media education campaigns when combined with other community interventions
- Mobilizing the community to restrict minors' access to tobacco products when combined with additional interventions (stronger local laws directed at retailers, active enforcement of retailer sales laws, retailer education with reinforcement)
- Implementing school-based interventions in combination with mass media campaigns and additional community efforts

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1. Louisiana's Youth Tobacco Survey 2008. LA Department of Health and Hospitals' Tobacco Control Program.
 2. Louisiana's Behavioral Risk Factor Surveillance Survey 2007. LA Department of Health and Hospitals' Chronic Disease Prevention and Control Unit.

3. Campaign for Tobacco-Free Kids. Available at <http://www.tobaccofreekids.org/index.php> .
4. Louisiana's Annual Synar Report 2007 – 2008. LA Department of Health and Hospitals Office of Addictive Disorders.
5. Canadian Cancer Society. Youth tobacco possession laws: policy analysis. September 2001.
6. Livingood & Woodhouse, "Impact Study of Tobacco Possession Law Enforcement in Florida," Duval County Health Department, Jacksonville, East Stroudsburg University of Pennsylvania; NGAGE, Inc., (2000).
7. American Lung Association. State Legislated Action on Tobacco Issues (Overview). 2009. Available at <http://slati.lungusa.org/statelegislateaction.asp> .

Regular Session, 2008

HOUSE CONCURRENT RESOLUTION NO. 174

BY REPRESENTATIVE HINES

A CONCURRENT RESOLUTION

To urge and request the Department of Health and Hospitals to study issues related to prohibiting the possession of tobacco products by persons under the age of twenty-one and to report its findings to the House and Senate committees on health and welfare no later than April 1, 2009.

WHEREAS, tobacco use is the single leading preventable cause of death in the United States, causing approximately four hundred thirty-five thousand premature deaths and over five million years of potential life lost every year; and

WHEREAS, each day in the United States, approximately four thousand adolescents between the ages of twelve and seventeen try their first cigarette; and

WHEREAS, if current patterns of smoking behaviors continue, an estimated six million four hundred thousand of today's children can be expected to die prematurely from a smoking-related disease; and

WHEREAS, despite the fact that all states restrict the sale of tobacco products to persons under the age of eighteen, many studies have shown that the prevalence of smoking among teens has not decreased significantly since age restrictions have been introduced; and

WHEREAS, it is extremely important for Louisiana to curb smoking among teenagers since the younger a teen begins smoking cigarettes the more likely he is to become strongly addicted to nicotine and remain addicted throughout his life; and

WHEREAS, even a marginal decrease in teenage smoking today could result in increased worker productivity, decreased health care costs, and a healthier and happier populace; and

WHEREAS, given all this, it is important for the state to consider dramatic solutions to curb the use of tobacco among teenagers, including considering prohibiting the possession of tobacco products by persons under the age of twenty-one.

HCR NO. 174

ENROLLED

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Department of Health and Hospitals to study issues related to prohibiting the possession of tobacco products under the age of twenty-one and to report its findings to the House and Senate committees on health and welfare no later than April 1, 2009.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the secretary of the Department of Health and Hospitals.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE