

DIXIE COUNTY TOBACCO PREVENTION NEWSLETTER

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Quit Doc Research and Education Foundation Awarded Tobacco Prevention Grant for Dixie County

Once again, the *Quit Doc Research and Education Foundation* has been awarded a grant from the State of Florida Department of Health to provide tobacco awareness and prevention programs throughout Dixie County. The programs are designed to reduce the number of teenagers who start smoking each year, to decrease the number of tobacco related deaths, and to provide information on appropriate methods to quit smoking.

The program is funded from a trust fund created with money paid to Florida as part of a settlement with the tobacco industry in 1997. Florida sued the tobacco industry to recoup the cost of providing medical services to Florida residents that were caused by the use of tobacco.

"Tobacco use is the single biggest public health problem in the United States," reports Dr. Barry Hummel, a Pediatrician who co-founded the non-profit foundation. "We lose over 400,000 people every year to diseases caused by tobacco. Sadly, they are replaced by over one million children and teenagers who are lured into smoking by the predatory marketing practices of the Tobacco Industry."

Several of the educational programs provided by the *Quit Doc Research and Education Foundation* are designed to point out to children and teens exactly how the Tobacco Industry targets America's youth. "Each of our programs focuses on a different, age-appropriate issue," says Dr. Hummel. "For elementary school children, we show the health risks of tobacco use.

In middle school classrooms, we discuss the issue of tobacco advertising and marketing, especially in local convenience stores, and how the false promises found in those ads entice teenagers to try tobacco. For high school students, we discuss the impact of onscreen tobacco use in movies and television shows and the impact that such glamorization has on teen smoking."

In Dixie County, the programs will be managed by Melanie Anderson, the county's Tobacco Prevention Specialist since 2009. She will also be responsible for facilitating the Tobacco Free Partnership of Dixie County. The Partnership is a coalition of community leaders that will be working together on tobacco issues that affect the residents of Dixie County, particularly its most vulnerable residents: youth and senior citizens.

The Partnership will be working on several initiatives to

reduce youth access to tobacco products, to reduce illnesses and exposure to secondhand smoke, and to promote tobacco cessation services throughout the county.

There will also be an active youth program to work on these same issues. The Students Working Against Tobacco (SWAT) Program has been an active part of tobacco control in Florida since the original settlement. Florida's SWAT Program has been a model for other states, and remains a very effective youth prevention program.

All programs are provided free-of-charge to participating schools or organizations. Interested groups or individuals can obtain more information, or schedule a program, by calling 352-463-7006.

Melanie Anderson can also be reached directly at manderson@quitdoc.com. Additional information is also available at www.tfp-dixie.org.



*The Officers of the Dixie County High School SWAT Club:
From L to R: Josh Diaz, John Mash, Todd Pinner, Ashton Nail
(Vice-President), David Gumbs, Kendal Bush, Steven Quaka, Paije Decesare,
Sarah Hurst (President), and Lindsey Whittington (SWAT Advisor)*

Dixie County SWAT Clubs are Researching Policies Limiting Tobacco Advertising

By Melanie Anderson, Dixie County Tobacco Prevention Specialist

The Dixie County High School SWAT club has another exciting and busy year planned.

With a new SWAT Advisor, Mrs. Lindsey Whittington, the DCHS Media Specialist and many new officers, the club is already planning several great anti-tobacco events. All of the SWAT officers have joined the Dixie County Tobacco Free Partnership Sub-Committee on Retail Tobacco Advertising. The club has adopted this policy change as a major goal for this year.

The officers noted that all but one of the Tobacco Retailers in Dixie County use outdoor tobacco advertising and advertising at child eye level. They have already teamed up with the AP Language Arts teacher to work on a project using photos from local tobacco retail advertisements to explore how the tobacco companies use advertising techniques to target children and the youth of Dixie

County.

This information will be shared with local decision makers to ask for policy change in the stores and in the county. This promises to be another successful year for the Dixie County High School SWAT club.

The Ruth Rains Middle School SWAT club is on the march with Mr. Richard Whittington, the Ruth Rains Middle School Health Teacher coming back for his second year as the SWAT Advisor.

The club had a membership of 28 students last school year and over 50 youth have already signed up and attended the first quarter SWAT meeting this year.

The parents are very supportive of this club since all meeting are held after school and transportation has to be provided. Each member has to have a parental consent to attend these meetings. At the SWAT meeting many of the new members shared creative ideas on how to

get the anti-tobacco message out to their peers and into the community using anti-tobacco advertising techniques.

The first event scheduled for this young club is to have a booth at the most highly attended event in Dixie County, the Dixie County High School Homecoming Football Game. This event will give many of the members their first experience at speaking to the public about tobacco related issues. the year.



Quit Doc Research and Education Foundation Expands Tobacco Prevention Efforts in Florida

The Quit Doc Research and Education Foundation (QDREF) was once again awarded the community-based tobacco prevention grant for Dixie County, the result of years of hard work in the local community.

QDREF was founded in 2006 by two Florida physicians: Dr. Kirk Voelker, as Sarasota Pul-

monologist, and Dr. Barry Hummel, a Pediatrician from Coral Springs. The two physicians were classmates at the University Florida College of Medicine, graduating in 1989.

Dr. Voelker became interested in tobacco cessation as a result of his work as a pulmonologist. In 2004, after years of seeing end-stage lung disease as a result of tobacco use, Dr. Voelker gave up his regular pulmonary practice to develop a tobacco cessation program with the goal of reducing disease and death from tobacco use.

In 2006, Dr. Hummel and Dr. Voelker co-founded QDREF to work on youth prevention programs to try and reduce youth tobacco use.

"This is really a Pediatric epidemic," said Dr. Hummel, adding "85% of new tobacco users start between the ages of 12 and 17, before it is even legal." Dr. Hummel has developed a number of

youth prevention programs designed to de-normalize tobacco use. Most of the programs focus on the industry's youth marketing tactics, teaching media literacy skills and refusal skills.

Since 2008, QDREF has coordinated the tobacco prevention efforts in four economically and demographically counties in Florida: DeSoto, Martin, Dixie, and Gilchrist.

As a result of these programs, QDREF was able to achieve reductions in the rates of overall tobacco use among middle and high school students that were better than the overall state results for Florida. This included similar reductions in middle and high school use of individual types of tobacco (cigarettes, cigars, and smokeless tobacco).

"Dr. Voelker and I built these programs to reduce youth tobacco use, and we are delighted that we were able to achieve that in such striking fashion," said Dr.



Dr. Kirk Voelker conducts a bronchoscopy on a patient in Sarasota.

Hummel. "The results tell us that our instincts were correct... that giving youth the skills to realize that they are being targeted by an amoral industry will actually help them make a better choice. Our hope is that we can reproduce these results in other places."

Because of the success of these programs, QDREF was awarded seven additional counties in July Of 2012: Bradford, Clay, Marion, Levy, Indian River, Okeechobee, and Highlands.



Dr. Barry Hummel encourages you to "break the addiction".

K-12 Schools Throughout Florida are Exploring Stronger Tobacco Free Policies on Campuses

By Barry Hummel, Jr., MD, FAAP

Every day, parents send their children and teenagers off to school with the expectation that they will be safe while they are out of their family's care.

Yet, on many campuses throughout Florida, children attend school or after-school activities in an environment that still permits adult smoking on the property.

Several years ago, local tobacco prevention programs funded by the Florida Department of Health began to take a look at this issue. The goal was to see if local school districts would be willing to strengthen their current tobacco policies and make public school campuses 100% tobacco free.

As part of this process, the Florida Department of Health developed a Model Policy for K-12 school campuses, which includes the essential elements that would make a campus 100% tobacco free including appropriate enforcement measures:

1. Tobacco use is prohibited by students, staff, and visitors in school buildings and on school grounds.
2. Tobacco use by students, staff, and visitors is prohibited in any indoor facility owned, leased, or contracted by the school for services to children.
3. Tobacco use by students, staff, and visitors is prohibited in school vehicles.
4. Tobacco use by students, staff, and visitors is prohibited at school functions away from school property.
5. Tobacco possession by students is prohibited in school buildings, on school grounds, and at school-sponsored events.
6. Tobacco-free signs are required in school buildings and vehicles, and on school grounds.
7. Tobacco sales are prohibited on school property and at school functions.
8. Tobacco advertising is prohibited in school buildings, on school grounds, and at school functions.
9. The policy prohibits tobacco industry sponsorship and

marketing, including the use of educational materials funded by the tobacco industry.

10. The policy prohibits students from wearing or displaying tobacco-related clothing, gear, and other paraphernalia.
11. All students will receive instruction on avoiding tobacco use.
12. The policy clearly defines tobacco, including all forms of smokeless and smoking tobacco.
13. The policy requires that referrals to tobacco cessation resources be provided to students and staff.
14. The policy requires that Alternative-to-Suspension educational materials be incorporated into the Enforcement Procedures for students who violate the policy.
15. The policy requires enforcement measures for student, staff, and visitor violations.
16. The policy will be communicated annually to students, staff, and visitors.
17. The rationale for the Tobacco-Free Policy is explained within the policy.
18. The policy remains in effect at all times.

Oddly, as work began on this project back in 2010, the Department of Health discovered a major

roadblock. The Florida Clean Indoor Air Act, designed to protect citizens from secondhand smoke, contained a clause that prohibited school districts from working to strengthen their tobacco policies. This so-called "Preemption Clause" grants the State of Florida the exclusive right to regulate smoking, taking away that right from local governments. The Florida Attorney General at that time, Bill McCollum, wrote an opinion that School Districts were part of local governments, and, as such, they could not change their rules to protect students from adults smoking on campus.

In 2011, the Florida Legislature amended the Florida Clean Indoor Air Act so that local school districts could take a tougher stand on tobacco use on public school campuses. Since that time, local school districts have been working to include additional language in their existing tobacco policies as they work toward the Model Policy for K-12 Schools developed by the Department of Health.

In Dixie County, for example, there is a strict policy regarding youth tobacco use. However, SWAT students are reporting that teachers were not writing students up for using tobacco or having tobacco products on school campus. The lack of citations is occurring despite an Alter-

native to Suspension Program designed to provide tobacco prevention education for youth caught with tobacco products. When asking teachers and administration about the Alternative to Suspension Program, many did not know about the program and others were only concerned about the students' academic progress.

Prior to the start of the current school year the Dixie County Tobacco Prevention Specialist (TPS) met with the Dixie County High School Principal and Assistant Principal to discuss the school policy on tobacco use on school property and on school functions. The TPS met to discuss the policy to strengthen the wording that the teachers may use when discussing tobacco use. There is a need of a more defined consequence for tobacco use/possession. There is a need for a process to contact parents when students are caught with tobacco and possibly give parents tools to help their child with tobacco issues. Students need to have access to cessation programs through the school.

For more information on supporting the efforts of the Tobacco Free Partnership and the school district to strengthen tobacco-free policies on local campuses, visit the Tobacco Free Partnership web site.



When is Candy Dangerous? When it is Used to Flavor Tobacco

By Barry Hummel, Jr., MD, FAAP

Over the last ten years, there has been tremendous growth in the availability of candy- and fruit-flavored tobacco products available in local retail outlets.

There is no doubt that the growth in these product lines is a continued attempt by the tobacco industry to reach out to younger and younger children and teenagers, to deliver the message that tobacco use is normal and to provide them with products that mask the harsh taste of tobacco while implying that those products are as safe to consume as candy.

This trend started with the Master Settlement Agreement in 1998. That settlement, in which the tobacco industry paid stiff penalties for their marketing tactics, created a list of new restrictions on the marketing of tobacco. Most notable was an agreement that cartoon characters (such as Joe Camel) would never be used to market tobacco.

This left the tobacco industry with a dilemma. Since 85% of new tobacco users start before the age of 18, how could the tobacco industry reach those underage consumers without breaking their agreement?

The solution seemed quite simple. If the tobacco manufacturers simply spiked their products with flavors that appealed to children, they could reach their primary market without breaking the rules of the Master Settlement Agreement. After all, the industry had used menthol flavor for years with similar success.

Initially, this led to the rise of flavored cigarettes. RJ Reynolds was particularly fond of this strategy, creating products called "Warm Winter Toffee" and "Creamy Mellow Mint". The products were sold in containers that looked like mint tins, and the word ciga-

rettes did not appear on the packaging.

This strategy was successful.

In fact, it was so successful that cigarettes became the primary target of the *Family Smoking Protection and Tobacco Control Act* of 2009. This landmark legislation granted the Food and Drug Administration (FDA) the authority to regulate tobacco for the first time ever. In September 2009, three months after the new law took effect, the sale of all flavored cigarettes was banned in the United States with the exception of those flavored with menthol.

Did this ban stop the tobacco industry from its youth marketing campaign? Of course not. The industry simply began to flavor other products not currently covered by the FDA regulations.

These products include

spit tobacco products, including modern versions such as snus and dissolvable tobacco products. They include cigars, especially smaller and smaller cigars designed to replace the flavored cigarettes banned by the FDA regulations. They include hookah tobacco, flavored tobacco that is smoked in water pipes that have become popular among high school and college students. They even include electronic cigarettes: devices that deliver vaporized nicotine from cartridges that include a wide variety of artificial flavors and other chemical additives.

Fortunately, the FDA has been granted the authority to evaluate these products and consider them for additional regulations. More importantly, the *Family Smoking Protection and Tobacco Control Act* granted local governments the right to regulate the time,

place, and manner of tobacco marketing and sales.

Local communities are using this authority to further regulate the sale of these flavored products. Throughout Florida, cities and counties have passed Resolutions encouraging retailers to halt the sale of these flavored products. Several communities in Miami-Dade County have gone so far as to pass ordinances outright banning the sale of these products. Other communities are exploring the option of restricting the sale of flavored products to adult-only stores, such as tobacco specialty shops and liquor stores.

For information on how you can become involved in reducing youth access to flavored tobacco products in your community, visit the Tobacco Free Partnership web site.



New Report: Tobacco Companies and Convenience Stores Partner to Market Tobacco Products, Fight Life-Saving Policies

A Report by the Campaign for Tobacco Free Kids

WASHINGTON, DC — Tobacco companies have enlisted convenience stores as their most important partners in marketing tobacco products and fighting policies that reduce tobacco use, thereby enticing kids to use tobacco and harming the nation's health, according to a report released today by leading public health organizations.

As other forms of tobacco marketing have been restricted, tobacco companies now spend more than 90 percent of their marketing budget — nearly \$10 billion a year — to saturate convenience stores, gas stations and other retail outlets, the report shows. Tobacco companies pay stores billions to ensure that cigarettes and other tobacco products are advertised heavily, displayed prominently and priced cheaply to appeal to both kids and current tobacco users.

At the same time, convenience stores have become essential partners with — and front groups for — the tobacco industry in fighting higher tobacco taxes and other public policies that reduce tobacco use.

The report, titled "Deadly Alliance: How Tobacco Companies and Convenience Stores Partner to Market Tobacco Products and Fight Life-Saving Policies," was released by the Campaign for Tobacco-Free Kids, Counter Tobacco (a project that works to counter tobacco product sales and marketing at the point of sale) and the American Heart Association.

"The result of this alliance is more kids smoking, fewer adults quitting, more tobacco-related death and disease, and higher health care costs for everyone," the report states. "In short, the tobacco industry and its convenience store allies are making a killing by making deadly and addictive tobacco products all too convenient."

The report's key findings include:

Convenience stores and other retail outlets have become by far the dominant channel for marketing tobacco products in the United States.

Since the November 1998 legal settlement between the states and the tobacco companies restricted some forms of tobacco marketing, tobacco companies have significantly increased both the total amount and the percentage of their marketing budgets spent at the point of sale. In the first 10 years after the settlement (1999 to 2008), tobacco manufacturers spent more than \$110 billion — 92 percent of their total marketing expenditures — to advertise and promote cigarettes and smokeless tobacco products in the retail environment, according to the latest tobacco marketing reports issued by the Federal Trade Commission.

Tobacco marketing in stores entices kids to smoke and use other tobacco products, discourages current tobacco users from quitting, targets minority communities and portrays deadly tobacco products as appealing and acceptable, according to the report. It summarizes the extensive scientific evidence on the impact of point-of-sale marketing.

Point-of-sale marketing is very effective at reaching kids and influencing them to smoke.

With tobacco ads prohibited on television, radio and billboards and less frequent in magazines, convenience stores

remain one place where kids are regularly exposed to tobacco advertising and promotions. More than two-thirds of teenagers visit a convenience store at least once a week. Studies have found that cigarette marketing is more prevalent in stores where adolescents shop frequently; tobacco advertisements and product displays are often placed at kids' eye level or near candy; and point-of-sale marketing — especially price discounting — increases youth smoking.

"Despite their claims to have changed, tobacco companies continue to bombard kids with messages encouraging them to smoke, and convenience stores have become their most important partner in doing so," said Matthew L. Myers, President of the Campaign for Tobacco-Free Kids. "It is critical that elected officials reject the influence of these special interests and take action to protect our nation's children and health instead."

"This report exposes how tobacco companies enlist retailers to advertise and promote their deadly products. As a result of this alliance, stores are now the major channel where they lure youth with colorful advertisements and entice current smokers with aggressive price promotions. This report is a wakeup call that states need to be focusing on the point of sale to combat these harmful industry practices," said Kurt M. Ribisl, PhD, Director of the Counter Tobacco project and Associate Professor in the Department of Health Behavior at the University of North Carolina Gillings School of Global Public Health.

Tobacco companies, inhibited by their own negative reputations, have also enlisted convenience stores as front groups to oppose tobacco tax increases and other policies to reduce tobacco use.

Convenience stores have

fought cigarette tax increases despite considerable evidence that the retail economy does not suffer as a result, including recent studies finding that cigarette tax hikes had little effect on the number of convenience stores or overall retail employment.

Tobacco companies aggressively communicate with retailers, supply them with tools and information to lobby policy makers and provide financial support. Examples include:

- In 2011, the New Hampshire Grocers Association led a successful fight to reduce that state's cigarette tax by 10 cents, using misleading information produced by tobacco industry allies.

- In Georgia in 2010, a grocery store placed anti-tobacco tax messages on cigarette receipts — with a clear statement that the message was "Paid for by Altria Client Services on behalf of Philip Morris USA." In Washington state, a Philip Morris spokesman was exposed as the ghost writer for pamphlets opposing a 2001 ballot initiative to increase the cigarette tax that ostensibly were written by the Korean Grocers Association and the Washington Association of Neighborhood Stores.

The report calls on elected officials to adopt policies — especially higher tobacco taxes — that reduce tobacco use and counter the influence of point-of-sale marketing. It calls higher tobacco taxes a win-win-win for states — a health win that reduces smoking, especially among kids; a financial win that produces significant new revenue; and a policy win that polls show is strongly supported by voters across the country.

Tobacco use is the leading cause of preventable death in the United States, killing more than 400,000 Americans and costing the nation \$96 billion in health care expenditures each year.



Florida Department of Health and Tobacco Free Florida Promote Tobacco Cessation Programs as an Employee Benefit

By Barry Hummel, Jr., MD, FAAP

One of the cornerstones of Florida's statewide tobacco prevention effort has been funding to promote and provide free tobacco cessation programs to residents ready and willing to make a quit attempt.

Most of these efforts have been channeled through the Florida Quitline. In fact, in 2007 there were roughly 5,000 calls to the Quitline. In 2008 full funding for Florida's tobacco control program was restored, and calls to the Quitline jumped to 50,000 per year.

This increase can be attributed to the Tobacco Free Florida media campaign, which has used hard-hitting television and radio ads to encourage people to quit using tobacco. In addition, the Centers for Disease Control and Prevention (CDC) has tested its own national campaign, and studies have shown that campaign has also made a dramatic impact throughout the United States. Local tobacco prevention efforts, including county-based Tobacco Free Partnerships such as ours, have also been working hard to refer tobacco users who are interested in making a quit attempt to available resources.

This year, however, there will be an additional effort to



engage other local stakeholders to help increase the number of Florida residents accessing tobacco cessation programs: small, medium, and large business owners.

Why engage business owners?

Sadly, there is an incredible financial burden placed upon business owners by their employees who use tobacco.

The CDC recently estimated that each employee who smokes cost employers \$3,383 each year. This is the combined cost of direct medical expenditures (\$1,623.00 per year) and lost productivity due to illnesses (\$1,768.00 per year).

But this barely scratches the surface of potential differential costs for employees who smoke.

For example, health insurance premiums are, on average, \$400.00 higher per year for smokers than for non-smokers. This is another addi-

tional cost tacked on for those business owners who provide full or partial employee benefits.

There may also be increased premiums for workman's comp insurance and fire insurance based on the percentage of employees who smoke.

All of that is a drop in the bucket compared to wages being paid for individuals taking smoking breaks on the job.

If an employee takes four 10-minute smoking breaks each day, they are essentially leaving their job for 40 minutes each day, which accounts for 8% of their work day.

Do the math. If a business owner is paying an employee a salary of \$40,000 per year, they are paying them 8% of that salary (\$3,200.00) each year to smoke.

Instead of throwing all of this money away on employees who use tobacco, many businesses are seeing the benefits

of promoting a completely tobacco-free business, and providing their current employees with tobacco cessation services as part of their employee benefits packages. This may be as simple as providing on-site access to the free tobacco cessation services offered through the Florida Department of Health. Or, businesses may elect to cover the cost of other local tobacco cessation programs. Either way, the business owners save tens-of-thousands of dollars per year for each employee who successfully quits using tobacco.

People have the right to smoke. That is a personal choice. Business owners, however, have the right to protect themselves from the personal choices of their employees that affect their bottom line.

For more information on designing an appropriate tobacco cessation program for your employees, contact the Tobacco Free Partnership.

An employee who takes four 10-minute smoke breaks while on the clock wastes 8% of his salary each year exercising a personal choice.

For an employee making \$40,000 each year, that is \$3,200 in salary going up in smoke.

Smoke-Free Rental Properties: Creating an Amenity for Renters While Increasing Profits for Owners

By Barry Hummel, Jr., MD, FAAP

In a tough economy, a new trend is giving owners and property managers a competitive edge in the rental market: creating smoke-free rental properties.

At first glance, you might think that it would be a disadvantage to restrict a group of people from partaking in a personal choice in the privacy of their own home. In reality, it can be a huge financial burden to the property owners to allow individuals to smoke in rental units.

Consider the facts:

First and foremost, the majority of people do *not* smoke. In fact, 83% of Floridians are non-smokers. So, the largest market share is the non-smoking population. This population is increasingly aware of the dangers of secondhand smoke, and is looking for a place to live where their exposure to secondhand smoke is reduced. This is especially true among families with young children.

Secondhand smoke is not completely contained in an indi-

vidual unit. In fact, air quality studies have revealed that anywhere from 5% to 60% of the air in an individual unit comes from the other units in the building.

This smoke cannot be controlled by ventilation systems. In fact, the American Society of Refrigerating & Air Conditioning Engineers (ASHRAE) has a position statement declaring that "at present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity."

This smoke also causes property damage. This can be obvious burns to carpets, counter tops, and window treatments. However, smoke also leaves behind residue that can penetrate these carpets, curtains, walls, and furniture. All of this can lead to substantial costs to rehab rental units when smoking residents vacate the property, with estimates ranging from \$500 - \$8,000 per unit.

There are also liability issues. Smoking is the cause of just 9% of apartment fires nationally, but smoking is respon-

sible for 40% of all deaths caused by apartment fires. Thus, restricting smoking on rental properties can lead to reductions in liability and fire insurance rates.

There is also a false belief that creating smoke-free rental properties somehow discriminates against smokers. Smoking is a personal choice, and restricting personal choices is not a form of discrimination. This is just as legal as restricting pets or the use of grills on patios. The U.S. Department of Housing and Urban Development has reinforced this, stating that "the right to smoke or not smoke is not a right... because smokers are not a protected class under federal law."

In fact, court cases have proven that non-smokers have a right to breathe clean air that supersedes the personal choices of smokers. Many tenants have sued smoking neighbors and won court cases utilizing nuisance clauses, as well as the rules of the Americans with Disabilities Act when the health of the non-smoking tenants has

been affected by secondhand smoke. Creating smoke-free rental properties can help property owners avoid being a party to these types of court cases.

The Tobacco Free Partnership is working with local property managers and property owners to create common sense smoke-free options for tenants. This can range from creating individual buildings that are smoke-free, to creating comprehensive tobacco-free grounds. As properties make these policy changes, we will be promoting these new smoke-free options on our web site to provide potential tenants with a list of smoke-free rental options in our community.

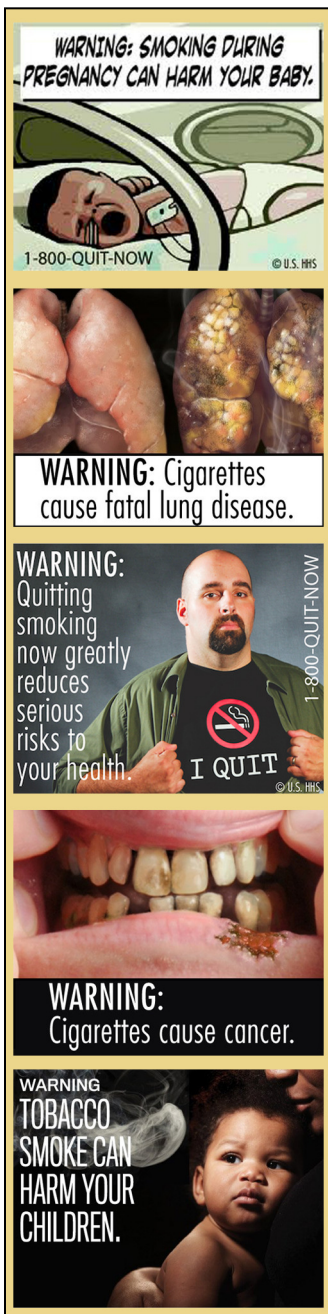
Tobacco Free Florida is also exploring a third-party certification system to reward property owners that create smoke-free rental options, and to provide them with statewide exposure on the Tobacco Free Florida web site, available at (www.tobaccofreeflorida.com), or visit our Tobacco Free Partnership web site.



Court Ruling Against Cigarette Warnings is Wrong on the Science and Law and Should be Appealed

Statement of Matthew L. Myers, President, Campaign for Tobacco-Free Kids

August 24, 2012



WASHINGTON, DC – The Justice Department should quickly appeal today's ruling by the U.S. Court of Appeals for the D.C. Circuit that struck down the large, graphic cigarette warnings required by the landmark 2009 law giving the FDA authority over tobacco products. Today's ruling is wrong on the science and law, and it is by no means the final word on the new cigarette warnings. The only other appellate court to consider the issue, the U.S. Court of Appeals for the Sixth Circuit, upheld the graphic warnings requirement in March. The split decisions make it likely the U.S. Supreme Court will settle the issue.

The graphic cigarette warnings were mandated by a large, bipartisan majority of Congress. As the Sixth Circuit's ruling recognized, Congress acted based on strong scientific evidence and in accordance with First Amendment precedents that support the government's right to regulate commercial speech and require strong warning labels to protect public health.

The Sixth Circuit found that the law's requirements for graphic warnings "are reasonably related to the government's interest in preventing consumer deception and are therefore constitutional." That court found that the warnings "do not impose any restriction on Plaintiffs' dissemination of speech, nor do they touch on Plaintiffs' core speech. Instead, the labels serve as disclaimers to the public regarding the incontestable health consequences of using

tobacco."

In requiring the graphic warnings, Congress relied on an extensive scientific record demonstrating both the need for the new warnings and their effectiveness. That record shows that the current, text-only warnings – which are printed on the side of cigarette packs and haven't been updated since 1984 – are stale and unnoticed.

Studies around the world and evidence presented to the FDA also show that large, graphic warnings, like those adopted by the FDA, are most effective at informing consumers about the health risks of smoking, discouraging children and other nonsmokers from starting to smoke, and motivating smokers to quit. Because of that evidence, at least 43 other countries now require large, graphic cigarette warnings.

Tobacco companies are fighting the graphic warnings precisely because they know such warnings are effective. The companies continue to spend billions of dollars to play down the health risks of smoking and glamorize tobacco use. These new warnings will tell the truth about how deadly and unglamorous cigarette smoking truly is. Research has found that pack-a-day smokers could be exposed to cigarette health warnings more than 7,000 times per year. The new warnings will provide a powerful incentive for smokers to take the life-saving step of quitting and for kids never to try that first cigarette.

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