

PostScript

LETTERS TO THE EDITOR

State laws on youth access to tobacco: an update, 1993-1999

Numerical scores rating the extensiveness of state laws on youth access to tobacco as of the years 1993-1996 were presented by Alciati and colleagues.¹ The data were recently updated for 1997-1999 and corrected for 1993-1996. Notably, the current analysis captures more long term state legislative activity

following implementation of the Synar Amendment² and the attempted Food and Drug Administration (FDA) rule that included a number of youth access provisions.³

The results across the years 1993-1999 provide the opportunity for comparative benchmarking of state youth access laws based on recognised public health goals⁴ as well as for comparisons with state clean indoor air laws.⁵ Rating systems for both state youth access and clean indoor air laws were developed by an advisory committee of the National Cancer Institute's State Cancer Legislative Database Program using a comparable methodology.^{1,5}

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In rating state youth access laws as of 1993-1999, the total score for each state

Table 1 Youth access summary scores* by state, 1993-1999 (target score = 36 points; maximum score = 39 points)

| State | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | Δ1993-1999 |
|----------------------|---------|---------|---------|---------|---------|---------|---------|------------|
| Alabama | 5 | 5 | 5 | 5 | 15 | 15 | 15 | 10 |
| Alaska | 5 | 5 | 5 | 5 | 5 | 8 | 8 | 3 |
| Arizona | 3 | 3 | 3 | 3 | 3 | 3 | 4 | 1 |
| Arkansas† | 6 | 6 | 6 | 6 | 12 | 12 | 16 | 10 |
| California | 10 (8) | 19 (17) | 21 (19) | 21 (19) | 21 (19) | 21 (19) | 21 (19) | 11 |
| Colorado | 5 | 5 | 5 | 5 | 5 | 9 | 9 | 4 |
| Connecticut | 18 | 18 | 18 | 20 | 20 | 20 | 20 | 2 |
| Delaware | 3 | 3 | 3 | 21 (9) | 21 (9) | 21 (9) | 21 (9) | 18 |
| District of Columbia | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 0 |
| Florida | 15 | 15 | 15 | 15 | 15 | 13 | 13 | -2 |
| Georgia | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 0 |
| Hawaii | 8 | 8 | 8 | 13 | 13 | 13 | 13 | 5 |
| Idaho | 5 | 5 | 5 | 5 | 15 | 30 | 30 | 25 |
| Illinois | 8 | 8 | 9 | 9 | 9 | 9 | 9 | 1 |
| Indiana | 5 | 5 | 5 | 5 | 17 (8) | 17 (8) | 17 (8) | 12 |
| Iowa | 11 (3) | 11 (3) | 11 (3) | 11 (3) | 12 (3) | 15 (4) | 15 (4) | 4 |
| Kansas | 5 | 5 | 5 | 14 | 14 | 14 | 14 | 9 |
| Kentucky | 4 | 13 (6) | 13 (6) | 16 (6) | 16 (6) | 19 (7) | 19 (7) | 15 |
| Louisiana | 4 | 10 (8) | 10 (8) | 10 (8) | 17 (10) | 17 (10) | 17 (10) | 13 |
| Maine | 9 | 9 | 11 | 11 | 24 | 24 | 24 | 15 |
| Maryland | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 0 |
| Massachusetts | 6 | 6 | 6 | 9 | 9 | 9 | 9 | 3 |
| Michigan | 11 (3) | 11 (3) | 11 (3) | 11 (3) | 11 (3) | 11 (3) | 11 (3) | 0 |
| Minnesota | 8 | 8 | 8 | 8 | 18 | 18 | 18 | 10 |
| Mississippi | 5 | 18 (6) | 18 (6) | 18 (6) | 18 (6) | 18 (6) | 18 (6) | 13 |
| Missouri | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 0 |
| Montana† | 11 (4) | 11 (4) | 21 (8) | 21 (8) | 22 (10) | 22 (10) | 22 (10) | 11 |
| Nebraska | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 0 |
| Nevada | 7 | 7 | 15 (7) | 15 (7) | 15 (7) | 15 (7) | 15 (7) | 8 |
| New Hampshire | 10 | 10 | 10 | 10 | 20 | 20 | 20 | 10 |
| New Jersey | 6 | 6 | 6 | 12 | 12 | 12 | 12 | 6 |
| New Mexico | 18 (8) | 18 (8) | 18 (8) | 18 (8) | 18 (8) | 18 (8) | 18 (8) | 0 |
| New York | 19 (17) | 23 (21) | 23 (21) | 23 (21) | 23 (21) | 23 (21) | 23 (21) | 4 |
| North Carolina | 3 | 3 | 6 (1) | 6 (1) | 11 (3) | 11 (3) | 11 (3) | 8 |
| North Dakota† | 8 | 8 | 8 | 8 | 5 | 5 | 9 | 1 |
| Ohio | 8 | 8 | 8 | 8 | 8 | 8 | 8 | 0 |
| Oklahoma | 5 | 23 (9) | 23 (9) | 23 (9) | 21 (7) | 21 (7) | 21 (7) | 16 |
| Oregon | 16 (15) | 16 (15) | 16 (15) | 16 (15) | 16 (15) | 16 (15) | 16 (15) | 0 |
| Pennsylvania | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 0 |
| Rhode Island | 8 | 8 | 8 | 18 | 18 | 18 | 18 | 10 |
| South Carolina | 5 | 5 | 5 | 14 (6) | 14 (6) | 14 (6) | 14 (6) | 9 |
| South Dakota | 3 | 13 (3) | 13 (3) | 13 (3) | 13 (3) | 13 (3) | 13 (3) | 10 |
| Tennessee | 9 | 21 (9) | 21 (9) | 21 (9) | 21 (9) | 21 (9) | 27 (12) | 18 |
| Texas | 7 | 7 | 7 | 7 | 29 | 29 | 29 | 22 |
| Utah | 9 | 13 | 13 | 13 | 13 | 16 (3) | 19 (4) | 10 |
| Vermont | 15 | 15 | 15 | 15 | 23 | 23 | 23 | 8 |
| Virginia† | 0 | 4 | 8 | 12 | 16 | 16 | 16 | 16 |
| Washington | 26 (10) | 26 (10) | 26 (10) | 26 (10) | 26 (10) | 26 (10) | 26 (10) | 0 |
| West Virginia | 6 | 12 | 12 | 12 | 12 | 12 | 12 | 6 |
| Wisconsin | 5 (2) | 5 (2) | 5 (2) | 5 (2) | 5 (2) | 11 (4) | 19 (8) | 14 |
| Wyoming | 7 (5) | 7 (5) | 7 (5) | 7 (5) | 7 (5) | 7 (5) | 7 (5) | 0 |
| Minimum | 0 | 3 | 3 | 3 | 3 | 3 | 3 | - |
| Maximum | 26 | 26 | 26 | 26 | 29 | 30 | 30 | - |
| Mean | 8.35 | 10.22 | 10.80 | 12.16 | 14.39 | 15.08 | 15.59 | 7.24 |
| Median | 7.50 | 8.50 | 10.00 | 12.00 | 14.70 | 15.00 | 15.29 | 7.79 |

*Scores with preemption penalties are shown in parentheses. †Scores were corrected from Alciati and colleagues.¹

reflected the sum of individual ratings on nine items: minimum age, packaging, clerk intervention, photo identification, vending machines, free distribution, graduated penalties, random inspections, and statewide enforcement. A state that met the target for all nine items would receive a summary score of 36 points (39 points if the target was exceeded on three items).¹

Table 1 shows the summary scores by state and year. Summary scores ranged from a low of 0 points in 1993 to a high of 30 points in 1998 and 1999. Average summary scores ranged from 8.35 points in 1993 to 15.59 points in 1999. Separate, reduced scores are also listed (in parentheses) for states that enacted state based preemption measures. These states are highlighted in light of the significant public health policy arguments against preemptive state tobacco control laws.² (Data for table 1 have been revised and reformatted from Alciati and colleagues¹ to present primarily the summary scores without the preemption penalty to enable comparability with the clean indoor air scores presented in Chriqui and colleagues³).

While average scores rose from 1993 to 1999, the peak average score of 15.59 points in 1999 is still relatively low. State legislative activity that accounted for the increases that occurred in the late 1990s focused principally on new measures related to vending machines, clerk intervention, random inspections, and statewide enforcement. Restrictions on minors' access to tobacco products from vending machines and self service displays (that is, without clerk intervention) were covered under the 1996 FDA rule and literature on these topics is now in the mainstream.⁷⁻⁹ Not surprisingly, a number of youth access enforcement provisions enacted by states appear to be framed to facilitate compliance with the Synar implementation regulations.^{2,9}

State measures on preemption doubled from 10 state laws in 1993 to 20 state laws in 1996; however, the trend showing enactment of a high volume of new preemption provisions did not continue into the late 1990s. Nevertheless, as of 1999, 22 states included some preemption measure, thereby continuing the overall trend in many of these states in which preemption has locked in relatively weak state youth access laws.

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- 3 **Food and Drug Administration**. Regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents. Final rule. *Federal Register*. 1996;61:44369-5318. [Note: The US Supreme Court invalidated this Rule in *Food and Drug Administration v. Brown & Williamson Tobacco Corp.* US 98-1152 (21 March 2000).]
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- 6 **Siegel M, Carol J, Jordan J, et al.** Preemption in tobacco control. *JAMA* 1997;278:858-63.
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Blocking access to online tobacco sales sites

Recent research expresses concern about adolescents attempting to buy cigarettes on the internet.¹ Since the Master Settlement Agreement restrictions on the tobacco industry do not apply to the internet, the internet is an open channel for pro-tobacco images and promotions. According to Forrester Research, sales will approach \$5 billion by 2003, potentially causing states to lose \$1.3 billion dollars in tax revenues.² Frequent exposure to icons and symbols increases liking, and can make unhealthy activities appear "normative". Craving or possessing tobacco promotional materials is related to positive attitudes toward tobacco and to susceptibility.^{3,4} The images of pro-tobacco sites can make tobacco use appear glamorous, as tobacco websites portray smokers as young, thin, and attractive, and often feed into young girls' insecurities.⁵⁻⁷

A number of "sting" operations highlight the fact that underaged individuals have

ready access to buying tobacco online.^{8,9} Given the inevitable use of filters for schools, libraries, and some places of employment, we believe that filtering programs should be effective in limiting access to sites they monitor, and that "stealth" blocking be avoided. The Center for Media Education (CME) tested the ability of programs to block access to 45 tobacco and alcohol sites, and concluded: "... filters do not effectively screen promotional alcohol and tobacco content."¹⁰ To test this concern and to evaluate internet monitoring access products, we reviewed 28 programs available for blocking access and selected four that included tobacco as a category for blocking: Bess/N2H2, Cyber Patrol, CYBERSitter, and iWay Patrol. Each program was tested separately. Testing occurred during the last two weeks of March of 2001, and re-tests were done 11-13 April 2001 for pages that did not load in March.

Random samples were drawn for a content analysis project that ultimately included 316 pro-tobacco websites.³ Of these, 154 sold tobacco products and were used in the present analysis. Most sold cigarettes (67 sites), or cigars (49 sites), while some sites sold multiple products as well as "other" products (pipe tobacco, snuff, chew) (38 sites).

Table 1 presents a summary of the results concerning blocking access. The only program to block more than half of the websites was Bess/N2H2, which blocked 65%. It is also alarming that the programs tested disagreed on what to block. At best, Bess/N2H2 and Cyber Patrol blocked the same 33 sites, which is a small amount of agreement.

To ameliorate this problem, we believe that subscribers should be empowered to add to the "not" lists. Lists of blocked sites should be transparent so subscribers know what is or is not accurately blocked by the filtering programs they use. Additionally, tobacco control advocates can become actively involved in this process. First, most filtering programs welcome input and allow individuals to submit websites at a location on their home page. At a higher level of involvement, tobacco control advocates can create a rating system like RACi for coding content based on different levels.* Importantly, one category could be created for tobacco (and alcohol) sponsorships that can be activated by those parents, school teachers or library officials who prefer not to have children view or download tobacco related materials (for example, highlighting tobacco sponsored NASCAR races) from the web.

*Level 1 could include sex and smoking, underaged smoking, erotic posturing, smoking, and bondage. Level 2 could include erroneous or harmful information. Level 3 could include sites that simply sell cigarettes, cigars, and so on.

Table 1 Filter performance of four software programs

| Program | Number of sites visited | Number blocked sites | Percentage blocked | Number not blocked | Percentage unblocked |
|--------------|-------------------------|----------------------|--------------------|--------------------|----------------------|
| Bess/N2H2 | 140 | 91 | 65% | 49 | 35% |
| Cyber Patrol | 130 | 41 | 31.5% | 89 | 68.5% |
| IWay Patrol | 143 | 39 | 27.3% | 104 | 72.7% |
| CYBERSitter | 129 | 13 | 10.1% | 116 | 89.9% |
| Average | 135.5 | 46 | 33.9% | 89.5 | 66.1% |