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## Strong advocacy led to successful implementation of smokefree Mexico City

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### Abstract

**Objective**—To describe the approval process and implementation of the 100% smokefree law in Mexico City and a competing federal law between 2007 and 2010.

**Methods**—Reviewed smokefree legislation, published newspaper articles and interviewed key informants.

**Results**—Strong efforts by tobacco control advocacy groups and key policymakers in Mexico City in 2008 prompted the approval of a 100% smokefree law following the WHO FCTC. As elsewhere, the tobacco industry utilised the hospitality sector to block smokefree legislation, challenged the City law before the Supreme Court and promoted the passage of a federal law that required designated smoking areas. These tactics disrupted implementation of the City law by causing confusion over which law applied in Mexico City. Despite interference, the City law increased public support for 100% smokefree policies and decreased the social acceptability of smoking. In September 2009, the Supreme Court ruled in favour of the City law, giving it the authority to go beyond the federal law to protect the fundamental right of health for all citizens.

**Conclusions**—Early education and enforcement efforts by tobacco control advocates promoted the City law in 2008 but advocates should still anticipate continuing opposition from the tobacco industry, which will require continued pressure on the government. Advocates should utilise the Supreme Court's ruling to promote 100% smokefree policies outside Mexico City. Strong advocacy for the City law could be used as a model of success throughout Mexico and other Latin American countries.

### INTRODUCTION

Public policies to protect nonsmokers from secondhand smoke (SHS) first appeared in the USA in the 1970s followed by other developed countries during the 1990s.<sup>1</sup> The tobacco industry opposes these policies because they undermine the social acceptability of smoking<sup>2</sup> and create an environment that facilitates smoking cessation<sup>3, 4</sup> and discourages youth initiation.<sup>5, 6</sup> Most progress in the US has been made at the local level because of the

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industry's strong influence at the state and national levels.<sup>7-9</sup> The industry has long opposed these laws using third parties, often in the hospitality sector, to conceal its involvement<sup>7, 9-13</sup> because public knowledge of the industry's involvement increases support for smokefree legislation.<sup>14</sup> Recognising its weakness at the local level, a key industry strategy has been to use its stronger political position at higher levels of government to enact weak federal or state laws preempting the authority of subordinate jurisdictions to enact stronger laws.<sup>8, 15-17</sup>

On 12 May 2004 Mexico ratified the World Health Organization (WHO) Framework Convention for Tobacco Control (FCTC),<sup>18, 19</sup> which promotes 100% smokefree environments.<sup>20</sup> Latin America's first strong smokefree policy was in 2006 when Uruguay's (population 3.5 million) president issued a decree making all indoor public places and workplaces smokefree.<sup>21</sup> The same year Santa Fe province, Argentina (population 3.0 million) became the first sub-national jurisdiction in Latin America to enact a comprehensive smokefree law.<sup>15</sup> Between 2008 and 2010, Panama, Colombia, Guatemala, Paraguay, Peru and Honduras enacted national 100% smokefree laws, as did sub-national jurisdictions in Argentina, Brazil and Venezuela.<sup>22</sup> On 26 February 2008 Mexico City (population 8.8 million) became the first jurisdiction in Mexico and the largest city in the Americas to pass a 100% smokefree law. The Mexican National Congress passed a weak federal tobacco control law the same day that allowed for designated smoking areas (DSAs), creating confusion for implementing the smokefree City law. Similar to high-income countries,<sup>13, 23, 24</sup> pro-tobacco forces promoted the weak federal law, which they argued preempted the strong City law. Mexico City's experience expands the evidence of tobacco industry tactics to preempt local smokefree laws and reinforces the important role of advocates in promoting successful enactment and implementation of smokefree legislation, including early education and enforcement efforts.

## METHODS

We reviewed smokefree legislation (Mexico City and federal laws) (available at <http://www.senado.gob.mx> and <http://www.asambleadf.gob.mx>), over 3000 articles from the most widely read Mexican newspapers (*La Jornada*, *Reforma*, *Universal*, *Palabra* and *Mural*) between January 2003 and January 2010 using standard snowball search methods and interviewed 14 tobacco control advocates, policymakers and lawyers between September 2009 and March 2010 in accordance with a protocol approved by the UCSF Committee on Human Research.

## RESULTS

### Background

**Tobacco industry influence in Mexico**—In July 1997, Philip Morris (PM) and British American Tobacco (BAT) purchased Mexico's two cigarette companies, Cigatam and Cigarrera la Moderna, controlling 99% of Mexico's sold-cigarette market.<sup>25</sup> (Cigatam-Philip Morris Mexico [PMM] controlled 63% and BAT controlled 36%.<sup>19</sup>) On 18 June 2004, 21 days after Mexico ratified the FCTC, Federal Health Minister Julio Frenk made a voluntary agreement with BAT and PMM,<sup>26-29</sup> in which the federal government agreed not to prohibit tobacco advertising, require pictorial warning labels or increase cigarette taxes.<sup>19, 27, 30, 31</sup> At the end of 2006, the new administration of President Felipe Calderón and Federal Health Minister Jose Angel Córdova Villalobos did not renew the agreement on the grounds that it violated the FCTC.<sup>32</sup>

**Mexican legislative process**—Mexico has a federal bicameral system where both the House of Representatives and the Senate must approve bills. Mexico City has a unicameral Legislative Assembly. At both levels, once a bill is approved, it goes into effect when it is

published by the executive branch and can be enforced when its regulation is published to establish enforcement and compliance rules.

**Early efforts to restrict smoking in public places (1990–2003)**—The first attempts to restrict smoking in public places at the federal level began in 1990 when the General Health Law was amended to create nonsmoking areas in some public places, including medical facilities and public offices.<sup>33</sup> The law did not require physical separation of smoking and nonsmoking areas and had weak enforcement.<sup>28, 34</sup> On 31 May 2000 a regulation was issued under the General Health Law to limit smoking in federal government buildings and offices<sup>26</sup> that required DSAs (without physical separation) and had weak enforcement.

Efforts to protect nonsmokers in Mexico City began in January 2003 when City legislators proposed restricting smoking in public places and workplaces. The original proposal requiring 50% of public places for nonsmokers<sup>35</sup> was weakened to 30% after restaurant and bar owners and the restaurant association (National Chamber of Restaurants and Condiment Food Industry, CANIRAC) complained that Mexico had a ‘smoking culture’,<sup>36</sup> that the proposed law was unconstitutional,<sup>37</sup> that it would be difficult to implement<sup>37, 38</sup> and that it would cause economic losses in small establishments.<sup>36, 39</sup> On 30 January 2004, the weak ‘Law for the Protection of Nonsmokers’ Health in the Federal District [Mexico City]’ took effect<sup>40</sup> but regulations were never issued and the law was ignored.<sup>41, 42</sup>

**100% Smokefree Mexico City (2007–2008)**—In early 2007, City legislators began working to amend the law to make all enclosed public places and workplaces in Mexico City 100% smokefree (tables 1 and 2).<sup>43</sup> They cited increasing evidence of the dangers of SHS, rising costs of medical treatment, and an estimate that approximately 165 Mexican citizens died each day (60 000 a year) from tobacco-related diseases.<sup>44–48</sup>

**Hospitality Industry Creating Controversy**—In 2007, hospitality associations opposed the amendment during public hearings. CANIRAC and the restaurant chain VIPS (owned by Carlos Slim, a member of the Cigatam-PMM Board of Directors), attempted to block the amendment predicting economic losses.<sup>43, 49</sup> As legislation became more difficult to pass, the opposition party, submitted an alternative amendment, approved on 2 October 2007, allowing establishments to make up to 30% of their premises DSAs.<sup>50</sup>

Attempting to weaken legislation further, the hospitality associations complained in the media about having only 30% for smokers.<sup>43, 49, 51</sup> CANIRAC (as it had in 2003) stated that the amendment was unconstitutional,<sup>52–54</sup> would require impractical physical divisions for smoking and nonsmoking areas<sup>52, 54–59</sup> and would result in economic losses.<sup>32, 55, 56, 60</sup>

In August 2007, the newly created smokers’ rights group ‘Yo amo Fumar’ (I love to smoke) later renamed ‘Yo Fumo’, (I Smoke) launched a website and appeared in the media claiming discrimination against human rights.<sup>61, 62</sup>

**Strong political leadership**—In November 2007, while the debate intensified, champion legislators planned to reintroduce 100% smokefree legislation, capitalising on the growing realisation by most Assembly members of the difficulty of enforcing an ambiguous law requiring physical separation of smoking and nonsmoking areas.<sup>49, 63</sup> (Some restaurants and bars were using flowerpots or bushes to ‘divide’ these areas.<sup>28</sup>) Mexico City Health Minister Manuel Mondragón provided the initial push by telling the press, ‘A barrier that says “no smoking here” and “smoking here” is ridiculous. Only a complete prohibition of tobacco smoke in enclosed spaces will address the problem’.<sup>64</sup> Mondragón then pressured Assembly members, arguing that it would be much easier to enforce a 100% smokefree law.<sup>63, 65</sup>

Meanwhile, champions for the stronger law flipped CANIRAC's argument, telling restaurants and bars that they would be better off if all restaurants and bars were simply 100% smokefree.<sup>43</sup>

**Tobacco control advocates' contributions**—The National Institute of Public Health (INSP), a research and applied public health institution under the Federal Health Ministry, published reports on the effects of SHS and the benefits of 100% smokefree environments. They documented widespread SHS exposure and unchanged smoking rates in Mexico between 2003 and 2006, proving the 2004 City law ineffective.<sup>66, 67</sup> Advocates used this evidence to lobby legislators, arguing for 100% smokefree environments.

Other efforts by non-governmental organizations, including Inter-American Heart Foundation Mexico (FIC MEXICO), Mexican Council against Smoking (CMCT), and Alliance against Tobacco (ACTA), supported smokefree legislation with radio and print media campaigns and press conferences in early 2008. Funding from Health Canada in 2007<sup>68</sup> and from the Bloomberg Initiative to Reduce Tobacco Use<sup>69</sup> provided technical support throughout 2008 through international non-governmental organizations, including World Lung Foundation (WLF), International Union Against Tuberculosis and Lung Disease, and Campaign for Tobacco-Free Kids.<sup>70</sup> These funds helped the City Health Ministry and FIC Mexico produce a paid media campaign in January 2008 titled 'Aire Sin Humo es Vida' (Air Without Smoke is Life), including several radio and print advertisements emphasising smokefree environments' advantages.<sup>28, 71</sup> They also supported another paid media campaign in February 2008 titled 'Se Respira Respeto' (Breathing Respect), focussing on raising awareness of the law (figure 1).<sup>28</sup> Earned media through press conferences and television and radio interviews also promoted these messages, evidence of advocates' strong, coordinated and comprehensive campaign.<sup>42, 47, 49, 72</sup>

On 26 February 2008, the Legislative Assembly overwhelmingly approved the 100% smokefree law<sup>73</sup> to end smoking in all enclosed public places and workplaces,<sup>74</sup> with the minor exception that hotels could allocate up to 25% of their rooms for smoking. The law took effect on 3 April 2008 and the City Health Ministry immediately published the law's implementing regulation on 4 April 2008.<sup>75</sup>

### The federal General Law for Tobacco Control (2007–2008)

**Sudden and concurrent movement at the federal level**—No progress on a federal tobacco control law occurred until August 2007, when it became clear that strong smokefree legislation was likely in Mexico City (table 2). On 31 August 2007, while smokefree legislation progressed in Mexico City, federal legislators introduced a new tobacco control bill, the 'General Law for Tobacco Control'.<sup>76</sup> The bill implemented FCTC 100% smokefree environments, as well as large pictorial warning labels, and restrictions on tobacco advertising, promotion and sponsorship.<sup>26</sup> Although the bill proposed smokefree environments, its enforcement procedures were weak and unlikely to have any practical effect; health advocates reported that the bill had been negotiated with the tobacco industry.<sup>49, 51</sup>

**Weakening the federal law**—The federal bill moved quickly (table 3). The bill was first referred to the House Health Committee, which significantly weakened it. The original strong language that 'prohibited the consumption of tobacco products in all closed places accessible to the public'<sup>76</sup> was replaced with the ambiguous 'It remains prohibited for any person to consume or to have lighted any tobacco product in 100% smokefree spaces, like in public schools',<sup>77</sup> without specifying which places had to be smokefree. The Committee also added language specifically allowing DSAs by stating, 'In places with access to the

public or in interior work areas, public or private, *may* exist zones exclusively to smoke [emphasis added],<sup>77</sup> (The Committee also changed the percentage of the pack devoted to warning labels from 50% front and back to 30% front (picture) and 100% back (text-only).

On 5 December 2007, the Health Committee approved the amended bill and sent it to the floor where it was approved the next day.<sup>78</sup> Over night, before the final vote, the provision that allowed DSAs was changed to *require* DSAs by changing the word ‘may’ to ‘must’.<sup>78</sup> (We were unable to determine who made this last-minute change or through what procedure.) This change would create problems for implementing the City law.

**Advocates’ split reaction to the federal law**—Advocates split on the suddenly weakened federal bill. Some denounced the federal bill and focused on implementation of the 100% smokefree City law,<sup>49, 51</sup> while others continued to lobby the Senate to approve the federal bill, arguing that it was better to have an imperfect law than nothing.<sup>41, 42</sup> The Federal Health Ministry supported the federal bill, with Undersecretary of Health, Mauricio Hernández-Avila claiming that the change requiring DSAs was minor and that they had worked too hard to let ‘one word’ prevent passage.<sup>32</sup>

**Pro-tobacco activity**—Tobacco growers from the Mexican states Veracruz, Chiapas and Nayarit opposed the federal law, predicting economic losses<sup>32, 70</sup>; their senators argued that it would harm family businesses.<sup>79</sup> Meanwhile, on 14 February 2008, BAT announced that it supported ‘a federal law to protect health and prohibit mass media from promoting tobacco products’<sup>80</sup>; it did not mention the provision that required DSAs that conflicted with the Mexico City law. On 26 February 2008, the same day the Mexico City law passed, the Senate overwhelmingly approved the federal law 101 to 5<sup>81</sup> (tables 2 and 3).

### Implementation and enforcement at the local and federal levels

The Federal Commission for the Protection against Sanitary Risks (COFEPRIS), under the Federal Health Ministry, is responsible for implementing the City law. COFEPRIS verifies compliance by sending sanitary inspectors to randomly selected workplaces and public places, and reports violations to the City Health Ministry, which then notifies the appropriate City borough to sanction the violating establishment. The City Health Ministry or any citizen can also report a violation of the law to a civic judge to issue sanctions.

COFEPRIS, alone, implements and enforces the federal law and has the authority to inspect establishments and issue sanctions.

**Early implementation strategies in Mexico City**—Following the WHO recommendations,<sup>82</sup> the City Health Ministry allowed a grace period to educate the public about the law and prepare for successful enforcement. In March 2008, the City Health Ministry partnered with FIC Mexico and WLF to run ‘Un Respiro’ (A Breath), a series of radio advertisements that promoted the health benefits of 100% smokefree environments. Between April and December 2008, the City Health Ministry partnered with FIC Mexico to run ‘Gracias a ti’ (Thanks to you), a three-stage campaign that continued promoting 100% smokefree environments. Beginning in April 2008, the City Health Ministry sent social workers and epidemiologists to random workplaces and public places and ran radio spots to raise awareness of the City law.<sup>83</sup> During this grace period, more than 210 000 pamphlets and signs were distributed (figure 1).

**Pro-tobacco efforts to create confusion**—Throughout 2008 and 2009, BAT promoted its ‘Convivencia en Armonía’ (Coexistence in Harmony) Program for restaurants and bars throughout Mexico City, arguing that the federal law superseded the City law.



Coexistence in Harmony is an extension of the US ‘accommodation’ programs tobacco companies promote to create smoking and nonsmoking areas as the ‘reasonable alternative’ to 100% smokefree laws<sup>10, 84</sup> that the companies expanded to Latin America during the 1990s.<sup>12</sup> In April 2008, BAT’s Coexistence in Harmony website (<http://www.batmexico.com.mx>) stated ‘In the case of Mexico, actually the federal legislation permits the consumption of tobacco in closed environments’.<sup>85</sup> As a part of their corporate social responsibility programs, BAT also promoted ‘Responsables Por Convicción’ (Responsible By Conviction) campaign with a website (<http://www.vadat.com/convivencia>) that offered testimonials from Mexico City restaurant and bar owners promoting smoking in their establishments, citing the federal law’s *requirement* to have DSAs,<sup>86</sup> which clearly violated the City law. Between April 2008 and September 2009 these messages spread confusion over which law applied in Mexico City,<sup>32, 42, 43, 49, 51, 79, 87-90</sup> resulting in 17% of restaurants and 40% of bars in August 2008 establishing DSAs.<sup>89, 91, 92</sup>

In June 2008, the smokers’ rights group ‘Yo amo fumar’ supported a campaign started by two pro-tobacco City legislators amending the law to allow smokers’ clubs,<sup>93</sup> but it failed to collect the necessary 30 000 petition signatures to force a referendum on the law.<sup>94</sup>

Sluggish implementation of the federal law facilitated the tobacco industry’s efforts to undermine the City law. The initial delay came from President Calderón, waiting 3 months to publish the federal law (February–May 2008). The federal Health Ministry had to draft the regulation, which the COFEMER, then had to analyse for potential economic impact under the Ministry of Economics.<sup>32</sup> Between November 2008 and April 2009, BAT and PMM lobbied COFEMER to delay the regulation. The proposed regulation sent to COFEMER required all establishments to install sophisticated ventilation systems to prevent smoke leakage. Although the tobacco industry supported the federal law, they feared tough ventilation regulations would deter establishments from installing DSAs. Tobacco companies lobbied COFEMER against the ventilation systems, the federal Health Ministry specified, arguing that they were too expensive for hospitality establishments.<sup>95-97</sup> CANIRAC also lobbied COFEMER, claiming violations of individual rights, economic losses and high cost of the ventilation systems.<sup>46, 98</sup>

Whereas Mexico City issued its implementing regulation in 1 month, the federal government took 15 months (until 30 May 2009) to issue its regulation.<sup>49, 100</sup> Despite high compliance with the City law, some restaurant and bar owners followed the federal law, claiming that no official enforcement existed because the federal government had not issued regulation for DSAs and could not sanction restaurants.<sup>32, 43</sup>

**Advocacy efforts to counteract confusion in Mexico City**—INSP, ACTA and FIC Mexico also lobbied COFEMER submitting evidence that 100% smokefree environments were the only effective measure to protect the public from SHS.<sup>99, 101-103</sup> Although advocates were at a disadvantage because the federal law stated that establishments ‘must’ provide DSAs, they were able to keep the sophisticated and expensive ventilation systems in the regulation, making it more difficult for establishments to install DSAs.

Between September and December 2008, the Bloomberg Initiative funded WLF to help the INSP air another paid media campaign ‘Porque Todos Respiramos el Mismo Aire’ (Because We All Breathe the Same Air), which used posters (figure 1) and radio and television advertisements to reinforce the benefits of smokefree environments and remind people of the dangers of SHS.<sup>70, 72, 104, 105</sup> To avoid further confusion between the City and federal laws, the ads simply described the general benefits of having 100% smokefree

environments.<sup>70, 72</sup> This campaign helped to increase compliance with the City law from 83% to 89% in restaurants and from 60% to 72% in bars by December 2008.<sup>92</sup>

**Public Opinion**—As elsewhere,<sup>23, 106</sup> public support for smokefree places increased after the law passed and throughout 2008.<sup>92</sup> Smoking disapproval rates increased from 50% in March 2008, immediately before the law was enacted, to 66% in December 2008, and self-reported daily SHS exposure fell from 28% to 14%.<sup>92</sup>

**Enforcement and compliance in Mexico City**—Between December 2008 and April 2009, COFEPRIS conducted random formal inspections to strengthen compliance. In December 2008, COFEPRIS inspected 626 establishments and found 80% in compliance.<sup>94, 107</sup> Compliance with the City law increased in 2009; in January the City Health Ministry announced 90% compliance<sup>16, 108</sup> and by April they had visited 25 000 establishments with 95% compliance.<sup>91</sup>

Despite minimal enforcement, compliance with the City law has been high.<sup>109</sup> The City Health Minister can notify the appropriate borough to apply a sanction for violators,<sup>108</sup> but as of June 2010 COFEPRIS had only issued five suspensions in Mexico City. Advocates also reported violations to the boroughs, but the elected representatives of each of the 16 boroughs were reluctant to sanction restaurants and bars, which are campaign contributors.<sup>68, 110</sup> While no studies have been conducted in 2009 or 2010 to measure how weak enforcement has affected City law compliance, advocates reported a decline in compliance.<sup>41, 47, 65, 111</sup>

### Litigation against the Mexico City law

On 4 November 2008, the two pro-tobacco City legislators, who tried to allow smokers' clubs, filed suit with the Supreme Court,<sup>100, 112</sup> challenging the City law's constitutionality, arguing that the federal law preempted it. The Assembly defended the law citing Article 4 of Mexico's Constitution, which includes a fundamental right to protection of health.<sup>113</sup> They argued that health, like education and other fundamental rights are 'concurrent subjects', which can be regulated at any level of government, so the City law could take priority over the weaker federal law because it expanded the fundamental right of health to all citizens.<sup>100</sup>

On 3 September 2009, the Supreme Court ruled unanimously in favour of the City law.<sup>114</sup>

The ruling dramatically reduced confusion about which law applied in Mexico City. However, neither the City government nor the advocates publicised this victory or used it as a device to improve enforcement, a lost opportunity.<sup>110</sup>

### Elimination of the federal requirement to have DSAs

On 9 September 2008, federal senators introduced a bill to eliminate the requirement for DSAs in the federal law by changing 'must' back to 'may'.<sup>115</sup> Advocates lobbied senators throughout 2009, arguing there was an increasing demand for smokefree places and that Mexico's Constitution established the 'right of health'. Aided by the Supreme Court's decision, Congress approved the change 94 to 2,<sup>8</sup> on 8 December 2009 which was published on 6 January 2010.<sup>24</sup>

## DISCUSSION

During 2007 and 2008, strong efforts by tobacco control advocates and key policymakers in Mexico City led to a 100% smokefree law following FCTC recommendations. The quick approval of a weak federal tobacco control law occurred concurrently, creating confusion

over which law applied in Mexico City and facilitating the argument for preemption. BAT reinforced this confusion promoting its 'Coexistence in Harmony' program and attempting to delay the federal regulation. To counter these attempts, advocates launched media campaigns throughout 2008. The Supreme Court cemented the validity of the City law when it ruled in favour of the citizen's constitutional 'right of health'.

Mexico City's experience shows that, despite language, cultural and economic differences from high-income countries, the tobacco industry uses the same arguments and strategies, and health advocates counteract them with the same strategies. As in other parts of the world,<sup>10, 12, 13, 15, 16, 24, 84</sup> pro-tobacco forces in the hospitality sector opposed smokefree legislation. The industry once again promoted its 'accommodation' program, despite the scientific evidence rejecting ventilation systems,<sup>116</sup> and widespread SHS exposure in Mexico.<sup>66, 67</sup> As elsewhere,<sup>15, 117, 118</sup> a smokers' rights group appeared to fight smokefree legislation, and, as in the US, unsuccessful attempts were made to legalise smokers clubs.<sup>14, 119</sup> Likewise, pro-tobacco forces claimed violations of the Mexican Constitution in litigation in an attempt to overturn local health laws.<sup>8</sup>

As elsewhere,<sup>16, 120</sup> pro-tobacco forces took advantage of their stronger position at the federal level and influenced the passage of a weak federal law. As in Argentina and Brazil,<sup>15, 121</sup> little movement occurred at the federal level to promote smokefree legislation until significant progress occurred at the sub-national level. While the federal law was revised in 2010, the original law created confusion throughout 2008 and 2009.

As elsewhere,<sup>122</sup> predictions that smokefree laws would harm the hospitality industry failed to materialise. Although the economic losses argument captured the media's attention, hospitality revenues in 2008 and 2009 in Mexico City followed similar patterns to Mexican states that did not implement 100% smokefree policies.<sup>48</sup>

Demonstrating successful coalition building<sup>123</sup> and international advocacy networks,<sup>124</sup> the successful passage and early implementation of the City law resulted from strong coordinated efforts by governmental officials and advocates informing legislators about the importance of smokefree environments and producing influential educational campaigns, assisted by Bloomberg funds. As in the US and Canada,<sup>13, 23, 24</sup> early education and enforcement efforts produced long term success. As in the US,<sup>24</sup> health advocates engaged the public through media<sup>125</sup> creating a public forum to debate the necessity and impact of the law, both locally<sup>49, 63</sup> and nationally.<sup>65, 111</sup> As in Uruguay,<sup>70, 72, 126</sup> advocates used positive messaging campaigns throughout 2008, which increased support for smokefree policies.<sup>92</sup>

The Federal Health Ministry's inclusion of a strict ventilation standard was an important strategy to undercut the hospitality industry's willingness to continue to minimise the problems created by the federal law's requirement for DSAs.

The absence of strong governmental support in 2009, however, has diminished the potential of continuing the success of the City law. The new City Health Minister, Armando Ahued Ortega, has not publicly reported violations to the boroughs or pressed them to enforce the City law. The City Health Ministry claimed it does not have the authority to issue sanctions for noncompliance<sup>127</sup> even though it could report violations to a civic judge and request the sanction for the violator. (Representatives from the City Health Ministry and boroughs declined requests to explain this inaction.) Health advocates have not mustered resources to apply more pressure on the City Health Ministry and boroughs to enforce the law, which, given continuing pressure from pro-tobacco forces, could undermine long-term success of the law. Experience elsewhere has shown that it only takes a few prosecutions to ensure long-term compliance with the law.<sup>13, 82</sup>



The Mexican Supreme Court, ruling for the ‘right of health’, should particularly help push for stronger local legislation where civil society infrastructure needs strengthening. Meanwhile advocates in Mexico City must anticipate continuing opposition from the tobacco industry and need to recruit strong politicians and lawyers to defend the law’s early success. Advocates in Latin America should utilise Mexico’s experience to reject weak federal tobacco control bills and continue educating the public that 100% smokefree environments are simpler, healthier, cheaper and much easier to enforce.<sup>82</sup> The collaboration and effective coordination of advocates in developing and implementing smokefree policies at the local level can be used as a model of success throughout Mexico and other Latin American countries.

#### What is already known on this subject

The Tobacco industry’s power at higher levels of government makes implementing smokefree policies at the federal level a challenge in many countries. Tobacco companies oppose smokefree policies using front groups, usually through the hospitality industry and smokers’ rights groups. Since the tobacco industry is less influential at the subnational level, strong local smokefree legislation has been easier to enact and implement than national legislation in many developed countries.

#### What does this study add

The experience in Mexico City shows that, despite language, cultural and economic differences from high-income countries, the tobacco industry uses the same arguments and strategies, which are counteracted by the same strategies of health advocates. In addition, the collaborative and coordinated effectiveness of advocates in developing and implementing smokefree policies at the local level can be used as a model of success throughout Mexico and other Latin American countries.

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**Figure 1.** Visual material for 'Breathing Respect' (February 2008), 'Thanks to you' (April–December 2008) and 'We All Breathe the Same Air' (October–December 2009) campaigns funded by the Bloomberg Initiative to support smokefree environments.

Table 1

## Timeline of the Mexico City's Smokefree Law (2004–2008)

	Approval of Mexico City's law on nonsmokers rights (30 January 2004)	First initiative for amending Mexico City law (19 April 2007)	PAN Counter- Amendment proposal (2 October 2007)	Approval of amendment of the smokefree law by Mexico City's Legislative Assembly (26 February 2008)
Workplaces	DSAs: 70% of total surface	100% smokefree	DSAs: 30% of total surface	100% smokefree
Restaurants and Bars	DSAs: 70% of total surface	100% smokefree	DSAs: 30% of total surface	100% smokefree
Public Places	DSAs: 70% of total surface	100% smokefree	DSAs: 30% of total surface	100% smokefree
Public Transportation	100% smokefree			
Exemptions	Hotels allowed up to 75% of rooms for smoking		Hotels allowed up to 25% of rooms for smoking	
Penalties	<ul style="list-style-type: none"> <li>▲ Fines: 10 days minimum salary for X; 30–100 times minimum salary for establishments</li> <li>▲ Arrest up to 36 h</li> </ul>	<ul style="list-style-type: none"> <li>▲ Fines: 10–100 days minimum salary for X; times minimum salary for establishments</li> <li>▲ Arrest up to 36 h</li> </ul>	<ul style="list-style-type: none"> <li>▲ Fines: 10–30 days minimum salary for X; 100–500</li> <li>▲ Fines: 10–30 days minimum salary for X; 126–350 and 351–2500 times minimum salary for establishments</li> <li>▲ Arrest up to 36 h</li> </ul>	
Enforcement	By City government, but guidelines not specified until Regulation	By City government including City's Minister of Health and COFEPRIS		

DSAs, Designated Smoking Areas; PAN, National Action Party; COFEPRIS, Federal Commission for the Protection against Sanitary Risks.

Table 2

## Timeline of major events (2007–2010)

Date	Mexico City (DF)				National			
	Legislature	Health-Govt	Health-NGO	Pro-tobacco	Legislature	Health-Govt	Health-NGO	Pro-tobacco
19 April 2007	Amendment to 2004 City law for 100% smokefree environments	Supplied statistical data: SHS & cessation rates	Supplied reports of tobacco problems in Mexico	Hospitality Sector complaints	First initiative for federal law	Supplied statistical data	Supplied reports of tobacco problems in Mexico	First initiative negotiated by the tobacco industry
31 August 2007				New smokers' rights group is formed				
2 October 2007	Amendment to allow DSAs	Ambiguity complaints	Ambiguity complaints	Hospitality sector complaints	House of congress approve federal law	Attempts to promote 100% smokefree places	Some denounce changes and some promote the law	BAT bulletin favours federal law complaints by tobacco growers
December 2007–February 2008	Reintroduced 100% smokefree environments	Worked with NGOs on media campaigns	'Air Without Smoke is Life' and 'Breathe Respect'	Arguments for the 'right to smoke'	Senate passes federal law	Supported federal law	Some supported some opposed	Still argued for the 'right to smoke'
26 February 2008	Legislative assembly passes City law	Supported 100% City law	Supported 100% City law	Still argued for the 'right to smoke'				
4 April 2008	City law comes into effect Regulations are published	Published regulations very quickly	Agreed quick approval of Regulations helped success	Confusion over which law applied in Mexico City				
April 2008–December 2008	Implementing the City law	Worked with NGOs on media campaign	Media campaign 'Thanks to you' and 'We all Breathe the Same Air'	Hospitality sector complaints and legal challenge to City law		Media campaign 'We All Breathe the Same Air'	Supported media campaign	BAT bulletin creating confusion
August 2008–April 2009	Compliance for the City law	Compliance reports (80%, 90% and 95%)	Supported compliance results	Hospitality sector applying federal law DSAs	Federal law comes into effect but no Regulations published	INSP lobbied COFEMER	FIC and ACTA lobbied COFEMER	BAT, PMM, and CANIRAC lobbied COFEMER
30 May 2009			Complain about weak enforcing				Agree with filtration systems	
3 September 2009	Supreme Court rules in favour of City law	Supported Supreme Court decision	Supported Supreme Court decision		Supreme Court rules in favour of City law	Supported Supreme Court decision	Supported Supreme Court decision	
6 January 2010					Federal law amended 'must' back to 'may'	Supported decision	Supported decision	

Table 3

## Timeline of the Mexico Tobacco Control\* Federal Law (2007–2010)

	First initiative introduced in the House of Representatives (31 August 2007)	Modifications made by House's Health Committee (5 December 2007)	Approval by House of Representatives (6 December 2007)	Approval by Senate (26 February 2008)	Law's Regulations published (31 May 2009)	Amendment of the law approved (1 January 2010)
Workplaces	100% smokefree	May have DSAs	Must have DSAs			May have DSAs
Restaurants and bars	100% smokefree	May have DSAs	Must have DSAs			May have DSAs
Public places	100% smokefree	May have DSAs	Must have DSAs			May have DSAs
Public transportation	100% smokefree					
Penalties	<ul style="list-style-type: none"> <li>▲ Fines: 1000 times minimum salary for smoking; 1000–1400 times minimum salary for selling tobacco</li> <li>▲ Arrest up to 36 h</li> </ul>					
Enforcement	Federal Ministry of Health inspections, but outlined in Regulations				COFEPRIS inspects locations and reports to City Ministry of Health; City government issues sanctions	

DSAs, Designated Smoking Areas; COFEPRIS, Federal Commission for the Protection against Sanitary Risks.

\* Only smokefree provisions are described.