

Tobacco Control Policy and Prevalence Data: 1991-2008

Codebook and Definitions

POLICY DATA: Price/Tax/Funding

Notes: *Price and tax data are adapted from data presented in The Tax Burden on Tobacco: Historical Compilation (Volume 42, 2007; Orzechowski and Walker; Arlington, Virginia; 2008).*

If a state changed its taxation rate in a given year, the price and tax rate reported here were pro-rated, based on the date the changes went into effect.

Tobacco control funding data were obtained from various sources, including the Centers for Disease Control and Prevention (CDC), the Research Triangle Institute, the Campaign for Tobacco Free Kids, the Robert Wood Johnson Foundation, the American Legacy Foundation, and National Cancer Institute (NCI).

Price, tax, and funding data that are inflation adjusted are adjusted to April 2008 dollars.

State excise tax per pack: Average state excise tax (in dollars) for the year per cigarette pack.

State excise tax per pack (adjusted for inflation): Average state excise tax (in dollars) for the year per cigarette pack adjusted for inflation.

Total cigarette tax per pack: Average state excise tax and federal tax (in dollars) for the year per cigarette pack.

Total cigarette tax per pack (adjusted for inflation): Average state excise tax and federal tax (in dollars) for the year per cigarette pack adjusted for inflation.

Average price per pack (generic included): Average price (in dollars) of a pack of cigarettes for the year, with generic cigarette brands included in the average.

Average price per pack adjusted for inflation (generic included): Average price (in dollars) of a pack of cigarettes for the year, with generic cigarette brands included in the average, adjusted for inflation.

Average price per pack (generic not included): Average price (in dollars) of a pack of cigarettes for the year, with generic cigarette brands not included in the average.

Average price per pack adjusted for inflation (generic not included): Average price (in dollars) of a pack of cigarettes for the year, with generic cigarette brands not included in the average, adjusted for inflation.

Tax as a percentage of retail price (including generics) (%): The percent of average retail price per cigarette pack (including generic cigarette brands) comprised by the total cigarette tax per pack (as defined above).

Total state tobacco control program funding: The total amount of state tobacco control program funding dollars per year (in millions).

Total state tobacco control program funding adjusted for inflation: The total amount of state tobacco control program funding dollars per year (in millions).

Tobacco control funding per capita: The total amount of state tobacco control program funding dollars per year, calculated per capita based on state population.

Tobacco control funding per capita adjusted for inflation: The total amount of state tobacco control program funding dollars per year, calculated per capita based on state population and adjusted for inflation.

Tobacco settlement revenue: The amount of money (in millions) states receive from settlements of major court cases – the Master Settlement Agreement (MSA) for 46 states and DC and individual cases in Mississippi, Florida, Texas and Minnesota. Mississippi, Florida and Texas first received settlement payments in 1998. All other states began receiving payments in 1999.

Tobacco settlement revenue adjusted for inflation: The amount of money (in millions) states receive from settlements of major court cases – the MSA for 46 states and DC and individual cases in Mississippi, Florida, Texas and Minnesota – adjusted for inflation.

Tobacco tax revenue: The amount of money (in millions) states receive from excise taxes placed on cigarettes.

Tobacco tax revenue adjusted for inflation: The amount of money (in millions) states receive from excise taxes placed on cigarettes, adjusted for inflation.

Other state tobacco control funding: The amount of money (in millions) states receive from other sources, including revenues from the federal government to state health departments (e.g., NCI's Project ASSIST during Fiscal Year [FY] 1991 to FY 1998, CDC's IMPACT program during FY 1994 to FY 1998, and CDC's National Tobacco Control Program conducted since FY 1999); the Robert Wood Johnson Foundation's SmokeLess States Program, conducted during FY 1995 to FY 2005; and various grants from the American Legacy Foundation during FY 2001 to FY 2007 to states and organizations.

Other state tobacco control funding adjusted for inflation: The amount of money (in millions) states receive from other sources, adjusted for inflation.

Funding as a percentage of tobacco revenue (%): Tobacco control allocations from each state's settlement and cigarette excise tax revenues in a given year divided by the sum of settlement and tax revenues in that year multiplied by 100.

POLICY DATA: Youth Access Laws

Sales to Minors (STM): Any Law: The presence of any state law restricting tobacco sales to minors, stating a minimum age for purchasing tobacco products (0 = No STM law present; 1 = any STM minimum age law present).

STM: Minimum age for sale: The minimum age in years required by state law to purchase tobacco products (possible values: 0 = no minimum age; 16, 17, 18, or 19 years old).

***Note:** Alciati variables represent youth access measures that have been developed and coded by the NCI's State Cancer Legislative Database Program (SCLD) to reflect different aspects of sales to minors' youth access laws in a given state. The total Alciati score measures the extensiveness of state tobacco control youth access laws. Additional detail on coding and decision rules can be found in APPENDIX A, and also on the SCLD website at: <http://www.sclld-nci.net/>.*

Alciati minimum age requirement: Level of restrictions for minimum age provision, no preemption penalty (possible values: 0,3,4,5).

Alciati restrictions on packaging: Level of restrictions on packaging cigarettes, no preemption penalty (possible values: 0,3,4).

Alciati clerk intervention requirement: Degree of provisions for clerk intervention in the sale of tobacco products, no preemption penalty (possible values: 0,3,4).

Alciati photo identification requirement: Degree of provisions for photo identification requirements to buy tobacco products, no preemption penalty (possible values: 0,1,2,3,4,5).

Alciati vending machine restrictions: Level of restrictions on selling tobacco products through a vending machine and locations of vending machines, no preemption penalty (possible values: 0,1,2,3,4).

Alciati free distribution restrictions: Level of restrictions on free distribution and samples of cigarettes, no preemption penalty (possible values: 0,1,2,3,4,5).

Alciati penalties to retailers: Degree of graduated penalties to retailers for violation of youth access laws, no preemption penalty (possible values: 0,1,2,3,4).

Alciati random inspection requirements: Degree of provisions for random inspections to ensure that tobacco is not being sold to minors, no preemption penalty (possible values: 0,2,4).

Alciati enforcement by state agency provision: Level of the strength of enforcement authority, no preemption penalty (possible values: 0,2,4).

Total Alciati Score: Sum of Alciati youth access scores for all Alciati variables, no preemption penalty. The ‘Total Alciati Score’ measures the extensiveness of state tobacco control youth access laws for a given state and year.

PUP: Minors’ possession prohibited: Presence of a state law prohibiting minors from possessing tobacco products (0 = no law; 1 = law present).

PUP: Minors’ use prohibited: Presence of state law prohibiting minors from using tobacco products (0 = no law; 1 = law present).

PUP: Minors’ purchase prohibited: Presence of state law prohibiting minors from purchasing tobacco products (0 = no law; 1 = law present).

Possession-Use-Purchase Index: Sum of ‘Minors’ possession, use, and purchase prohibited’ variables. This index represents the number of possession, use, and/or purchase laws (PUP laws) present for a given state and year (possible values: 0 = no PUP laws; 1 = 1 PUP law present; 2 = 2 PUP laws present; 3 = all 3 PUP laws present).

POLICY DATA: Smoke-Free Air Laws

Notes: *Smoke-free air (SFA) variables have been coded according to the level of SFA restrictions by state law in a given year.*

Data for 2008 are as of December 31, 2008.

SFA data were initially coded from the American Lung Association’s ‘State Legislated Actions on Tobacco Issues’ (SLATI) system, and the CDC’s ‘State Tobacco Activities Tracking and Evaluation’ (STATE) system. The MayaTech Corporation subsequently validated initial coding, and expanded upon the categorization scheme by incorporating legislative information on additional locations, such as schools, recreational facilities, and cultural facilities. The detailed coding scheme and description of all coded values can be found in APPENDIX B.

Government worksites: Level of state smoke-free air protection at government worksites (possible values: 0,1,2,3).

Private worksites: Level of state smoke-free air protection at private worksites (possible values: 0,1,2,3).

Child care centers: Level of state smoke-free air protection at child care centers (possible values: 0,1,2,3,4,5).

Health care facilities: Level of state smoke-free air protection at health care facilities (possible values: 0,1,2,3*,3).

Restaurants: Level of state smoke-free air protection at restaurants (possible values: 0,1,2,3*,3).

Recreational facilities: Level of state smoke-free air protection at recreational facilities (possible values: 0,1,2,3,4,5).

Cultural facilities: Level of state smoke-free air protection at cultural facilities (possible values: 0,1,2,3,4,5).

Public transit: Level of state smoke-free air protection on public transit (possible values: 0,1,2,3*,3).

Shopping malls: Level of state smoke-free air protection at shopping malls (possible values: 0,1,2,3*,3).

Public schools: Level of state smoke-free air protection at public schools (possible values: 0,1,2,3,4,5).

Private schools: Level of state smoke-free air protection at private schools (possible values: 0,1,2,3,4,5).

Free standing bars: Level of state smoke-free air protection at free standing bars (possible values: 0,1,2,3*,3).

POLICY DATA: Smoke-Free Air Preemption

***Note:** SFA preemption variables have been coded as to whether or not SFA preemption exists at a specific location in a given state and year. SFA preemption prevents a local area, within a state, from enacting smoke-free ordinances that are stronger or more protective than state SFA laws. SFA location specific preemption data were coded and validated by the MayaTech Corporation.*

Government worksites: State preemption of smoke-free-air laws in government worksites (possible values: 0 = no state preemption law; 1 = state preemption law present).

Private worksites: State preemption of smoke-free air laws in private worksites (possible values: 0 = no state preemption law; 1 = state preemption law present).

Child care centers: State preemption of smoke-free air laws in child care centers (possible values: 0 = no state preemption law; 1 = state preemption law present).

Health care facilities: State preemption of smoke-free air laws in health care facilities (possible values: 0 = no state preemption law; 1 = state preemption law present).

Restaurants: State preemption of smoke-free air laws in restaurants (possible values: 0 = no state preemption law; 1 = state preemption law present).

Recreational facilities: State preemption of smoke-free air laws in recreational facilities (possible values: 0 = no state preemption law; 1 = state preemption law present).

Cultural facilities: State preemption of smoke-free air laws in cultural facilities (possible values: 0 = no state preemption law; 1 = state preemption law present).

Public transit: State preemption of smoke-free air laws on public transit (possible values: 0 = no state preemption law; 1 = state preemption law present).

Shopping malls: State preemption of smoke-free air laws in shopping malls (possible values: 0 = no state preemption law; 1 = state preemption law present).

Public Schools: State preemption of smoke-free air laws in public schools (possible values: 0 = no state preemption law; 1 = state preemption law present).

Private Schools: State preemption of smoke-free air laws in private schools (possible values: 0 = no state preemption law; 1 = state preemption law present).

Bars: State preemption of smoke-free air laws in bars (possible values: 0 = no state preemption law; 1 = state preemption law present).

Any smoke-free air preemption: State preemption of smoke-free air laws in one or more of the above locations (possible values: 0 = no state preemption law; 1 = state preemption law present).

PREVALENCE DATA: Youth Risk Behavior Surveillance System (YRBSS)

Additional information about the YRBSS data presented is available at:
<http://www.cdc.gov/nccdphp/dash/yrbs/>.

YRBSS Current cigarette use: Male: Percentage of male youth who reported past month cigarette use in the CDC's YRBSS survey conducted among students in grades 9-12 in selected states. Samples are representative of jurisdictions and include predominantly public schools, though private schools are included for some samples.

YRBSS Current cigarette use: Female: Percentage of female youth who reported past month cigarette use in the CDC's YRBSS survey conducted among students in grades 9-12 in selected states. Samples are representative of jurisdictions and include predominantly public schools, though private schools are included for some samples.

YRBSS Current cigarette use: Overall: Overall percentage of youth who reported past month cigarette use in the CDC's YRBSS survey conducted among students in grades 9-12 in selected states. Samples are representative of jurisdictions and include predominantly public schools, though private schools are included for some samples.

PREVALENCE DATA: Youth Tobacco Survey (YTS)

Additional information about the YTS data presented is available from the CDC's Office on Smoking and Health at:

http://www.cdc.gov/tobacco/data_statistics/surveys/yts/pdfs/yts_brochure.pdf.

YTS Current cigarette use: Middle school students: Overall percentage of middle school youth who reported past month cigarette use in a representative sample of middle school students in selected states. In most states, surveying was limited to public schools, but private schools are included for some states in some years.

YTS Current cigarette use: High school students: Overall percentage of high school youth who reported past month cigarette use in a representative sample of high school students in selected states. In most states, surveying was limited to public schools, but private schools are included for some states in some years.

PREVALENCE DATA: Behavioral Risk Factor Surveillance System (BRFSS)

Additional information about the BRFSS data presented is available at:

<http://www.cdc.gov/brfss/>.

BRFSS Current smokers: Male: Percentage of adult males who reported smoking \geq 100 lifetime cigarettes and current smoking either every day or on some days in the CDC's BRFSS survey. Prior to 1996, current smokers were those who reported smoking \geq 100 lifetime cigarettes and that they "smoke cigarettes now."

BRFSS Current smokers: Female: Percentage of adult females who reported smoking \geq 100 lifetime cigarettes and current smoking either every day or on some days in the CDC's BRFSS survey. Prior to 1996, current smokers were those who reported smoking \geq 100 lifetime cigarettes and that they "smoke cigarettes now."

BRFSS Current smokers: Overall: Percentage of all adults who reported smoking \geq 100 lifetime cigarettes and current smoking either every day or on some days in the CDC's BRFSS survey. Prior to 1996, current smokers were those who reported smoking \geq 100 lifetime cigarettes and that they "smoke cigarettes now."

PREVALENCE DATA: National Survey on Drug Use and Health (NSDUH)

NSDUH is conducted by the Office of Applied Studies at the Substance Abuse and Mental Health Services Administration. Additional information about NSDUH data is available at: <http://www.oas.samhsa.gov/nsduh.htm>.

NSDUH Past month cigarette use: Ages 12-17 years: Percentage of persons aged 12-17 years who reported past month cigarette use.

NSDUH Past month cigarette use: Ages 18-25 years: Percentage of persons aged 18-25 years who reported past month cigarette use.

NSDUH Past month cigarette use: Ages 26+ years: Percentage of persons aged 26 years and older who reported past month cigarette use.

NSDUH Past month cigarette use: Overall: Overall percentage of persons aged 12 years and older who reported past month cigarette use.

NSDUH Past month tobacco use: Ages 12-17 years: Percentage of persons aged 12-17 years who reported past month tobacco use.

NSDUH Past month tobacco use: Ages 18-25 years: Percentage of persons aged 18-25 years who reported past month tobacco use.

NSDUH Past month tobacco use: Ages 26+ years: Percentage of persons aged 26 years and older who reported past month tobacco use.

NSDUH Past month tobacco use: Overall: Overall percentage of persons aged 12 years and older who reported past month tobacco use.

NSDUH Believe that smoking 1+ packs per day poses greater risk to harm: Ages 12-17 years: Percentage of persons aged 12-17 years who responded that persons smoking a pack or more of cigarettes per day were at “great risk” of “harming themselves physically and in other ways.” Other responses were “no risk,” “slight risk,” and “moderate risk.”

NSDUH Believe that smoking 1+ packs per day poses greater risk to harm: Ages 18-25 years: Percentage of persons aged 18-25 years who responded that persons smoking a pack or more of cigarettes per day were at “great risk” of “harming themselves physically and in other ways.”

NSDUH Believe that smoking 1+ packs per day poses greater risk to harm: Ages 26+ years: Percentage of persons aged 26 years and older who responded that persons smoking a pack or more of cigarettes per day were at “great risk” of “harming themselves physically and in other ways.”

NSDUH Believe that smoking 1+ packs per day poses greater risk to harm: Overall: Overall percentage of persons aged 12 years and older who responded that persons smoking a pack or more of cigarettes per day were at “great risk” of “harming themselves physically and in other ways.”

PREVALENCE DATA: Tobacco Use Supplement – Current Population Survey (TUS-CPS)

The TUS-CPS is a supplement to the US Census Bureau’s Current Population Survey sponsored by NCI and, since 2001, the CDC. Additional information about TUS-CPS data is available at: <http://riskfactor.cancer.gov/studies/tus-cps/>.

Prevalence of current cigarette smoking: Ages 18+ years: Percentage of persons aged 18 years and older who reported smoking \geq 100 lifetime cigarettes and currently smoking either every day or on some days.

Prevalence of current cigarette smoking: Ages 18-29 years: Percentage of persons aged 18 to 29 years of age who reported smoking \geq 100 lifetime cigarettes and currently smoking either every day or on some days.

Prevalence of current cigarette smoking: Ages 30+ years: Percentage of persons aged 30 years and older who reported smoking \geq 100 lifetime cigarettes and currently smoking either every day or on some days.

Percentage of ever smokers who have quit: Ages 18+ years: Percentage of persons aged 18 years and older who reported smoking \geq 100 lifetime cigarettes and currently smoke “not at all.”

Percentage of ever smokers who have quit: Ages 18-29 years: Percentage of persons aged 18 to 29 years of age who reported smoking \geq 100 lifetime cigarettes and currently smoke “not at all.”

Percentage of ever smokers who have quit: Ages 30+ years: Percentage of persons aged 30 years and older who reported smoking \geq 100 lifetime cigarettes and currently smoke “not at all.”

Percentage of current smokers living in smoke-free homes: Ages 18+ years: Percentage of current smokers aged 18 years and older who reported that “no one is allowed to smoke anywhere inside” their homes.

Percentage of non-smokers living in smoke-free homes: Ages 18+ years: Percentage of non-smokers (never smokers and former smokers) aged 18 years and older who reported that “no one is allowed to smoke anywhere inside” their homes.

Percentage of indoor workers protected by smoking ban at work: Smokers ages 18+ years: Percentage of current smokers aged 18 years and older who reported working indoors in areas protected by smoking bans.

Percentage of indoor workers protected by smoking ban at work: Non-smokers ages 18+ years: Percentage of non-smokers (never smokers and former smokers) aged 18 years and older who reported working indoors in areas protected by smoking bans.

Percentage of current smokers who visited an MD during the previous year and who were advised to quit: Ages 18+ years: Percentage of current smokers aged 18 years and older who reported visiting a medical doctor in the previous 12 months and receiving advice to quit smoking by any medical doctor in the previous 12 months.

Percentage of current smokers who visited an MD during the previous year and who were advised to quit: Ages 18-29 years: Percentage of current smokers aged 18 to 29 years of age who reported visiting a medical doctor in the previous 12 months and receiving advice to quit smoking by any medical doctor in the previous 12 months.

Percentage of current smokers who visited an MD during the previous year and who were advised to quit: Ages 30+ years: Percentage of current smokers aged 30 years and older who reported visiting a medical doctor in the previous 12 months and receiving advice to quit smoking by any medical doctor in the previous 12 months.

Percentage of current smokers who visited a dentist during the previous year and who were advised to quit: Ages 18+ years: Percentage of current smokers aged 18 years and older who reported visiting a dentist in the previous 12 months and receiving advice to quit smoking by any dentist in the previous 12 months.

Percentage of current smokers who visited a dentist during the previous year and who were advised to quit: Ages 18-29 years: Percentage of current smokers aged 18 to 29 years of age who reported visiting a dentist in the previous 12 months and receiving advice to quit smoking by any dentist in the previous 12 months.

Percentage of current smokers who visited a dentist during the previous year and who were advised to quit: Ages 30+ years: Percentage of current smokers aged 30 years and older who reported visiting a dentist in the previous 12 months and receiving advice to quit smoking by any dentist in the previous 12 months.

APPENDIX A: Youth Access Laws - Alciati variables

The following coding scheme and decision rules (where applicable) that correspond to each Alciati variable were employed for the youth access ratings. Additional information is available at: <http://www.sclد-nci.net/>.

<u>Variable</u>	<u>Coding</u>	<u>Decision rules</u>
Agenp	Minimum age (no preemption penalty applied)	
	5 Same as target (+4) below, but advances the minimum age requirement above the target age of 18 years	<ul style="list-style-type: none"> • A specific penalty for sign posting is required for a +4. Check the enforcement section of the SCLD abstract for either specific sign posting penalty or language indicating that "any violation of this section" results in a penalty. • Sign posting requirement is for illegal sales to minors; credit is not given if only health warning signs are required.
	4 Prohibits the sale or distribution of any tobacco products to persons under 18 years of age through any sales or distribution outlet and a warning sign is required at point of purchase with specific penalty for failing to post a sign	
	3 Meets the target age, but does not require sign posting and/or there is no specific penalty for failure to post a sign	
	0 No provision	
Pcknp	Packaging (no preemption penalty applied)	
	4 Prohibits all cigarette sales other than in a sealed package conforming to Federal labeling requirements	<ul style="list-style-type: none"> • Give a +4 for language requiring sales in "original" or "manufacturers' sealed" packages or sealed with "federally required labeling." Give a +3 if the law only requires a package (even "sealed" or "individual"), since this may not prevent a retailer from making his own small packages of less than 20 cigarettes. • If the only requirement is for package size of at least 20 cigarettes, a +3 rating is assigned. • Note that out-of-package tobacco sales provisions that are located in a state's tax code and related to tax stamps are not captured in the SCLD and, therefore, cannot be rated.
	3 Meets the target requirement, but provides for minimal exceptions (e.g., shops selling tobacco exclusively)	
	0 No provision	
Clrknپ	Clerk intervention (no preemption penalty applied)	
Target	4 Prohibits access to or purchase of tobacco products without the intervention of a sales clerk	
	3 Meets the target requirement, but provides a specified exception (e.g., carton sales)	
	0 No provision	
Phidnp	Photo identification (no preemption penalty applied)	
	5 Same as target (+4), but advances the minimum age of appearance above the target age of 21 years	<ul style="list-style-type: none"> • Points are not given if provision states only that a retailer "may" refuse a sale if the purchaser cannot present ID.

	4	Requires merchants to request photo identification for persons who appear to be under 21 years of age	<ul style="list-style-type: none"> ID requirements that are spelled out as part of an affirmative defense are not counted under this provision.
	3	Photo identification required, but provision does not meet the target age of appearance of 21 years	
	2	Photo identification required, but provision is not specific concerning age requirement for showing identification	
	1	Identification required for persons who appear to be under 21 years of age, but does not specify <u>photo</u> identification	
	0	No provision	
Vendnp	Vending machines (no preemption penalty applied)		
Target	4	Total ban on sale of all tobacco products through vending machines in all locations	<ul style="list-style-type: none"> Individual parts of vending machine and sampling laws may rate different points. Credit for this category is dropped to the lowest of these scores, since the option for minimal restriction undercuts more restrictive options. Generally, workplaces are not considered adult only. However, when there is a discrete area within a workplace that is specifically required to be supervised or the equivalent (e.g., "controlled" area), it is included as a +2.
	3	Restricts the location of vending machines to adult-only locations, with supervision and/or requirement that machine(s) be placed at least 20 feet from any entry	
	2	Restricts the location of vending machines to adult-only locations (with no or partial supervision), or restricts the location of vending machines to adult-only locations with minimal exceptions and full supervision	
	1	No location restrictions but vending machines in non-adult locations must be supervised (and/or have locking devices or tokens), or vending machines restricted to adult-only locations with minimal exceptions and no or partial supervision	
	0	No provision other than sales/distribution law, or a provision that specifies only minimal location restrictions and no or partial supervision	
Distnp	Free distribution (no preemption penalty applied)		
	5	Same as target (+4) below, plus a specific ban on sampling through the mail	<ul style="list-style-type: none"> Sampling: give list of specific locations (e.g., tobacco stores, private social functions) and say whether or not an "adult location."
Target	4	Total ban on distribution of free tobacco samples, coupons for free samples, or rebates	

	3	Distribution of free tobacco samples, coupons for free samples, or rebates prohibited in any locations accessible to minors	
	2	Total ban on distribution of samples of either cigarettes or smokeless tobacco products, but not both; or ban on distribution of samples of all tobacco products with minimal exceptions for locations not generally accessible to minors	
	1	Selected sampling location restrictions (e.g., playgrounds, schools); or sampling location restrictions on either cigarettes and smokeless tobacco products, but not both	
	0	No restrictions on sampling other than the law prohibiting sales/distribution to minors	
Pennp	Graduated penalties (no preemption penalty applied)		
Target	4	Establishes a system of graduated penalties or fines applicable to all youth access laws, to be levied within three years, <u>plus</u> possibility of suspension or revocation of a required tobacco retail license for repeated sales to minors	<ul style="list-style-type: none"> • The +4 requirement for penalties to be "applicable to all youth access laws" means all the provisions that the state has adopted (i.e., not all the provisions covered by the ratings categories). If a state has graduated penalties and no sign posting penalty, it is given credit for graduated penalties (because the score has already been reduced in provision 1). If, however, the state has a sign posting penalty and it has graduated penalties for everything except its sign posting penalty, it is scored as a +2.
	3	Graduated penalties or fines applicable to all youth access laws, to be levied within three years, but no possibility of license suspension or revocation	<ul style="list-style-type: none"> • A state can get a +4 for a set penalty combined with the possibility of suspension or revocation (in effect a graduated penalty); however, a set amount "for each offense" without the possibility of suspension or revocation is a +2.
	2	Set penalty for all or some youth access laws, and/or exceptions that limit enforcement	<ul style="list-style-type: none"> • "Knowing" violation language may appear as "if unaware," "without knowledge," or something similar. A "negligent" violation falls under the same category.
	1	Any of above, but a requirement that penalties or fines are delayed beyond three years	<ul style="list-style-type: none"> • In the +2 category, the type of language that qualifies as an "exception that limits enforcement" would permit a sale to a minor with "written authorization of a parent," or other loophole. • In the "0" category, affirmative defenses that are based on "minimal" compliance with the law are the ones for which either the seller's responsibility is very limited (e.g., not liable if a sign is posted on a vending machine) or if general and subjective (i.e., retailer has a system in place to prevent sales to minors).

	0	None of the above, or any of the above with an intent requirement (e.g., "knowing" violation) or affirmative defense(s) based on only minimal (or possibly minimal) compliance with youth access law(s)	<ul style="list-style-type: none"> Do not drop a score to "0" if the affirmative defense provides that the seller requested, examined, and reasonably relied (or relied in good faith) on photographic (specified) identification that established the age of purchaser as at least 18. Subtract 2 points for preemption here only if all the categories covered by law are preempted (e.g., preemption for sampling relates only to sampling restrictions, not the law's enforcement scheme).
Inspnp	Random inspections (no preemption penalty applied)		
Target	4	Establishes random, unannounced inspections of retailers as part of the enforcement mechanism, using underage buyers for the purpose of identifying violators, and does not prohibit other use of minors to test compliance	<ul style="list-style-type: none"> A +4 is given if state law establishes a framework for random, unannounced inspections in connection with its enforcement scheme, unless the law specifies that the inspections are only to obtain data for Synar reporting (a+2). (This is to take into account a 1995 HHS Inspector General's conclusion that states conducting statewide inspections generally do not distinguish between inspections for enforcement and those required to comply with Federal law (i.e., Synar)). If inspection framework is established, but inspection language is nonconforming or otherwise very limited, score is reduced to a +2; e.g., if law does not specify "random, unannounced" or "sting" inspections. "Minors" do not have to be included for a +4; however, if the law specifically limits the use of a minor, the score is dropped to a +2. Note that "survey" or "investigation" are acceptable synonyms for inspection. Authorization of departments to conduct inspections is rated +2, in that it does not conform to the actual target language for mandatory inspections.
	2	Requires inspections, but with limitations	
		No provision, or any provision that specifically prohibits the participation of underage buyers in enforcement efforts	
Enfnp	Statewide enforcement (no preemption penalty applied)		
Target	4	Establishes a clearly designated statewide enforcement authority for sales	
	2	Some enforcement authority, other than statewide, is designated	
	0	No provision	
Totnp	Total score (no preemption penalty applied)		

Appendix B: Smoke-Free Air Coding Description and Decision Rules

Smoke-Free Air State Statutory Decision Rules

MayaTech updated the state clean indoor air law coding provided by Roswell Park Cancer Institute for locations of interest—government buildings, private workplaces, child care centers, health care facilities, restaurants, recreational facilities, public transit, malls and hotels, public schools, private schools, bars and cultural facilities—for the second half of 2005. MayaTech also checked the updated the preemption coding for the time period.

Limitations on Scope of Research

In some instances, it was not possible to ascertain the precise year a provision either was enacted or took effect, generally owing to the date range limitations of Westlaw and/or the lack of comprehensive historical notes accompanying the statutes. This limitation applies largely, though not solely to enactments pre-1991.

There may be a string of early amendments and insufficient information to be able to tell when an amendment relevant to our inquiry was passed. We may be able to glean from a statute's historical notes that a particular law or amendment of interest was adopted/passed by the legislature on a date certain, but not in what year it took effect, though most often it would be in that same year or the subsequent year. At times, we were able to provide only the calendar year of an enactment or a date range. Lastly, there are some instances in which we could be certain of an effective date, but not the year of approval/passage.

Where helpful, we provided specific examples of how a uniquely worded statute was coded and the corresponding rationale in cases where the coding schemes were not sufficiently nuanced to capture the provisions precisely.

Statutory Interpretation

Our analysis and coding have been as conservative as possible so as to give full effect to the plain language of provisions while abiding by standard rules of statutory interpretation. We have tried to interpret the plain language of the laws in the manner manifestly (or reasonably inferred to have been) intended by each state legislature.

To the greatest extent possible, we have refrained from drawing inferences, *e.g.*, where, in light of certain assumptions or by negative implication, the legislature may appear to have intended for a restriction to apply to X location of interest. However, where states have enacted comprehensive schemes employing language that is plainly expansive, we have coded restrictions across a variety of locations so as to effectuate legislative intent.

For instance, Delaware enacted in 2002 a sweeping law prohibiting smoking in “any indoor enclosed area to which the general public is invited or in which the general public

is permitted, including, but not limited to..." In light of the non-comprehensive nature of the listed places, we coded the category of malls as having a smoking restriction even though malls are not explicitly mentioned. Comprehensive 2003 amendments in Florida and New York, *e.g.*, were treated similarly to code locations not specifically mentioned, but clearly within reasonable presumptions of scope. Ohio's 2006 Clean Indoor Air Law prohibits smoking in a public place or place of employment, but provides no examples of such places in the definitions. Because a public place was defined as "an enclosed area to which the public is invited or in which the public is permitted and that is not a private residence," most locations were coded as a ban.

We determined that laws in Connecticut, California and Oregon, which restrict tobacco use to separately ventilated employee breakrooms, as opposed to separately ventilated areas open to the public, warranted a different coding score to denote the higher level of protection afforded. We coded applicable locations as 3* to mean less than a full ban, but more restrictive than a separately ventilated areas. Idaho, however, is like Connecticut, California and Oregon but is not coded as a 3* because the employee break room exception in Idaho applies only to employers with 5 or fewer employees.

The District of Columbia's old code section on smoking (D.C. Code Ann. §§ 7-1701 to 7-1710) that was in effect prior to the enactment of the 2006 Legislation (D.C. Code Ann. §§ 7-741 to 7-747) was not removed from the District of Columbia code after the new legislation was added. This gives the appearance of conflicting code sections and exemptions for locations such as restaurants and private worksites which would have DSAs under the previous legislation. However, in practice and based on a review of secondary source coding of D.C. law, we determined to apply the provision enacted in 2006 as the relevant code sections for the purposes of the 2006 coding.

Location Restriction Decisions

The following "standard coding scheme" was employed for the majority of locations of interest, including government buildings or workplaces, private workplaces, health care facilities, restaurants, public transit, malls, and hotels. Specific decision rules relative to coding for each of these locations of interest are noted below (under the location subheader).

- 0 *No provision/not meet a restriction*
- 1 *Restrict smoking to designated smoking areas (DSAs) or require separate ventilation with exemptions for locations of a certain size (e.g. restaurants with a seating capacity of less than 50)*
- 2 *Restrict smoking to separately ventilated areas or a ban with exemptions for certain locations where only a restriction applies*
- 3* *Ban in areas accessible to the general public, but smoking is allowed in separately ventilated areas or designated areas where the public is not invited or generally allowed (e.g. smoking banned in restaurants, but allowed in employee smoking rooms). The 3* coding is not used for government or private worksite*

- locations or locations which have an alternative coding scheme, such as schools, childcare centers, and recreational and cultural facilities.*
- 3 *Ban at all times*

Different coding schemes were utilized for the remainder of locations of interest, including childcare centers, schools, recreational facilities and cultural facilities. See the individual discussions below for an explanation of the different coding schemes applied to these categories and for additional information relative to each category.

Since the categories of childcare centers, schools, recreational facilities and cultural facilities had either not been previously coded or had been coded using a different ratings scheme, we identified enacted and effective dates of provisions and amendments as well as session law or chapter/act numbers for these locations.

Government Buildings or Workplaces

- Uses the standard coding scheme, except the 3* coding is not available. Where a 3* would have been used, a 2 was given.
- Credit given for legislation clearly stating that a restriction on tobacco product use applies to a building or workplace owned, leased or operated by the state.
- Legislation covering a legislative building, such as a state capitol, would not count as a public building/workplace restriction because it does not cover a broad enough category of public buildings and workplaces.
- Legislation indicating that smoking is restricted to designated smoking areas, but only within assembly and meeting rooms within government buildings, as in Colorado, was not deemed to have a restriction with a broad enough reach to warrant DSA-level coding for the category as a whole.
- Where a law, like the one in Montana, bans smoking in government worksites but phases in certain types of government worksites, such as local political subdivision buildings, the full coding was given in the year the majority of the ban went into effect.

Private Workplaces

- Uses the standard coding scheme, except the 3* coding is not available. Where a 3* would have been used, a 2 was given.
- Credit given for legislation clearly stating that a restriction on tobacco product use applies to a place of work other than a publicly-owned building or place of work.
- Credit was not given for restrictions only applicable to public waiting areas of private workplaces.

In Idaho, smoking may be allowed in privately-owned businesses to which the general public does not have access and small businesses with fewer than 5 employees may have designated smoking areas in employee breakrooms within certain limits. Therefore a decision rule was made that this state is assigned a 1 for private worksites.

Childcare Centers

Childcare Center Coding Scheme

- 0 *No provision/not meet a restriction*
- 1 *Restrict smoking to designated areas*
- 2 *Restrict smoking to separately ventilated areas or a ban when children are present with exemptions*
- 3 *Ban when children are present (commercial daycare)*
- 4 *Ban at all times when children are present (explicitly including home-based)*
- 5 *Ban at all times (explicitly including home-based)*

The fact that the definition of covered home-based facilities may, as for most states, specify a threshold rule of applicability based upon the number of children under care or their relation to the caregiver did not preclude the granting of additional credit for home-based laws to states with such provisions. For example, Rhode Island's threshold home-based provision does not apply where fewer than four children are under care.

Laws dealing only with childcare centers in public schools, *e.g.*, South Carolina's law in effect from 1990 to 1993, were not considered broad enough to code.

If a law permits employee breakrooms in public or private worksites, such as the law in California or in Oregon, and there was no directly conflicting law related to the restriction of smoking in childcare centers, this was coded as a 2. Consistent with this decision, we have also applied a decision to Oklahoma, even though smoking is banned when children are present, because the state provides an exemption for private offices occupied by one or more smokers in a private workplace to allow smoking; it was coded as a 2 – smoking banned when children present with exemptions.

Until 2006, Nevada's law bans smoking completely in commercial childcare facilities but does not address smoking in homes that serve as childcare facilities, this was coded as a "3."

Childcare centers in Maine are coded as a designated smoking area until 2003 because the law allows for a public place (which includes commercial day care) to create a DSA through 2003, at which time that DSA subsection of the law was repealed effective in 2004. Because of this change in the law, starting in 2004, commercial day care centers could no longer allow smoking when children were present, yet home based day care could allow it in non-adjacent areas of a home (DSA). Because smoking was DSA in homes, but banned in commercial, this was coded as a "3", consistent with Nevada (above) and other states. Alaska's law is also coded as a 3 to remain consistent with this decision rule.

In 2005, Maine's home-based language was changed to prohibit smoking in all areas of a home that provides childcare, making smoking prohibited (while children were present) in both commercial and home based day care. This necessitated a coding of a 4

beginning in 2004. Additionally, in Maine the section regarding public place smoking restrictions provides an exemption for workplace DSAs (which is contained in another area of the law), it was decided that commercial day care centers were exclusively considered a public place and not a workplace and did not receive this workplace exemption.

In some instances state laws make broad or generic reference to “licensed childcare facilities” in the section of the law that lists areas where smoking is prohibited. Usually in the section of the law that provides a definition of a “place of residence,” a private home will not fall under the definition of “residence” if used as a licensed childcare/day-care facility. This was coded as if smoking were prohibited in both commercial and home-based childcare, allowing for a coding of a 4 or a 5 (“explicitly including home-based”).

Laws in Vermont and Connecticut that regulate smoking in general (in business, places of public access) were not interpreted to be broad and sweeping legislation that included childcare facilities and were instead interpreted to regulate smoking in certain locations or specified places of business. In Vermont (18 §§ 1741 to 1746), for example, the locations listed in the definition of “a place of public access” included an exhaustive list of places where the public is allowed to gather or visit without restriction, something a childcare center is not. Also, SLATI codes smoking as regulated in Connecticut, yet cites the state regulation, rather than any statute that could apply.

For a state to be coded a 4 or 5 smoking must be banned in both types of day care facilities. Additionally, for a state to receive a 5, smoking must be banned at all times in both home-based and commercial day care. If smoking is banned in both locations, but either location allows smoking when the facility is closed or when children are not present, then the state would only receive a 4 designation.

If there is an absence of any language that refers to home-based day care, or day care located in a private residence, then the most restrictive coding that can be awarded is a “3 ban when children are present (commercial daycare).” For example, Arkansas’ 2006 clean indoor air law prohibits smoking in licensed childcare facilities and the exemption for private homes states, “except **when** used as a licensed childcare... facility.” Thus the childcare section was given a 4 (Ban at all times when children are present, explicitly including home-based). In another example, Nevada’s 2006 clean indoor air law prohibits smoking in childcare facilities, and the private home exemption says “except **if** used as a childcare... facility” the childcare section is awarded a “5 = Ban at all times (explicitly including home-based).”

The law in Kansas (§ 65-530) prohibits smoking in a “Day Care Homes,” which are specifically defined as home-based day care facilities, when children are present and does not address smoking in commercial day care facilities (non-home based). Because of this, the state was coded as a 2 – ban when children present with exemptions.

Health Care Facilities

- Uses the standard coding scheme.
- Credit given if laws reference health care facilities providing short-term, outpatient care.
- We particularly focused on capturing laws that mentioned application to doctor's offices or ambulatory care centers. Though credit was afforded for health care center restrictions, if there was an additional provision for doctor's offices with different directives, we deferred to the provision addressing doctor's offices.
- This category does not apply if provisions only address nursing homes, hospitals, long-term care facilities or the sub-group of doctor's offices where mental health or substance abuse are specified as primary service(s) rendered.

Restaurants

- Uses the standard coding scheme.
- Restaurants with attached bars are coded within the restaurant category according to the lowest standard in either facility.
- Credit given if legislation clearly stated that a restriction on tobacco product use applies to an establishment that serves food for consumption on the premises.

In Alabama, the statute reads:

Notwithstanding any other provision of this section or this chapter, if any restaurant is deemed by its owner as being too small to have a designated smoking area, it shall be left up to the discretion of the owner if the facility will be a "smoking" or a "nonsmoking" facility.

Given that the DSA requirement does not apply to all restaurants and that our DSA code captures DSA or SVA with size exemptions, this state was recoded as a 0 for restaurants in 2003.

Louisiana has a similar scheme that results in a coding of no restrictions.

In Idaho, smoking is restricted except in designated employee breakrooms. However, only employers with less than 5 employees may have breakrooms of this type and because this exception applies to such a small subset of locations, credit for a ban was given.

In Oregon, the law allows for separately designated employee breakrooms. However, at the same time, it also allows smoking in restaurants or areas of restaurants where minors are not permitted. Therefore it is coded as a DSA because while more restrictive than most other DSAs, it does not meet the restrictions of the next highest coding level.

South Dakota is similar to Oregon. In South Dakota, smoking is restricted to restaurants that sell alcohol for consumption on the premise (or, alternatively, smoking is only

prohibited in restaurants that do not sell alcohol for consumption on premise). Therefore, South Dakota and Oregon have both been coded as a DSA.

Georgia has also passed a law similar to that of Oregon. That law restricts smoking in locations where minors are banned. However, the Georgia law may be distinguished from Oregon's law because the decision about whether to ban minors is completely at the discretion of the owner (see Oregon Bars). In Georgia, smoking is also allowed in separately ventilated areas open to the public, and in order to be consistent with decision rules in South Dakota and Oregon, it is coded as a 1 – SVA with exemption.

North Dakota is coded as a Designated Smoking Area for Restaurants because North Dakota's law contains conflicting definitions that prevent us from determining whether smoking is permitted in bar areas of restaurants. The definition of a public place, where smoking is banned, includes bars and restaurant. The definition of restaurant includes a bar area within a restaurant. The definition of bars includes a bar located within a restaurant if in a separately enclosed area. Even though smoking is banned in public places, bars are exempted. Therefore, we have assumed smoking in bar areas of a restaurant may be allowed and it should receive the lower rating.

In the District of Columbia, restaurants were included within the smoking ban that took effect in April 2006, however because bars, including bar areas located within a restaurant that were separately enclosed, were exempted until January 2007 then restaurants were coded as a 1 for 2006 (this is why the dates for the enactment/effective dates change but the coding remains a 1 for 2006).

Bars

- Uses the standard coding scheme.
- We coded for free-standing bars or taverns.
- Taverns, Saloons and Cabarets are considered a bar.
- Where there are employee breakrooms that apply to bar locations, we have coded them accordingly.

In Oregon, we had coded Bars as a 1 for 2002 and 2003 based on the following language:

Except as provided in subsection (2) of this section, an employer shall provide a place of employment that is free of tobacco smoke for all employees.

The statute goes on to exempt certain locations, including bars posted as off-limits to minors. Therefore, we gave bars the lowest possible score of a no restrictions.

Georgia passed a similar law this year (2005) for restaurants and, as it turns out, many bars are simply posting signs indicating that minors are not permitted and, as a result, the bars are smoking areas in their entirety. Given this knowledge, we downgraded Oregon Bars to a 0 for 2002 and 2003.

Tennessee's law passed in 2007 bans smoking in restaurants (and bar areas of restaurants) but exempts "age restricted venues." The law does not specify what types of businesses are age-restricted venues. Unlike states like Oregon or Georgia that specify that restaurants posted as off-limits to minors can allow smoking, Tennessee does not include any inclusive (or exclusive) language about restaurants with age-restrictions. This was treated the same as an exemption for minors or specific age restriction as in Oregon or Georgia. Thus, in Tennessee restaurants are coded as Designated Area and bars are coded as no provision (because they are exempt).

In Vermont, a Cabaret license is issued when a business is:

"devoted primarily to providing entertainment, dancing, and the sale of alcoholic beverages to the public and not the service of food. The holder of a "cabaret license" shall dispense food to the public and shall have adequate and sanitary space and equipment for preparing and serving food. However, the gross receipts from the sale of food shall be less than the combined receipts from the sales of alcoholic beverages, entertainment, and dancing in the prior reporting year."

For the years where the law is silent on the distinction between a bar and a cabaret and where bars and cabarets have different restrictions, we have coded Vermont bars as having no restrictions. For some years prior to 2005, Vermont is similar to Utah which exempts taverns and cabarets from smoking restrictions and is also coded as a no restrictions.

Recreational Facilities

- We changed the name of the gym/arena variable to Recreational Facilities and employed a more nuanced coding scheme. Other locations captured under this category include arcades, amusement parks and bowling alleys.
- If a particular named arena (such as the Louisiana Superdome) was the only entity in which the law restricted smoking, we did not code the restriction.

Recreational Facilities Coding Scheme:

- 0 No restriction*
- 1 Restricts smoking to DSAs in gyms or arenas*
- 2 Restricts smoking to DSAs in both gyms and arenas*
- 3 Restricts smoking to DSAs in all recreational facilities*
- 4 Bans smoking in gyms or arenas and restricts to DSA(s) in other recreational area(s)*
- 5 Bans smoking at all recreational locations*

In Utah, a law taking effect in 1995 prohibited smoking in, among other locations, "arenas" and "sports or fitness facilities." The coding scheme does not specifically provide a code that indicates a ban in some recreational areas (in this case, arenas and sports or fitness facilities) without a ban in *all* recreational areas. However, a "4" code

(bans smoking in gyms or arenas and restricts smoking to DSAs in other recreational facilities) probably comes the closest; because the “4” code says “other recreational facilities” and not “*all* other recreational facilities,” it appropriately captures a law that bans smoking in gyms and *some* other recreational facilities. (A “5” code, by contrast, means that smoking is banned in all recreational facilities, which this law does not necessarily do, while a “3” code fails to take into account the law’s flat prohibition of smoking in multiple recreational facilities.)

A 2005 Nevada law prohibits smoking in video arcades, which are recreational facilities. Because smoking is banned in arcades only and not regulated in any way in any other recreational facilities, this does not fit in the coding scheme and resulted in a code of “0 = no restriction.”

A 2005 Georgia law bans smoking in all public places and workplaces where children are allowed, except in SVA employee break rooms. This does not exactly fit the coding scheme. The closest coding was of 4 was assigned, indicating that smoking is banned in some areas and allowing them in others.

Cultural Facilities

- We added this category to capture laws addressing such locations as libraries, concert and lecture halls, museums, art galleries, indoor movie theatres, exhibition halls and auditoriums.

Cultural Facilities Coding Scheme:

- 0 *No restriction*
- 1 *Restricts smoking to DSAs in fewer than 3 cultural areas*
- 2 *Restricts smoking to DSAs in 3-5 cultural areas*
- 3 *Restricts smoking to DSAs in more than 5 cultural areas*
- 4 *Restricts smoking to DSAs in all cultural facilities*
- 5 *Bans smoking at all cultural locations*

A 2005 Georgia law bans smoking in all public places and workplaces where children are allowed, except in SVA employee break rooms. This does not exactly fit the coding scheme. The closest coding of a 4 was assigned, which indicates that smoking is banned in some areas and allowing them in others.

Public Transit

- Uses the standard coding scheme.
- Credit given for laws imposing restrictions on buses, subways, commuter trains, and waiting areas.

A Mississippi law prohibiting smoking on public buses was nonetheless coded as zero, *i.e.*, not having a smoking restriction, for 1991-2003 because a passenger engaged in

smoking is not guilty of an offense unless he or she was first asked by the bus driver to desist and has failed to do so.

Malls

- Uses the standard coding scheme.
- The category had previously been entitled Shopping Centers. Credit given if laws clearly reference application to indoor, enclosed shopping malls. Since the client's preference is to capture malls, if a law references shopping centers, but not malls and does not define shopping centers so as to clearly encompass "malls," *i.e.*, indoor, enclosed shopping malls, we did not code such a law as a restriction for the malls category.
- We did not code strip malls or outdoor shopping plazas as malls.

Hotels

- Uses the standard coding scheme.
- Credit given if laws restrict or ban use of tobacco in common areas of lodging accommodations, such as lobbies, meeting rooms, and hotel restaurants and bar areas. We did not alter coding based whether states restricted tobacco use in hotel room rented to individual members of the public.
- It is notable that unlike other locations coded for this project, the hotel coding does not encompass the smoking status of all parts of a hotel building, only the common areas open to the entire public.

If smoking is allowed in a casino, but banned in a hotel, the hotel is coded as banned. In Nevada, casinos floors (places where children are not allowed to loiter under state law) are exempt from the smoking law. Even though a hotel may contain a casino, if smoking was banned in a hotel or under the definition of a public place and smoking was allowed in a casino, the hotel was coded as banned. Other states such as Louisiana and New Jersey that have casinos located within hotels are coded similarly. The rationale for this is that casinos may or may not be located within hotels and smoking rooms in hotels are also not included in the hotel coding.

When smoking is banned in hotels (or the common areas of hotels) but allowed in bars or restaurants (which are sometimes contained within hotels) hotels were given the "ban" coding. In North Dakota, for example: smoking was banned in hotels but allowed in bars. In North Dakota, bars were coded as "0 = no restriction" and hotels were coded as "3 = ban".

Schools

- We provided separate ratings for public and private schools, but utilized the same coding scheme for both statutory analysis.

- We coded elementary and secondary school application. We did not code for preschool facilities. We also did not code restrictions applicable to post-secondary education such as universities, colleges or community colleges.

Public School Coding Scheme

- 0 *No provision/not meet a restriction*
- 1 *Restrict smoking to designated areas*
- 2 *Restrict smoking to separately ventilated areas or a ban when children are present with exemptions*
- 3 *Ban when children are present (school buildings)*
- 4 *Ban at all times when children are present (buildings and grounds)*
- 5 *Ban at all times (buildings and grounds)*

Private School Coding Scheme

- 0 *No provision/not meet a restriction*
- 1 *Restrict smoking to designated areas*
- 2 *Restrict smoking to separately ventilated areas or a ban when children are present with exemptions*
- 3 *Ban when children are present (school buildings)*
- 4 *Ban at all times when children are present (buildings and grounds)*
- 5 *Ban at all times (buildings and grounds)*

If state law specified educational facilities, but did not define the term so that it was possible to ascertain whether private schools were intended to be covered as well as public, we presumed private school application as well as public. Examples are laws in Iowa and Missouri. If a law directed that a “board of education” or “school district” adopt particular tobacco use restrictions and no clarifying information was available elsewhere in the law to determine public only or private school application, then we presumed public only.

As with child care centers, the schools categories showed quite a bit of variation: A Tennessee school restriction prohibits smoking in the building for adults and children at all times, but adults can smoke outside as long as they are not within 50 feet of an entrance or in public seating areas such as bleachers. This was coded as a “3” for 1995-2003.

In several states, we found legislation limiting the governing provision to “buildings that are open to the public,” and listing educational facilities or classrooms as a type of building/area in which smoking is prohibited. In such situations, we reasoned that, since private school buildings are not open to the public, application of the laws to private school environments would not be assumed unless there was an explicit statement that the provision applies to private schools.

However, laws applying to educational facilities/schools generally (or which consider schools a place of employment), but for which the school definitions/references did not

indicate whether private schools would or would not be included, were coded as having restrictions for both public and private schools.

Hawaii's 2006 Clean Indoor Air law only prohibits smoking in school facilities. A previous Hawaii law, which is not repealed by the new Clean Indoor Air law, prohibits smoking in public school buildings and grounds. In such a situation, the new and already existing law can be read together. Since private schools were not included in the already existing law, then private schools were given a code of "3 = ban when children are present (school buildings)." Public schools were given a "5".

Laws which banned smoking at all times in school buildings, but which did not address smoking generally on school grounds, are not specifically addressed by the school coding scheme. Such laws were coded a "3," as this level of restriction was deemed most closely analogous. When a law refers to a school as "school facilities" or "educational facilities" and does not make reference or offer a definition to include property and/or school grounds, then a "3 = Ban when children are present (school buildings)" coding was applied. Also, if a law said that smoking is banned on school facilities, but adults/staff are permitted to leave school property/grounds to smoke, we interpreted this to mean that smoking is banned on school property/grounds.

Since New Mexico 2007 law bans smoking in all places where the public is invited or allowed, and the definition of public places includes a general references to "classrooms" – it is coded as having a ban in school buildings, but not on the grounds, which means that the highest it can be coded is a "3." (even though smoking may be banned at all times, both the 4 and 5 coding require a ban on the grounds to reach that coding threshold).

If a law banned smoking generally, but allowed for the exception of smoking for the purposes of demonstrating the danger of smoking to students, as is the case in MT, the law was coded as a 5 because the exception fulfills the purpose of the ban.

If a law permits employee breakrooms in public or private worksites, such as the law in California or in Oregon, and there was no directly conflicting law related to the restriction of smoking in schools, this was coded as a 2.

EXAMPLES OF DIFFERENCES WITH OTHER TRACKING SYSTEMS

Because of decision rules that are either specific to this coding scheme, or because of decisions that may have been due to a unique provision in a law in a particular state, levels of smoking restrictions may not always match other tobacco tracking utilities (such as CDC's STATE or ANR).

Below are some examples of differences and as well as a rationale as to why:

STATE System

ImpacTeen codes Maryland's worksites as smoke-free due to a state-specific decision to code for a 1995 Regulation that was passed in this state. Through the 4th Quarter of 2007, the STATE system does not code for a restriction in worksites.

Oklahoma's law allows smoking in specified Separately Ventilated Areas of worksites. However, while ImpacTeen codes the state as SVA, the STATE System takes into account some exemptions in the state's law that allow smoking in offices that are exclusively occupied by one or more smokers. STATE has taken a harder line with this exemption in particular and has essentially downgraded the coding from an SVA to a DSA because of an interpretation that this exemption means that a private suite in an office building could allow smoking; turning that suite into an effective DSA.

ImpacTeen codes for preemption for South Carolina before 1996 based on a known Attorney General Opinion that stated the Clean Indoor Air Act of 1990 preempted local ordinances. Preemption codes for South Carolina were updated from 1996 through 2007 to reflect what is currently in the STATE System. Also, the state's coding for 2008 was changed to reflect that there is no preemption in any location based on the decision of Foothills Brewing Concern v. City of Greenville.

Americans' For Nonsmokers Rights

In New Hampshire, ANR considers bars to be smoke-free, while ImpacTeen codes the state as having no provision. S.B. 42 (Enacted 6/18/2007, effective 9/17/2007) banned smoking in all restaurants and cocktail lounges, however a cocktail lounge is defined as a bar in a hotel/motel or resort only, thus ImpacTeen considers smoking to be allowed in stand-alone bars.

ANR also disagrees with our interpretation of Arkansas' law. Arkansas prohibits smoking in public places, which includes restaurants and the bar area of a restaurant. However, restaurants that do not allow patrons under 21 to enter at any time are exempt from these smoking restrictions as long as smoke does not infiltrate into areas where smoking is prohibited. The coding for this state is consistent with our decisions made for other states such as GA which allow smoking in age-restricted patron areas of restaurants (and are coded as allowing Designated Smoking Areas accordingly).