STATE AND LOCAL ENFORCEMENT OF TOBACCO POSSESSION, USE, AND PURCHASE LAWS AMONG U.S. STATES AND LOCAL COMMUNITIES

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Society for Research on Nicotine & Tobacco
9th Annual Meeting
New Orleans, Louisiana

February 21, 2003
Background:

- Tobacco control youth access policies may promote reductions in tobacco use.
- Possession, use, and purchase (PUP) laws, penalize minors, themselves, for possessing, using, and/or purchasing tobacco products.
- Recent trends indicate a sharp increase in the number of state PUP laws:
  - 1988: 17 states had enacted at least one PUP law
  - 2002: 45 states had enacted at least one PUP law
- There is little empirical data on the effectiveness of such laws.
Possession, Use, and Purchase Laws per State* -- United States, 1988-2002, includes the District of Columbia

Mean Number of Possession, Use, and Purchase Laws per State* -- United States, 1988-2002**

*Includes the District of Columbia; Theoretical Range = 0-3

**Sources: ALA’s SLATI, CDC’s STATE system, and Roswell Park Cancer Institute
PUP Laws have been controversial - **Arguments in Favor:**

- Promote youth accountability and personal responsibility (merchants should not be the only ones liable)
- Add a cost to youth for tobacco use
- Law enforcement uses PUP laws to inspect suspicious youth: potentially reducing crime and other illegal substance use
- Reinforce illegal use of tobacco by minors (adults ‘mean what they say’ - ‘it’s the law’)
- Can help to ‘de-normalize’ tobacco use among youth
- Alcohol experience - minimum age increase (to 21 years old) has reduced drinking and saved lives
PUP Laws have been controversial - **Arguments Against:**

- Youth are enticed to smoke by marketing, then punished for wanting the promoted product
- Industry youth focus diverts attention from other tobacco control efforts, including merchant responsibility, and facilitates preemption
- Enforcement costs and difficulty: need local support and enforcement; may reduce resources/ enforcement of sales to minors’ laws
- May be used by law enforcement to ‘profile’ youth
- Kids rebel - laws may increase youth aspirations for ‘adult only’ tobacco products
- No proven substantial decrease in youth smoking behavior or youth access to tobacco
- Some alcohol laws (i.e. BAC) mainly reduced drinking and driving, rather than youth consumption
- Need more prevention and education for youth
Previous analyses have not suggested a relationship between the presence of state PUP laws and adolescent smoking behavior:

Cigarette Smoking Among Youth by the Historical PUP Legislation Rating in 50 States and the District of Columbia, 1999*


Note: Past Month Smoking = smoked on > 1 day during the previous 30 days; Historical PPU Legislation Rating = Sum of PPU laws for previous 1991-1999; (0 = no law; 1 = law present, from 0 to 3 laws)

Sources: 1999 NHSDA (12-17 year olds); ALA’s SLATI, CDC’s STATE system, and the Roswell Park Cancer Institute
Additional analyses to assess the effect of PUP laws on adolescent smoking behavior, in terms of adolescent age and risk status, have suggested:

- PUP laws were generally associated with lower smoking rates among the youngest adolescents at low or medium risk (i.e., those who were least likely to smoke to begin with).*

These preliminary analyses suggest that additional studies to assess the effects of PUP laws on adolescent smoking behavior should include:

- Measures of State PUP Enforcement
- Measures of Local PUP Enforcement

Objectives:

- To descriptively present State PUP enforcement data for states with PUP laws
- To descriptively present Local enforcement data for a sample of communities with tobacco Possession ordinances
- To discuss state and local PUP enforcement activities, including formative and future research concerning PUP enforcement at both state and local levels

Methods:

- Telephone interviews were conducted from May to December 2002 and interviews with all 45 states with one or more PUP law(s) have been completed
- Data have been collected on state enforcement activities and practices related to PUP laws, and follow-up interviews have been conducted with appropriate state and local contacts
Sample of 45 States with Enforcement Interviews

Number of Possession, Use, and Purchase Laws

Year: 2002
**STATE ENFORCEMENT**

States with Possession, Use, and/or Purchase (PUP) laws indicate that they enforce these laws

- However, a majority of PUP enforcement activity occurs at the local level only

### Sample of 45 States with Enforcement Interviews

- **Possession, Use, and/or Purchase Enforcement**
  - **Per Cent of States interviewed**
  - **Year: 2002**

- **State Enforcement Only**: 2.2%
- **State and Local Enforcement**: 40.0%
- **Local Enforcement Only**: 57.8%
In States where PUP Laws are enforced only at the local level, a majority of enforcement efforts also occur by local monies and resources only.

- Three of these states provide assistance for local enforcement in terms of money and/or resources.

Source of Money and/or Resources for Local PUP Enforcement

- State Assistance: 11.5
- Local Money and Resources Only: 88.5

26 States with Local Enforcement Only

Year: 2002
The pattern of PUP enforcement suggests that possession/use laws are more frequently and more effectively enforced than purchase laws.

- This enforcement also varies greatly by local jurisdiction.

Typical actions taken when a minor is caught possessing, using, or purchasing tobacco are:

- Issuing of citations, Notification of Parents, Appearance in juvenile or family court.
- Minors would most typically be issued a citation - the frequency of citations and number issued were generally not collected, documented, or tracked at the state level.

While most states indicated that citations had been issued for violations of PUP laws during the past year, they could not provide or estimate numbers of citations issued.
The following are typical first-time citation or conviction penalties imposed when a minor is caught in violation of PUP law(s):

- Fines (most common), Community Service, Tobacco Cessation Program/Class
- Graduated penalties often included an increasing fine schedule or a combination of penalties indicated above
- States with more severe penalties typically indicated lower levels of actual PUP enforcement activities

States generally indicated that they did not receive a specific amount of money or resources allocated for PUP enforcement activities

- Youth Access funds were often earmarked for sales to minors’ enforcement activities and tobacco prevention activities
Local PUP enforcement data presented are preliminary data from key informant interviews for Project ImpacTeen Tobacco Possession Ordinance Feedback Modules:

- ImpacTeen is a Robert Wood Johnson Foundation funded multi-substance (tobacco, alcohol, illicit drugs) project coordinated at The University of Illinois at Chicago.

- Local key informant community data include Tobacco Possession Ordinance responses from 153 sites in 1999, 94 sites in 2000, and 106 sites in 2001.

- Respondents from these participating sites were police chiefs and police officers in local communities.

**Diagram:**

- University of Illinois at Chicago
  - Health Research and Policy Centers
  - ImpacTeen
    - Coordinating Center, Community Data Collections Polysubstance Use Research UIC
    - Alcohol Policy Research Team U of MN
    - Illicit Drug Policy Research Team Andrews U and RAND
    - Tobacco Policy Research Team Roswell Park Cancer Inst
Tobacco Possession Ordinance Enforced in Your Community

Year

Percent of police chiefs/officers

2000 2001

Yes No

LOCAL ENFORCEMENT
LOCAL ENFORCEMENT

Resources Adequate to Effectively Enforce Tobacco Possession Ordinance

Percent of police chiefs/officers

Year

2000 2001

64.2 35.8

51.6 48.4

Adequate Not Enough
LOCAL ENFORCEMENT

Parents Routinely Notified if Youth is Cited for Tobacco Possession:

- Percent of police chiefs/officers for 2000:
  - Yes: 81.8%
  - No: 18.2%

- Percent of police chiefs/officers for 2001:
  - Yes: 86.5%
  - No: 13.5%
Police chiefs and officers from local communities indicated that the following are typical actions taken when a minor is caught possessing tobacco: (years 2000, 2001)

- Citation issued, Notification of parents, Warning issued, Appearance in peer or teen court

Police chiefs and officers from local communities indicate that the following are typical first-time citation or conviction penalties imposed when a minor is caught possessing tobacco: (year 2001)

- Fines, Community Service, Tobacco Cessation Program, Counseling

- Fines were the most common typical first-time penalty (66.7%)
- A combination of the most-common penalties (indicated above) were often issued at the discretion of the local court
Discussion:

A majority of PUP enforcement activities and practices occur at the local level:

- States indicated that a majority of PUP enforcement activity occurs at the local level only - Approximately 90% of respondents indicated that local possession ordinances are enforced in their community

Possession/use laws are more easily and frequently enforced than purchase laws:

- States and local areas indicated that PUP laws are enforced when youth are observed smoking, and that enforcement patterns vary largely by local area

Effectiveness of PUP laws and enforcement activities remains questionable:

- The importance of PUP enforcement efforts as an integral part of state overall tobacco control strategies remains questionable

- The effectiveness of enforcement could vary in response to local enforcement activities and practices
Future Research:

The study of state and local PUP Enforcement is ongoing:

- Future work will continue to assess state enforcement activities and practices in the states with one or more PUP laws.
- State and local enforcement measures will be developed, along with indices to better assess PUP enforcement, at both state and local levels.

Effects of state and local PUP law enforcement on adolescent smoking need further study:

- Future work will assess the separate and combined effects of state and local PUP enforcement on adolescent smoking behavior and attitudes toward smoking.