

*Nevada State Medical Association
Comprehensive Tobacco Strategy For Nevada*



Third Edition-2007

Introduction, Structure and Purpose: Developing a Comprehensive Tobacco Strategy for NSMA

In May 2000, the Nevada State Medical Association (NSMA) published a strategic approach to address Nevada tobacco issues (the *NSMA Comprehensive Tobacco Strategy for Nevada*). In April 2004, the strategy was revised. The document provided guidance to NSMA in developing its Legislative Strategy and priorities as well as regulatory and other commitments. This *NSMA Comprehensive Tobacco Strategy For Nevada-Third Edition* reviews Nevada's tobacco related data, Nevada's tobacco control effort, Nevada's tobacco laws, and NSMA and AMA tobacco related policy positions. The final portion of this strategy document proposes priorities for NSMA and NSMA members regarding tobacco issues. This document will be revised and updated as appropriate by the NSMA Commission on Public Health while the policy priorities will also be incorporated into the development of the NSMA political and policy strategies.

1-Overview

There have been significant positive actions taken in Nevada to address the ongoing adverse consequences resulting from tobacco use among Nevadans. The availability of money from the State's portion of the national "Master Settlement Agreement" (MSA) with the 5 major tobacco companies in 1998. You can find the legal summary at (<http://academic.udayton.edu/health/syllabi/tobacco/summary.htm>) and a pretty good policy summary at (http://tobacco.neu.edu/tobacco_control/resources/msa/index.html). Nevada had previously provided no State general revenues for tobacco related public health programs but MSA funds through the "Fund for A Healthy Nevada" which was created from the annual receipt of Nevada's share of the national money, has funded a number of tobacco control programs. In addition, continuing federal grant funds to the State have been used to enhance the State's public health infrastructure, with successful programs at the State Health Division, the Clark County Health District and the Washoe County District Health Department. Viable and ongoing voluntary coalitions at the State, Clark County, Washoe County, Carson City and Elko County have developed into forceful advocates for policy change and for public and private tobacco control programs. Coalitions targeting the tobacco related problems of youth, women and minorities have also been developed and are producing significant positive results. Even the State Legislature has taken some positive, if modest, steps at improving the State's laws. NSMA has been a leading advocate for all of these efforts.

The NSMA House of Delegates has adopted a number of policy resolutions dealing with tobacco related issues. Only managed care/insurance and medical liability issues have resulted in more policy attention by the NSMA membership. The NSMA Commission on Public Health has been charged with ongoing monitoring of tobacco related issues and NSMA's response to them.

In addition, the Association has been a leader in Nevada tobacco control efforts at many levels, including: the Congressional; State Legislative; judicial; State and local regulatory; and, private sector. NSMA has supported CDC grant applications to the State Health Division and other public agencies and several "SmokeLess States" (a joint project of the Robert Wood Johnson Foundation and the AMA) grant applications. NSMA also participates as a member of the AMA Tobacco Control Coalition, which meets during the AMA House of Delegates' meetings.

NSMA is a founding member of the Nevada Tobacco Prevention Coalition (NTPC can be found at: <http://www.tobaccofreenv.com>), which provides coordination and collaboration among local volunteer coalitions and the various agencies and organizations providing tobacco control. Prior to 1993, Nevada had no Statewide coalition of organizations or individuals to deal exclusively with tobacco related issues until forced by Federal action. In 1993, Governor Bob Miller approved the formation of a Tobacco Task Force by the Nevada Bureau of Alcohol and Drug Abuse (BADA) for the purpose of developing a Nevada response to the impending implementation of a federal law which would have penalized States that did not have effective statutory protections of children from access to tobacco products. This "Synar Amendment" could have resulted in a significant reduction in Federal grants to Nevada's State substance abuse programs. NSMA was invited to participate as a member of the Governor's Tobacco Task Force. Representatives of the tobacco industry in Nevada requested to participate and were invited to do so by the BADA. Subsequent attacks in the press and complaints to the Governor resulted in a restructuring of the task force without tobacco industry representation. The resulting organization was the Nevada Statewide Tobacco Prevention and Control Coalition (NTPCC) in April 1994. This Coalition, with NSMA's support and participation, applied for, and received, grants through the "SmokeLess States Project" and the CDC's Office on Smoking and Health (OSH). While a principal purpose of the NTPCC was to assure that Nevada passed a law (and implementing regulations) which met the requirements of the "Synar Amendment" about youth access to tobacco, there was considerable disagreement about its mission on other issues including: "second-hand tobacco smoke" issues; occupational health risks associated with tobacco; removing the State preemption of local authorities to regulate tobacco related issues; addressing tobacco costs (*i.e.* taxes and fees); encouraging smoking cessation programs; addressing treatment needs for patient with tobacco related illnesses; and, public education regarding tobacco issues. In late 1994, the coalition restructured and became the Nevada Tobacco Prevention Coalition (NTPC). NSMA worked through the NTPC on tobacco issues in the difficult 1995 Legislative Session, when the NTPC's comprehensive tobacco bill (linked to implementation of the Synar requirements) was abandoned by BADA during the Legislative Session, which then supported the tobacco industry's successful alternative bill. Later in 1995, the NTPC restructured again after a series of lengthy organizational meetings and the adoption of a comprehensive strategy. The "SmokeLess States" funding ended in 1997. In September 1996, the NTPC submitted an unsuccessful SmokeLess States Initiative implementation proposal. The NTPC restructured again in early 1998 when the Nevada State Health Division adopted a policy change which would have required the NTPC to be treated as a public agency. This was avoided, but also removed direct State Health Division staff support of the Coalition. The RWJF did fund a comprehensive tobacco strategy support grant for the American Cancer Society to assist the NTPC restructure. In September 1999, the NTPC held a 2-day strategic planning meeting, followed by several others in October and December, 1999. In January 2000, the NTPC was restructured to assure effective coordination of tobacco control activities in the State, including encouragement of the development of Clark County, Washoe County, Carson City and Elko community coalitions. NTPC received funding from the Nevada Task Force for the Fund for a Healthy Nevada to provide statewide coordination and evaluation of Nevada Tobacco Control efforts and to plan an effective tobacco strategy. It has received CDC funds for these efforts and a "Smokeless States" implementation grant to pursue State policy changes. Today, the NTPC and a growing number of local and special population coalitions form the core of grassroots

support for tobacco control in Nevada. NSMA is committed to supporting this organized statewide approach to tobacco policy development.

NSMA has introduced and/or supported State legislation proposed to deal with tobacco issues in every Nevada Legislative Session since 1989. NSMA has supported or opposed Congressional actions affecting tobacco and has responded to various Federal regulatory proposals. NSMA has distributed to Nevada physicians the most current tobacco clinical guidelines, co-sponsored programs on tobacco with continuing medical education credits, and devotes a permanent portion of the NSMA Internet site (<http://www.nsmadocs.org/public.asp#tobacco>) to tobacco issues.

Most legislative efforts to address issues of second-hand smoking and tobacco use were unsuccessful. As a result, NSMA and the NTPC joined with the Southern Nevada Health District and the Washoe County District Health Department to pass by overwhelming numbers ballot advisory questions in 2002. The questions made it clear that Nevadans in the State's two population centers wanted the preemption of local authorities to be lifted so they could regulate tobacco issues and they wanted tobacco smoking prohibited in any areas that non-smokers could legally and reasonably be expected to go. When the Legislature failed to act in 2003, a Statewide Ballot Question was approved for the ballot under the leadership of the NTPC. When the 2005 Legislative Session failed to act, the ballot question was sent to the people. The NSMA, Nevada Academy of Family Physicians, American Cancer Society, American Heart Association, and American Lung Association created "Nevadans for Tobacco Free Kids" to fight for the "Nevada Clean Indoor Air Act" Ballot Question reports that (<http://www.nevadacleanair.com/>). The November 2006 victory of Ballot Question #5 changed Nevada law on tobacco issues fundamentally

While this is an extraordinary commitment by Nevada medicine to a single issue, the reasons for this are not difficult to understand. Tobacco results in the largest number of preventable illnesses and deaths in Nevada. NSMA has committed resources and provided support for many public health and specific disease prevention efforts, but the behaviors and public policy issues associated with tobacco use are in a category alone in its magnitude and complexity.

2-Nevada Tobacco Related Data

Tobacco data about use, illness and variation within the US population have improved considerably during the last decade and now provide an excellent model for behavior related diseases. The profile of Nevada that emerges from these data collections is disturbing and consistent, but also demonstrates recent measurable progress.

The Nevada State Division of Health (which has published the *Nevada Tobacco Profile: Surveillance Summary 2006* available for downloading at <http://health.nv.gov/tobacco/2006profile.pdf>) notes: "Over the past decade, the rate of smoking in Nevada has decreased consistently with less than one fourth of all Nevada residents smoking at present. In the year 2004, Nevada ranked fifteenth highest in the nation (23.2 percent, National Rate 20.9 percent) for the percentage of adults who smoked, down from second highest in 2000 (29.1 percent, National Rate 23.3 percent). Also in 2004, Nevada ranked twelfth highest in the nation (21.7 percent, National Rate 18.5 percent) for the percentage of women who smoked, down from first highest in 2000 (29.5 percent, National Rate 21.2 percent). In the same years, rates for Nevada's neighboring states were substantially lower." (p. iii)

Additional data are available at the following: the federal Centers for Disease Control and Prevention (The CDC web site for “Tobacco Information and Prevention Sources” is: <http://www.cdc.gov/tobacco/search/index.htm>); the National Cancer Institute (<http://cancercontrol.cancer.gov/tcrb/monographs>); the American Cancer Society (<http://www.cancer.org/docroot/home>); the American Lung Association (<http://www.lungusa.org/tobacco>); American Heart Association (<http://www.americanheart.org>); and, the Campaign for Tobacco Free Kids (<http://www.tobaccofreekids.org>).

3-Nevada’s Tobacco Laws

Nevada’s laws and public policies regarding tobacco availability and use include: restrictions on the access to tobacco products by youngsters; limits on environmental tobacco smoke; restrictions on the placement of cigarette vending machines and tobacco packaging; limited licensing of tobacco dealers; and, tobacco use taxes and wholesalers license fees. All national assessments of State laws agreed that Nevada’s laws were weak or problematic in controlling tobacco use, until the passage of the *Nevada Clean Indoor Air Act*. In February 2007, the *American Lung Association* released its annual report card on State tobacco control laws (<http://lungaction.org/reports/tobacco-control06.html>). For the 1st time Nevada got an “A” on tobacco laws for “smoke free air”.

Most tobacco related provisions are found in Chapter 202 of the NRS, "Crimes Against Public Health and Safety." Unlike the earlier provisions, these recognize personal health risks due to the use of tobacco products. The Nevada statutory restrictions on tobacco sales and use are found in NRS 202 (“Crimes Against Public Health”). In addition to crimes related to tobacco, this Chapter of NRS defines crimes related to “Alcoholic Beverages”, “Miscellaneous Crimes Concerning Public Health” (including “ Willfully poisoning or adulterating food, water or medicine”, “Deposit of unwholesome substance; carrying on business detrimental to public health on or near route of public travel; deposit of dead body of animal; burning stolen metallic wire”; “Unlawful deposit of dead animal, dirt, garbage or rubbish on public highway; penalty”; “Advertising goods and services to produce miscarriage”; “Advertising treatment, cure or prevention of sexual disorders”; “Shoe-fitting device or machine using X-ray or radiation”; “Dispensing of prescription glasses by unauthorized person”; ”Use or sale of liquid silicone”; “Dangerous Weapons and Firearms”, “Tear Gas Bombs And Weapons”; “Biological Weapons” ; “Public Nuisances”; “Miscellaneous Crimes Concerning Public Safety”(including “Dangerous or vicious dogs”, “Doors of public buildings to swing outward”, “Reckless riding or driving of horses on public highways”, “Dangerous exhibitions”, “Placing of lethal bait on public domain”, “Removal of doors from discarded refrigerators, iceboxes and deep-freeze lockers”, “Removal, damage or destruction of signal or apparatus for police or fire alarm; impairing effectiveness of or installing inoperable system for fire protection”, “Performance of act or neglect of duty in willful or wanton disregard of safety of persons or property”); and, “Explosives; Bomb Threats”. This statutory placement is important in that it requires most substantive tobacco legislation to be discussed before the Legislature’s Judiciary Committees, with their necessary emphasis being on law enforcement and the civil/criminal justice system.

Since it has been dramatically changed by the people of Nevada when they adopted the Nevada Clean Indoor Air Act, here is the complete revised law as it appears in the statutes.

NRS 202.2483 Smoking tobacco: Prohibited in certain areas; voluntary creation of

nonsmoking areas; local regulation; posting signs; removal of paraphernalia; enforcement; retaliation prohibited. [Effective December 8, 2006. This section was proposed by an initiative petition and approved by the voters at the 2006 General Election and therefore is not subject to legislative amendment or repeal until after December 8, 2009.]

1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:

- (a) Child care facilities;
- (b) Movie theatres;
- (c) Video arcades;
- (d) Government buildings and public places;
- (e) Malls and retail establishments;
- (f) All areas of grocery stores; and
- (g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to [NRS 463.350](#);

(b) Stand-alone bars, taverns and saloons;

(c) Strip clubs or brothels;

(d) Retail tobacco stores; and

(e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility.

4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section.

6. “No Smoking” signs or the international “No Smoking” symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to [NRS 202.2492](#) and [NRS 202.24925](#).

8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

9. For the purposes of this section, the following terms have the following definitions:

(a) “Casino” means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in [NRS 463.0177](#) and typically uses the word ‘casino’ as part of its proper name.

(b) “Child care facility” has the meaning ascribed to it in [NRS 432A.024](#).

(c) “Completely enclosed area” means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

(d) “Government building” means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System;

(2) The State of Nevada and used for any public purpose; or

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(e) “Health authority” has the meaning ascribed to it in [NRS 202.2485](#).

(f) “Incidental food service or sales” means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of [NRS 446.870](#).

(g) “Place of employment” means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(h) “Public places” means any enclosed areas to which the public is invited or in which the public is permitted.

(i) “Restaurant” means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(j) “Retail tobacco store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(k) “School building” means all buildings on the grounds of any public school described in [NRS 388.020](#) and any private school as defined in [NRS 394.103](#).

(l) “School property” means the grounds of any public school described in [NRS 388.020](#) and any private school as defined in [NRS 394.103](#).

(m) “Stand-alone bar, tavern or saloon” means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either:

(1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

(n) “Video arcade” has the meaning ascribed to it in paragraph (d) of subsection 3 of [NRS 453.3345](#).

10. Any statute or regulation inconsistent with this section is null and void.

11. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

(Added to NRS by 2006 initiative petition, Ballot Question No. 5, effective December 8, 2006)

Provisions Enacted Before Nevada Clean Indoor Air Act

NRS 202.2485 Definitions. As used in [NRS 202.2485](#) to [202.2497](#), inclusive:

1. “Distribute” includes furnishing, giving away or providing products made from tobacco or samples thereof at no cost to promote the product, whether or not in combination with a sale.

2. “Health authority” means the district health officer in a district, or his designee, or, if none, the State Health Officer, or his designee.

(Added to NRS by 1993, 2843; A 1995, 2603; [2001, 2788](#))

NRS 202.249 Smoking tobacco: Declaration of public policy; enforcement; imposition of more stringent restrictions.

1. It is the public policy of the State of Nevada and the purpose of [NRS 202.2491](#), [202.24915](#) and [202.2492](#) to place restrictions on the smoking of tobacco in public places to protect human health and safety.

2. The quality of air is declared to be affected with the public interest and [NRS 202.2491](#), [202.24915](#) and [202.2492](#) are enacted in the exercise of the police power of this state to protect the health, peace, safety and general welfare of its people.

3. Health authorities, police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of [NRS 202.2491](#), [202.24915](#) and [202.2492](#). Police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of [NRS 202.2493](#), [202.24935](#) and [202.2494](#).

4. Except as otherwise provided in subsection 5, an agency, board, commission or political subdivision of this state, including, without limitation, any agency, board, commission or governing body of a local government, shall not impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco or products made from tobacco than are provided by [NRS 202.2491](#), [202.24915](#), [202.2492](#), [202.2493](#), [202.24935](#) and [202.2494](#).

5. A school district may, with respect to the property, buildings, facilities and vehicles of the school district, impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco or products made from tobacco than are provided by [NRS 202.2491](#), [202.24915](#), [202.2492](#), [202.2493](#), [202.24935](#) and [202.2494](#).

(Added to NRS by 1975, 462; A 1991, 644; 1993, 2843; 1995, 2603; [1999, 1692](#); [2001, 2788](#); [2003, 1007](#))

NRS 202.2491 Smoking tobacco: Unlawful in certain public places; posting

signs; designation of areas for smoking.

1. Except as otherwise provided in subsections 5 and 6 and [NRS 202.24915](#), the smoking of tobacco in any form is prohibited if done in any:

(a) Public elevator.

(b) Public building.

(c) Public waiting room, lobby or hallway of any:

(1) Medical facility or facility for the dependent as defined in chapter [449](#) of NRS; or

(2) Office of any chiropractor, dentist, physical therapist, physician, podiatric physician, psychologist, optician, optometrist or doctor of Oriental medicine.

(d) Hotel or motel when so designated by the operator thereof.

(e) Public area of a store principally devoted to the sale of food for human consumption off the premises.

(f) Child care facility.

(g) Bus used by the general public, other than a chartered bus, or in any maintenance facility or office associated with a bus system operated by any regional transportation commission.

(h) School bus.

(i) Video arcade.

2. The person in control of an area listed in paragraph (c), (d), (e) or (g) of subsection 1:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) May designate separate rooms or portions of the area which may be used for smoking, except for a room or portion of the area of a store described in paragraph (e) of subsection 1 if the room or portion of the area:

(1) Is leased to or operated by a person licensed pursuant to [NRS 463.160](#); and

(2) Does not otherwise qualify for an exemption set forth in [NRS 202.24915](#).

3. The person in control of a public building:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) Shall, except as otherwise provided in this subsection, designate a separate area which may be used for smoking.

È A school district which prohibits the use of tobacco by pupils need not designate an area which may be used by the pupils to smoke.

4. The operator of a restaurant with a seating capacity of 50 or more shall maintain a flexible nonsmoking area within the restaurant and offer each patron the opportunity to be seated in a smoking or nonsmoking area.

5. A business which derives more than 50 percent of its gross receipts from the sale of alcoholic beverages or 50 percent of its gross receipts from gaming operations may be designated as a smoking area in its entirety by the operator of the business.

6. The smoking of tobacco is not prohibited in:

(a) Any room or area designated for smoking pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3.

(b) A licensed gaming establishment. A licensed gaming establishment may designate separate rooms or areas within the establishment which may or may not be used for

smoking.

7. As used in this section:

(a) "Child care facility" means an establishment operated and maintained to furnish care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children. The term does not include the home of a natural person who provides child care.

(b) "Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

(c) "Public building" means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System.

(2) The State of Nevada and used for any public purpose, other than that used by the Department of Corrections to house or provide other services to offenders.

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

Ê If only part of a building is owned or occupied by an entity described in this paragraph, the term means only that portion of the building which is so owned or occupied.

(d) "School bus" has the meaning ascribed to it in NRS 483.160.

(e) "Video arcade" means a facility legally accessible to persons under 18 years of age which is intended primarily for the use of pinball and video machines for amusement and which contains a minimum of 10 such machines.

(Added to NRS by 1975, 462; A 1977, 649, 958; 1985, 1755; 1987, 428; 1989, 870, 1626; 1991, 591, 644, 1132, 1695; 1993, 363, 2227; 1999, 1692; 2001, 1108; 2001 Special Session, 230; 2003, 289; 2005, 462)

NRS 202.24915 Smoking tobacco: Allowed under certain circumstances in certain stores that are principally devoted to sale of food for human consumption off premises.

1. A store that is principally devoted to the sale of food for human consumption off the premises may allow the smoking of tobacco in a public area of the store that is leased to or operated by a person who is licensed pursuant to NRS 463.160 if:

(a) The entire interior public area of the store is 10,000 square feet or less; or

(b) The area:

(1) Is segregated from the other public areas of the store by two or more walls or partial walls, or any combination thereof, in a configuration that includes at least one corner; and

(2) Contains a method of ventilation which substantially removes smoke from the area.

2. Except as otherwise provided in subsection 3, until January 1, 2007, a store that is principally devoted to the sale of food for human consumption off the premises may allow the smoking of tobacco in a public area of the store that is leased to or operated by a person who is licensed pursuant to NRS 463.160 if the store was constructed before October 1, 1999, or received final approval for construction before October 1, 1999. On or after January 1, 2007, such a store may allow smoking in that public area only if the area contains a method of ventilation which substantially removes smoke from the area.

3. If at any time before January 1, 2007, a store described in subsection 2 remodels 25 percent or more of the square footage of the entire public area within the store, the

store may continue to allow the smoking of tobacco in a public area of the store that is leased to or operated by a person who is licensed pursuant to [NRS 463.160](#) only if the store includes as part of the remodeling a method of ventilation which substantially removes smoke from the area.

4. For the purposes of this section, “partial wall” or “wall” may include, without limitation, one or more gaming devices, as defined in [NRS 463.0155](#), if the gaming devices are configured together or in conjunction with other structures to create a barrier that is similar to a partial wall or wall.

(Added to NRS by [1999, 1691](#); A [2003, 1007](#))

NRS 202.2492 Smoking tobacco: Penalty; issuance of citations.

1. A person who violates [NRS 202.2491](#) or [202.24915](#) is guilty of a misdemeanor.

2. In each health district, the district health officer shall, and, for areas of this state which are not within a health district, the State Health Officer shall, designate one or more of his employees to prepare, sign and serve written citations on persons accused of violating [NRS 202.2491](#) or [202.24915](#). Such an employee:

(a) May exercise the authority to prepare, sign and serve those citations only within the geographical jurisdiction of the district or State Health Officer by which he is employed; and

(b) Shall comply with the provisions of [NRS 171.1773](#).

(Added to NRS by 1975, 463; A 1985, 250; 1993, 2844; [1999, 1694](#))

NRS 202.24925 Smoking tobacco: Civil penalty; Account for Health Education for Minors created; administration of Account.

1. In addition to any criminal penalty, a person who violates [NRS 202.2491](#) or [202.24915](#) is liable for a civil penalty of \$100 for each violation.

2. A health authority within whose jurisdiction a violation of [NRS 202.2491](#) or [202.24915](#) is committed shall:

(a) Collect the civil penalty, and may commence a civil proceeding for that purpose; and

(b) Deposit any money he collects pursuant to this section with the State Treasurer for credit to the Account for Health Education for Minors, which is hereby created in the State General Fund.

3. The Superintendent of Public Instruction:

(a) Shall administer the Account for Health Education for Minors; and

(b) May, with the advice of the State Health Officer, expend money in the Account only for programs of education for minors regarding human health.

4. The interest and income earned on the money in the Account for Health Education for Minors, after deducting any applicable charges, must be credited to the Account.

5. All claims against the Account for Health Education for Minors must be paid as other claims against the State are paid.

(Added to NRS by 1993, 2843; A [1999, 1694](#))

NRS 202.2493 Cigarettes and smokeless products made from tobacco to be sold in unopened package only; sale and distribution of cigarettes and other tobacco products to minor prohibited; penalties.

1. A person shall not sell, distribute or offer to sell cigarettes or smokeless products

made from tobacco in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. A person who violates this subsection shall be punished by a fine of \$100 and a civil penalty of \$100.

2. Except as otherwise provided in subsections 3, 4 and 5, it is unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description or products made from tobacco to any child under the age of 18 years. A person who violates this subsection shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500.

3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before he sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description or products made from tobacco, he:

(a) Demands that the person present a valid driver's license or other written or documentary evidence which shows that the person is 18 years of age or older;

(b) Is presented a valid driver's license or other written or documentary evidence which shows that the person is 18 years of age or older; and

(c) Reasonably relies upon the driver's license or written or documentary evidence presented by the person.

4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport tobacco or products made from tobacco in the course of the child's lawful employment, provide tobacco or products made from tobacco to the child.

5. With respect to any sale made by his employee, the owner of a retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if he:

(a) Had no actual knowledge of the sale; and

(b) Establishes and carries out a continuing program of training for his employees which is reasonably designed to prevent violations of subsection 2.

6. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and [NRS 202.2494](#).

[1911 C&P § 237; RL § 6502; NCL § 10184] + [1911 C&P § 238; RL § 6503; NCL § 10185] + [1:271:1949; 1943 NCL § 1046.01]—(NRS A 1959, 675; 1961, 379, 625; 1967, 482; 1989, 1955; 1995, 2604)

NRS 202.24935 Sale and distribution of cigarettes and other tobacco products to minor through use of Internet prohibited; penalties; policy to prevent minor from obtaining tobacco products through use of Internet.

1. It is unlawful for a person to knowingly sell or distribute cigarettes, cigarette paper, tobacco of any description or products made from tobacco to a child under the age of 18 years through the use of the Internet.

2. A person who violates the provisions of subsection 1 shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500. Any money recovered pursuant to this section as a civil penalty must be deposited in the same manner as money is deposited pursuant to subsection 6 of [NRS 202.2493](#).

3. Every person who sells or distributes cigarettes, cigarette paper, tobacco of any description or products made from tobacco through the use of the Internet shall adopt a policy to prevent a child under the age of 18 years from obtaining cigarettes, cigarette paper, tobacco of any description or products made from tobacco from the person through

the use of the Internet. The policy must include, without limitation, a method for ensuring that the person who delivers such items obtains the signature of a person who is over the age of 18 years when delivering the items, that the packaging or wrapping of the items when they are shipped is clearly marked with the word “cigarettes” or the words “tobacco products,” and that the person complies with the provisions of 15 U.S.C. § 376. A person who fails to adopt a policy pursuant to this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

(Added to NRS by [2001, 2787](#))

NRS 202.2494 Cigarette vending machines lawful in certain public areas; restrictions on coin-operated machines.

1. A cigarette vending machine may be placed in a public area only if persons who are under 21 years of age are prohibited from loitering in that area pursuant to [NRS 202.030](#) or [463.350](#).

2. A coin-operated vending machine containing cigarettes must not be used to dispense any product not made from tobacco.

(Added to NRS by 1993, 2843; A 1995, 2605; [2003, 1203](#))

NRS 202.2496 Random inspections to enforce compliance with NRS 202.2493 and 202.2494; assistance of child in conducting inspection.

1. As necessary to comply with applicable federal law, the Attorney General shall conduct random, unannounced inspections at locations where tobacco and products made from tobacco are sold, distributed or offered for sale to inspect for and enforce compliance with [NRS 202.2493](#) and [202.2494](#). For assistance in conducting any such inspection, the Attorney General may contract with:

(a) Any sheriff’s department;

(b) Any police department; or

(c) Any other person who will, in the opinion of the Attorney General, perform the inspection in a fair and impartial manner.

2. If the inspector desires to enlist the assistance of a child under the age of 18 for such an inspection, the inspector shall obtain the written consent of the child’s parent for such assistance.

3. A child assisting in an inspection pursuant to this section shall, if questioned about his age, state his true age and that he is under 18 years of age.

4. If a child is assisting in an inspection pursuant to this section, the person supervising the inspection shall:

(a) Refrain from altering or attempting to alter the child’s appearance to make him appear to be 18 years of age or older.

(b) Photograph the child immediately before the inspection is to occur and retain any photographs taken of the child pursuant to this paragraph.

5. The person supervising an inspection using the assistance of a child shall, within a reasonable time after the inspection is completed:

(a) Inform a representative of the business establishment from which the child attempted to purchase tobacco or products made from tobacco that an inspection has been performed and the results of that inspection.

(b) Prepare a report regarding the inspection. The report must include the following information:

- (1) The name of the person who supervised the inspection and the position held by him;
- (2) The age and date of birth of the child who assisted in the inspection;
- (3) The name and position of the person from whom the child attempted to purchase tobacco or products made from tobacco;
- (4) The name and address of the establishment at which the child attempted to purchase tobacco or products made from tobacco;
- (5) The date and time of the inspection; and
- (6) The result of the inspection, including whether the inspection resulted in the sale, distribution or offering for sale of tobacco or products made from tobacco to the child.

6. No civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 may be brought as a result of an inspection for compliance in which the assistance of a child has been enlisted unless the inspection has been conducted in accordance with the provisions of this section.

(Added to NRS by 1995, 2602)

NRS 202.2497 Attorney General to compile results of inspections. The Attorney General shall compile the results of inspections performed pursuant to NRS 202.2496 during the immediately preceding fiscal year as is necessary to prepare and submit a report pursuant to 42 U.S.C. § 300x-26(b)(2)(B).

(Added to NRS by 1995, 2603)

Implementing Nevada Law

In November 2006, Nevadans overwhelmingly voted for the seminal *Nevada Clean Indoor Air Act*. It's probably a good time to update everyone on the law, which has withstood continuous legal challenges, but is being implemented. The *Nevada State Health Division* has a number of resources on-line (<http://health2k.state.nv.us/tobacco/index.htm>), including: a copy of the law; a letter from State Health Officer Bradford Lee, MD; guides for Child Care Facilities, Employers, & Restaurants & Bars; a Guide to Smoking Cessation Services; & info about signage requirements. The *Southern Nevada Health District* also has great on-line services (http://www.southernnevadahealthdistrict.org/disease_factsheets/nv_clean_indoor_air.htm). It includes a letter discussing the law & its implementation by the former *Chief Health Officer (& NSMA Commission on Public Health Co-Chair) Donald S. Kwalick, MD, MPH* (http://www.southernnevadahealthdistrict.org/download/disease_factsheets/clean_air_act_cholett_er.pdf); guides for affected groups; & complaint forms. The Washoe County District Health Department also has a comprehensive web site on the subject (<http://www.co.washoe.nv.us/health/cchs/smokingban.html?PHPSESSID=baf41a5dcc717a45ca4c5e822b14eca6>) with educational materials & complaint info. Most Nevada businesses are complying with the new law & the nation is taking note. Make use of the cited resources to help your patients & their families make the transition to a healthier Nevada.

A major, and little commented on, feature of the new law is that it lifted the previous onerous restrictions on local authorities. While the Nevada Constitution protects the state law from being changed by the Legislature for at least 3 years, the removal of the “pre-emption” of local authorities means that local ordinances and policies that are more restrictive than State law can be adopted at any time. According to the American Lung Association, only 7 States have “super-

preemption”. (American Lung Association, *State Legislated Actions on Tobacco Issues*, 2003. The ALA also has a searchable database with comprehensive information on state tobacco control legislation, including preemption: <http://slati.lungusa.org/default.asp>). Now, there are only 6 States that pre-empt local authorities from adopting rules regarding tobacco use and sales. This is compared in slightly different form by the American Nonsmokers’ Rights Foundation which publishes lists of local tobacco control ordinances and regulations (The Local Tobacco Control Ordinance Database© at <http://www.no-smoke.org/lists.html>.) An excellent analysis of the “Preemption” issue has been done by the AMA and published by the SmokeLess States program (*Preemption: Taking the Local Out of Tobacco Control-Why Big Tobacco Hates Local Control; What It Will Do To Eliminate It; How Advocates Can Fight Back* can be downloaded at: <http://www.ama-assn.org/ama/pub/category/3229.html>). While Nevada’s “super-preemption” was rare, every State has been the scene of legislative (or judicial) attempts to limit local authorities from adopting restrictive tobacco control rules. “Preemption is the tobacco industry’s top legislative goal, because it concentrates authority at the state (or federal) level, where the industry is stronger and can more readily protect its interests. Over the past 20 years the industry has passed some form of preemption in 32 states, gutting dozens of local tobacco control laws and preventing hundreds more from passing.” (p. 2)

Minors & Tobacco

With this ambivalent basic approach to public use of tobacco products, it isn’t surprising that Nevada statutes are inconsistent regarding the access to tobacco products by minors. **NRS 202.2493 (“Cigarettes and smokeless products made from tobacco to be sold in unopened package only; sale and distribution of cigarettes and other tobacco products to minor prohibited; penalties.”)** makes it “unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description or products made from tobacco to any child under the age of 18 years. A person who violates this subsection shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500.” The statute deems compliance on the part of the retail dealers if they demonstrate an effort to determine the minor’s age and have trained their personnel: “3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before he sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description or products made from tobacco, he: (a) Demands that the person present a valid driver’s license or other written or documentary evidence which shows that the person is 18 years of age or older; (b) Is presented a valid driver’s license or other written or documentary evidence which shows that the person is 18 years of age or older; and (c) Reasonably relies upon the driver’s license or written or documentary evidence presented by the person. 4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport tobacco or products made from tobacco in the course of the child’s lawful employment, provide tobacco or products made from tobacco to the child. 5.

With respect to any sale made by his employee, the owner of a retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if he: (a) Had no actual knowledge of the sale; and (b) Establishes and carries out a continuing program of training for his employees which is reasonably designed to prevent violations of subsection 2.”

“A person who violates this subsection shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500.” Any money collected goes into an “Account for Health Education for Minors” used for programs of education for minors regarding human health to be developed by the Superintendent of Public Instruction (with the advice of the State health

Officer) and not for enforcement of this law. Legislation is under consideration in Nevada to make youth possession illegal. NSMA and the NTPC have withdrawn previously objections.

The passage of Federal regulations regarding youth access to tobacco required an expansion of enforcement authority. **NRS 202.2496 (“Random inspections to enforce compliance with NRS 202.2493 (i.e. Sales and distribution to youths) and 202.2494 (i.e. vending machine placement); assistance of child in conducting inspection”)** permits enforcement “as necessary to comply with applicable federal law” and places it in the Attorney General’s office. The AG: “shall conduct random, unannounced inspections at locations where tobacco and products made from tobacco are sold, distributed or offered for sale to inspect for and enforce compliance with NRS 202.2493 (i.e. Sales and distribution to youths) and 202.2494 (i.e. vending machine placement). For assistance in conducting any such inspection, the attorney general may contract with: (a) Any sheriff’s department; (b) Any police department; or (c) Any other person who will, in the opinion of the attorney general, perform the inspection in a fair and impartial manner. 2. If the inspector desires to enlist the assistance of a child under the age of 18 for such an inspection, the inspector shall obtain the written consent of the child’s parent for such assistance. 3. A child assisting in an inspection pursuant to this section shall, if questioned about his age, state his true age and that he is under 18 years of age. 4. If a child is assisting in an inspection pursuant to this section, the person supervising the inspection shall: (a) Refrain from altering or attempting to alter the child’s appearance to make him appear to be 18 years of age or older. (b) Photograph the child immediately before the inspection is to occur and retain any photographs taken of the child pursuant to this paragraph. 5. The person supervising an inspection using the assistance of a child shall, within a reasonable time after the inspection is completed: (a) Inform a representative of the business establishment from which the child attempted to purchase tobacco or products made from tobacco that an inspection has been performed and the results of that inspection. (b) Prepare a report regarding the inspection. The report must include the following information: (1) The name of the person who supervised the inspection and the position held by him; (2) The age and date of birth of the child who assisted in the inspection; (3) The name and position of the person from whom the child attempted to purchase tobacco or products made from tobacco; (4) The name and address of the establishment at which the child attempted to purchase tobacco or products made from tobacco; (5) The date and time of the inspection; and (6) The result of the inspection, including whether the inspection resulted in the sale, distribution or offering for sale of tobacco or products made from tobacco to the child. 6. No civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 may be brought as a result of an inspection for compliance in which the assistance of a child has been enlisted unless the inspection has been conducted in accordance with the provisions of this section.” The AG is also required to prepare and submit a report at the beginning of each fiscal year on the inspections done in the previous year. The US Supreme Court has stricken this authority from the FDA. A limited state program has been continued by the Attorney General’s office.

Single Cigarette Sales

Some tobacco retailers have been found selling single cigarettes (usually referred to as “loosies”) to youngsters. A limited prohibition on this practice is found in **NRS 202.2493 (“Cigarettes and smokeless products made from tobacco to be sold in unopened package only; sale and distribution of cigarettes and other products made from tobacco to minor prohibited; penalties”)** which prohibits the sale of “cigarettes or smokeless products made from tobacco in any form other than in an unopened package which originated with the manufacturer

and bears any health warning required by federal law.” Violations result in a \$100 fine and a civil penalty of \$100.

NRS 370.315 (“Sale of cigarettes in various packages”) addresses the issue specifically, but allows an exemption requested by the Philip Morris Company, for tobacco companies, which might wish to package cigarettes in smaller numbers. It requires: “A manufacturer of cigarettes who wishes to sell cigarettes in packages that contain other than 20 cigarettes must so notify the department not less than 90 days before he may sell those packages of cigarettes in this state.”

Cigarette Vending Machines

NRS 202.2494 (“Cigarette vending machines unlawful in certain public areas; restrictions on coin-operated machines”) was changed in 2003 by SB315 to clarify that coin-operated vending machines, which contain cigarettes are prohibited from dispensing any other products “may be placed in a public area only if persons who are under 21 years of age are prohibited from loitering in that area.”

Tobacco Taxes and Licenses

NRS 370 (“Tobacco: Licenses and Taxes”) is the basic law on taxing tobacco products. The Department of Taxation is the agency with the responsibility to adopt regulations and implement the law.

The tax law’s intended target is not the tobacco industry as made clear in NRS 370.077 (“Cigarette taxes are direct taxes upon consumer”) which states: “All taxes paid under the provisions of this chapter are direct taxes upon the consumer (defined in NRS 370.020 as: “means any person who comes into possession of cigarettes in this state as a final user for any purpose other than offering them for sale as a wholesale or retail dealer”) and are pre-collected for convenience only. Taxes paid by persons other than the consumer are advances, and shall be added to the selling price of the cigarettes.”

The Nevada excise tax on “the purchase or possession of cigarettes by a consumer in the State of Nevada” is set by **NRS 370.165 (“Levy, rate and collection of tax”)** and was revised in the 20th Special legislative Session by SB8: “at the rate of 40 mills per cigarette (*i.e.* \$.80 per pack)”. “The tax may be represented and pre-collected by the affixing of a revenue stamp or other approved evidence of payment to each package, packet or container in which cigarettes are sold. The tax must be pre-collected by the wholesale or retail dealer, and must be recovered from the consumer by adding the amount of the tax to the selling price. Each person who sells cigarettes at retail shall prominently display on his premises a notice that the tax is included in the selling price and is payable under the provisions of this chapter.” There is also a tax on other tobacco products in the amount of 30% of the manufacturer’s invoice price.

NRS 370.080 requires a license from the Department of Taxation for anyone to be “a wholesale or retail cigarette dealer”. NRS 370.440 to 370.503, requires licenses for non-cigarette tobacco products. NRS 370.100 sets the application requirements for a cigarette dealer’s license. The Department must charge \$150 for each wholesale dealer’s license but significantly, **NRS 370.150 (“License fees”)** prohibits the Department of Taxation from charging a license fee for a retail cigarette dealer’s license. NRS 370.110 permits a wholesale cigarette dealer’s license to be issued without payment of fees “to any applicant who is authorized to do business on an Indian reservation or Indian colony or upon a military or other federal reservation.” The licensed wholesalers are permitted to sell to other wholesalers, retail dealers or cigarette vending machine operators and **NRS 370.140 (“Privileges of license;**

prohibited purchases”) provides that “2. No retailer, retail cigarette dealer or cigarette vending machine operator shall purchase any cigarettes from other than a Nevada licensed wholesale cigarette dealer.” **NRS 370.160 (“Counties, cities and towns may require business licenses”)** permits “any county, city or town in the State of Nevada from requiring licenses before a person engages in business as a wholesale dealer or retail dealer in cigarettes.”

NRS 370.270 (“Duties of retail dealers and vending machine operators; unlawful possession of unstamped cigarettes; seizure, stamping and sale of unstamped cigarettes to licensed wholesalers; seizure and sale of vending machines”) defines the duties of retail dealers and vending machine operators: “1. Every retail dealer making a sale to a customer shall, at the time of sale, see that each package, packet or container has the Nevada cigarette revenue stamp or metered stamping machine indicia properly affixed. 2. Every cigarette vending machine operator placing cigarettes in his coin-operated cigarette vending machines for sale to the ultimate consumers shall at the time of placing them in his machine see that each package, packet or container has the Nevada cigarette revenue stamp or metered stamping machine indicia properly affixed. 3. No unstamped packages, packets or containers of cigarettes may lawfully be accepted or held in the possession of any person, except as authorized by law or regulation. For the purposes of this subsection, “held in possession” means: (a) In the actual possession of the person; or (b) In the constructive possession of the person when cigarettes are being transported or held for him or for his designee by another person. Constructive possession is deemed to occur at the location of the cigarettes being transported or held. 4. Any cigarettes found in the possession of any person except a person authorized by law or regulation to possess them, which do not bear indicia of Nevada excise tax stamping, must be seized by the department or any of its agents, and caused to be stamped by a licensed cigarette dealer, or confiscated and sold by the department or its agents to the highest bidder among the licensed wholesale dealers in this state after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the department’s records. If there is no bidder, or in the opinion of the department the quantity of the cigarettes is insufficient, or for any other reason such disposition would be impractical, the cigarettes must be destroyed or disposed of as the department may see fit. The proceeds of all sales must be classed as revenues ... 5. Any cigarette vending machine in which unstamped cigarettes are found may be so seized and sold to the highest bidder.”

NRS 370.515 prohibits the State from taxing tobacco sales on products sold on an Indian reservation or colony.

NRS 370.390 “Violation of NRS 370.080 to 370.310, inclusive”) makes it a gross misdemeanor to violate these sections. **NRS 370.400 (“Violation of NRS 370.350 or 370.360”)** makes it a misdemeanor to fail to make any of the required reports. **NRS 370.410 (“Exporting, importing or possessing contraband cigarettes”)** makes it a gross misdemeanor to export, import or possess contraband cigarettes. **NRS 370.430 (“Exportation of unstamped cigarettes to unauthorized persons”)** makes it a gross misdemeanor to export unstamped cigarettes.

Nevada’s Tobacco Excise Tax Increases

A significant increase to Nevada's cigarette excise tax was adopted in SB8, during the 20th Special Session of the Legislature. This revenue bill increased tobacco excise taxes by the equivalent of \$.45 per pack of cigarettes. The rate of \$.80 per pack has improved Nevada’s ranking from 40th to 20th among the States. (Nevada Tobacco Prevention Coalition and American Medical Association, *Tobacco Tax Challenge: Update Report Summer 2003*, p. 3. This

document can be downloaded at: <http://www.ama-assn.org/ama/pub/category/3229.html>.) The excise tax rate on smokeless chewing tobacco and snuff is 30% of the wholesale price. Statutes that define the tax on tobacco in Nevada can be found in Chapter 370 of NRS. Licenses and taxes on cigarettes are dealt with in NRS 370.080 through 370.345. *Nevada Revised Statutes* 370.440 through 370.503 relate to other products made from tobacco, such as smokeless chewing tobacco.

Nevada's actions regarding tobacco taxes are part of a national phenomenon. Tobacco taxes provide significant revenues but also produce a measurable result on the number of tobacco users. "Since January 1, 2002, 30 states, Puerto Rico and Washington, D.C. have increased their cigarette taxes thereby increasing state revenues, reducing smoking levels, and shrinking smoking-caused costs. But 20 other states have failed to take this action, and a total of 30 states have cigarette tax rates below the nationwide average of 72 cents per pack- with nine states having rates of 20 cents or less per pack. Given ongoing state budget difficulties, the significant toll of tobacco use in each state and the enormous public and private benefits from raising state cigarette taxes, those states with below average rates have much to gain from raising them to the national average." (*Ibid.* p. 1)

While the motivation for passing higher tobacco excise taxes is really limited to revenue needs, "Increasing state cigarette taxes is one of the most effective ways to reduce youth smoking. In fact, studies show that for every 10% increase in the price of a package of cigarettes, youth smoking rates decline by 7%." (*Ibid.* p. 2) The Nevada Tobacco Prevention Coalition has produced an excellent analysis of the public health argument for Nevada's tax increase in *Increasing The Tobacco Excise Tax: A Win, Win, Win For Nevada* (Presentation to the Governor's Task Force on Tax Policy, July 2002. A Power Point presentation can be downloaded at: <http://www.tobaccofreenv.com>).

A national perspective on increasing State tobacco taxes was developed by the American Cancer Society, the American Heart Association, the American Lung Association, the American Medical Association, the Campaign for Tobacco-Free Kids, the Praxis Project and the Smokeless States Project in *Strategic Thinking on State Tobacco Tax Increases* (AMA, 2003. This document can be downloaded at: <http://www.ama-assn.org/ama/pub/category/3229.html>). As important as raising tobacco related taxes are for effective tobacco control initiatives, this strategic report warns: "Raising tobacco taxes, then, is not in itself a goal. Instead, it is a strategy to achieve important health goals. More specifically, the strategy has two parts: 1) bringing about a significant increase in tobacco taxes; and 2) dedicating a portion of tax revenue to comprehensive tobacco control programming and to health." (p. 3)

4-Nevada Tobacco Prevention and Education Program Strategic Plan

In 2002, the Centers for Disease Control and Prevention and the Nevada State Health Division of Health convened a statewide strategic planning meeting to produce a comprehensive state plan for dealing with tobacco issues. NSMA participated in the plan development. The *Nevada Tobacco Prevention and Education Program Five-Year Strategic Plan* is available for downloading at: <http://health2k.state.nv.us/tobacco>.

The plan has the following four goals: Goal 1: Prevent Initiation of Tobacco Use Among Young People; Goal 2: Promote Quitting Among Young People and Adults; Goal 3: Eliminate Nonsmokers Exposure to Environmental Tobacco Use; and, Goal 4: Identify and Eliminate Disparities Related to Tobacco Use and Its Effects Among Different Population Groups. The

plan details activities by all major actors that could fulfill these goals.

5-NSMA's Legislative Priorities on Tobacco Control

The NSMA Commissions on Public Health and Governmental Affairs have recommended the following 2007 legislative priorities to address the tobacco related issues discussed in this document and designated them as the highest priority. The legislative priorities are based on the analysis presented in this document and the NSMA and AMA House of Delegates policies, which have been adopted over the years.

2006-2007 Nevada State Medical Association Legislative Strategic Plan (p.54)

12. Policy Goal 2007.12: NSMA supports strong and effective public health measures and shall continue to lead Nevada policy development on major public health issues.

- a. **Objective 1:** NSMA supports legislation and educational efforts to reduce the adverse health consequences of tobacco use in Nevada, consistent with the comprehensive NSMA tobacco strategy developed and revised by the NSMA Commission on Public Health.
 1. **Action 1:** NSMA supports the “Nevada Clean Indoor Air Act” ballot initiative, which would prohibit second-hand smoke in public buildings and public areas and to remove the pre-emption of local authorities on tobacco control.
 2. **Action 2:** NSMA will coordinate specific legislative initiatives and actions regarding tobacco control with the Nevada Tobacco Prevention Coalition and its member organizations.
 3. **Action 3:** NSMA will monitor and participate in the deliberations of the Task Force for the Fund for a Healthy Nevada with the purpose of encouraging a maximum commitment of Nevada's share of the National Tobacco Settlement funds to effective tobacco control programs in Nevada.

6- Updates and Resources

If you seek regular updates in tobacco use prevention and control there are several on-line resources that are extremely useful:

- www.tobacco.org is a daily compendium of news from around the world, including reports from the medical literature.
- www.cdc.gov/tobacco is the Centers for Disease Control and Prevention Office on Smoking and Health site.
- www.no-smoke.org is the home page for Americans for Nonsmokers Rights.
- <http://www.tobaccofreenv.com> is the home page of the Nevada Tobacco Prevention Coalition.