

Analysis of Proposed Changes to Larimer County Policies Regarding Tobacco Product Distribution and Promotion on County Property

Prepared for the Health District of Northern Larimer County Board of Directors

Issue Summary: The Larimer County Board of Health adopted a resolution on November 13, 2008 to recommend to the Board of County Commissioners that they adopt an internal policy to prohibit the free or nominal cost distribution of tobacco products and other promotional items on property that is owned, leased or rented by the county. The BCC is expected to consider the recommendation in early December, 2008.

Date of Overview: November 14, 2008

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Background

In 2007, the county manager made an executive decision to not allow tobacco giveaways at an event on county property, based in part on past practice. At that time he asked the Larimer County Department of Health and Environment's (LCDHE) director to help in bringing an organization-wide policy forward. LCDHE's Tobacco Free Larimer County Program (TFLC) was tasked with conducting a community assessment. They found that there are no tobacco giveaways on county grounds for county-organized events, but that outside event promoters who rent facilities at Larimer County Fairgrounds and Events Complex ("The Ranch") can potentially allow giveaways. They also noted that a retail establishment at the marina at Carter Lake sells tobacco products. They also reported that other tobacco industry presence such as event sponsorships and advertising are very limited on county grounds. In fact, anti-tobacco influences are dominant: For instance, the Colorado Quitline—the state health department's tobacco cessation program—has been a \$5000 sponsor of the Fair since 2007 and The Ranch provides free convenience advertising to the Colorado Quitline¹.

In October 2008, staff of the TFLC program presented a draft resolution to the Larimer County Board of Health (BOH) which would recommend to the Board of County Commissioners (BCC) that they establish internal policies restricting the promotion of tobacco products at county facilities (specifically on property owned, leased or rented by the county): The recommendations were to prohibit: 1) promotional giveaways to persons, including cigarettes and other tobacco products, discount coupons and other promotional items; 2) provision of those same items in exchange for something, such as the consumers contact information or proof of purchase of tobacco products; 3) sponsorship of any county event or activity by the tobacco industry and 4) advertising by any tobacco industry entity. The latter two recommendations were drafted broadly to include not just tobacco manufacturers and wholesalers, but also retailers and their agents. After discussing the issue, Board decided to delay a decision until staff could further assess the impacts of prohibiting advertising and sponsorship. Staff was asked to come back with more information and to draft an optional resolution limited to tobacco giveaways on county property.

On November 13th the BOH considered both the original draft and an optional resolution including only the first two recommendations from staff and adopted the more limited approach after hearing concerns about possible economic impacts of restrictions on sponsorship and advertising at the Ranch, and expressing concerns regarding costs of enforcement. The BCC is expected to consider the issue in the next month.

Advocates of this policy have framed it as an approach to reducing the likelihood that young people will initiate use of tobacco or solidify their use patterns. Research shows that tobacco experimentation begins as young as 12 years and continues until around 21 years. At that age there are far fewer never-users who are susceptible to

startingⁱⁱ. Exposure to marketing has shown to significantly increase the odds that adolescents will become tobacco usersⁱⁱⁱ.

There are currently many restrictions on marketing tobacco products, and in particular, marketing cigarettes or other products to minors. State and federal law prohibits selling or furnishing tobacco products to minors and the county prohibits possession of tobacco products by minors. The Master Settlement Agreement (MSA) between a consortium of tobacco companies and 46 states, including Colorado, contains many restrictions on tobacco sales and advertising that were designed to reduce youth exposure to tobacco promotions. Tobacco companies have adapted to restrictions established by the MSA by shifting to bar promotions, direct mail marketing, coupons, discounts and give-aways^{iv}. Most of the restrictions include an exception for “adult-only” facilities. However, youth are commonly exposed to marketing that is allowed under this exemption. One study in Massachusetts found that 50% of 12-17 year olds reported having been present at an event where free samples were available and 1 in 5 were actually offered cigarettes^v. Until Greeley adopted a ban on free samples, U.S. Smokeless Tobacco set up “adults only” tents to distribute free samples of dipping tobacco at the Independence Day Stampede Rodeo. Tobacco control advocates argue that this was in fact a particularly effective marketing strategy to adolescents^{vi}.

The MSA restricts but does not eliminate tobacco brand-name sponsorship of events, however it does not regulate sponsorships in the corporate name. Corporate sponsorship is an important marketing tool for tobacco industry, and it has served both a sales promotion and a public relations function. It can also create a community dependency on tobacco company funding, which may lead to resistance to support tobacco control policies^{vii}. Alternative funding sources to lessen the dependency of organizations and events on tobacco company sponsorship have been proposed. Tobacco excise taxes and settlement funds have been used for this purpose. As noted above, in Larimer County, the Colorado Quitline has sponsored events at The Ranch and the TFLC program has funded Ranch advertising for the Quitline. Regulatory bans on corporate sponsorship have also been recommended^{viii}.

What are other communities doing?

One of the elements of a comprehensive tobacco control program and a component of Colorado’s Tobacco Prevention and Control Strategic Plan^{viii} is to support organizational policies “require tobacco-free events” and “prohibit tobacco sponsorship and funding”. Many organizations, including local governments, have adopted such policies. Governments have also specifically restricted product giveaways by the tobacco industry. Three Colorado communities have city or county ordinances that regulate giveaways (Denver, Boulder, and Greeley); however none address sponsorship and advertising. The policy under current consideration is less forceful in that it would be an internal/organizational policy for Larimer County (not an ordinance).

Why is this issue important?

In spite of enormous progress in reducing tobacco use, tobacco continues to be the leading cause of preventable death and disease in the US and in Larimer County, costing the county an estimated 2159 Disability Adjusted Life Years each year. While cigarette smoking has decreased overall in the Health District—dropping from 18% to 14% from 1995 to 2007, it has not decreased among young adults or pregnant women. The use of smokeless tobacco products has remained stable at 4% of the 18 and over population over this time period.

There is now considerable evidence of an association between tobacco industry marketing activities and smoking behavior^{ix}. Exposure to tobacco marketing, which includes advertising, promotions and product samples, appears to be effective at increasing the odds that children under 18 will become tobacco users^x. Distribution of tobacco samples, although limited to “adult-only” facilities by the Master Settlement Agreement, is a potential source for minors to obtain tobacco products^{xi} and may actually appeal to minors^{xii}. And finally, the evidence is strong that the adoption and implementation of comprehensive state and local tobacco control policies can decrease smoking rates^{xiii}.

What has the Board done in the past?

2002 the Board passed a motion to support a 100% smoke-free Fort Collins city ordinance

2003 & 2004: Strongly supported statewide tobacco tax increase

2005: Strongly supported Colorado's Clean Indoor Air Act.

2006: Voted to support indoor smoking laws in Fort Collins and the state that allow no exceptions for any public establishments.

2007: Supported legislation to make Colorado's Clean Indoor Air Act stricter (by removing the Casino exemption)

Reasons to support:

- Tobacco use continues to be a major cause of preventable morbidity and mortality locally.
- There is considerable evidence that tobacco-industry advertising and promotions works to bring new users into the tobacco market and stimulate consumptionⁱⁱ.
- Preventing tobacco giveaways on county premises is an important part of a comprehensive local tobacco control program which creates a normative environment where smoking and chewing/dipping are unacceptable.
- Prohibiting tobacco giveaways at county-sponsored events is already the de-facto approach of the County Manager and the Ranch Events Center Director; establishing this as a commissioner endorsed policy will have minimal adverse economic impact on county events and activities.
- If the policy has unintended consequences, there are allowances for appeals and special waivers, or the policy can be modified by the Commissioners.

Reasons to oppose

- Potential loss of revenue or other tangible benefits to the county or event organizers.
- Potential costs and other issues of enforcement.
- Prohibiting giveaways places restrictions on adult's rights to make their own choices.

Other Issues to Consider:

Colorado Tobacco Education and Prevention Alliance's (CTEPA) plans to actively pursue state youth access legislation that among other things will prohibit free giveaways of tobacco samples; and restrict tobacco advertising in 2009.

About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. Analyses are based on bills or issues at the time of their consideration by the Board and are accurate to the best of staff knowledge. It is suggested that people check to see that a bill has not changed during the course of a legislative session by visiting the Colorado General Assembly web page at www.state.co.us/gov_dir/stateleg.html. To see whether the Health District Board of Directors took a position on this or other policy issues, please visit www.healthdistrict.org/policy.

About the Health District

The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves.

For more information about this analysis or the Health District, please contact Carrie Cortiglio, Policy Coordinator, at (970) 224-5209, or e-mail at ccortiglio@healthdistrict.org

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- ⁱ Presentation of Jana West Kowalski, Coordinator, Tobacco Free Larimer County, BOH, 11/13/2008
- ⁱⁱ Pierce, J. Tobacco industry marketing, population-based tobacco control and smoking behavior. *AJPM*;33(6S):S327-334.
- ⁱⁱⁱ Rigotti et al, 2004. U.S. College Students Exposure to Tobacco Promotions: Prevalence and Association With Tobacco Use.
- ^{iv} Giovini G. The tobacco epidemic in the United States. *AJPM*;33(S6):S318326, 2007.
- ^v Bogen K, Biener L, Nyman A. Consequences of marketing exceptions in the Master Settlement Agreement: Exposure of youth to adult only tobacco promotions. *Nicotine and Tobacco Research* 8(3), 467-471, 2005.
- ^{vi} <http://www.tobaccofreekids.org/research/factsheets/pdf/0302.pdf>
- ^{vii} Rosenberg N, Siegel M, Use of corporate sponsorship as a tobacco marketing tool: a review of tobacco industry sponsorship in the USA, 1995-99. *Tobacco Control*;10:239-246, 2001.
- ^{viii} Available at: http://www.steppcolorado.com/data/files/CDPHE_CTPCSP-2007_PROD2.pdf
- ^{ix} Pierce, J., op cit.
- ^x Rigotti et al, op. cit.
- ^{xi} <http://caselaw.lp.findlaw.com/cacodes/hsc/118950.html>
- ^{xii} <http://www.tobaccofreekids.org/research/factsheets/pdf/0302.pdf>
- ^{xiii} Forster et al, 1998. The Effects of Community Policies to Reduce Youth Access to Tobacco.