

## Tobacco Industry Media Efforts to Defeat State Tobacco Control Ballot Initiatives and Referenda

*Ballot initiatives that allow voters to enact new legislation, and referenda that allow voters to approve or disapprove legislation enacted by legislatures, are effective means of promulgating tobacco control legislation. This chapter examines the tobacco industry's use of media to counter these ballot measures in a sample of the 42 state-level tobacco measures voted on from 1988 to 2006. An analysis of selected tobacco industry media campaigns demonstrated several primary themes—that these measures would create unfair tax increases or divert funds from intended objectives, impinge on personal choice, or constitute wasteful government spending. Despite these efforts, voters ultimately passed 28 tobacco control initiatives and referenda and defeated 4 tobacco industry-sponsored initiatives, yielding a 76% success rate for tobacco control advocates. The following campaigns are discussed:*

- *California's Proposition 99, a 1988 initiative increasing the tobacco tax by 25¢ per pack to fund antitobacco health education, research, health care, and related programs*
- *Massachusetts's Question 1, a 1999 initiative to increase tobacco taxes by 25¢ per pack for a health protection fund to pay for tobacco education, cessation, and prevention programs*
- *Oklahoma's State Question 713, a 2004 referendum to increase the tobacco tax by 4¢ per cigarette to fund health care and tobacco cessation programs*
- *Montana's Initiative 149, a 2004 ballot measure increasing a variety of tobacco taxes to fund health care, prescription drug, nursing home, and other programs*
- *Colorado's Amendment 35, a 2004 initiative to raise cigarette taxes by 64¢ a pack to fund health care and tobacco education and cessation programs*
- *California's Proposition 86, a 2006 initiative to raise cigarette taxes by \$2.60 a pack to fund health programs, children's health insurance coverage, and tobacco use prevention programs*
- *Missouri's Amendment 3, a 2006 initiative to raise taxes by 4¢ per cigarette and 20% on all other tobacco products to fund health care and tobacco use prevention programs*

## Introduction

This chapter examines the use of initiatives and referenda to pass antitobacco legislation by direct vote. It focuses on state initiatives and referenda in which voters were voting only on a tobacco tax increase. It also explores the tobacco industry's use of media in its attempts to prevent such legislation, covering ballot measures taking place from 1988 to 2006. The years 1988 to 2006 were chosen for this study because they provide a suitable duration of time to counter any potential bias caused by short-term changes in an examination of modern state tobacco initiative and referendum trends that started in 1988 with California's groundbreaking Proposition 99.

Initiatives are a direct vote by the people on legislation, while referenda refer to direct votes by the people to approve or disapprove legislation enacted by legislatures.<sup>1</sup> Both represent means for tobacco control advocates to bypass protobacco constituencies in state legislatures and enact legislation directly by popular support.

In the latter part of the 19th century, a very strong agrarian and labor populist movement, particularly so in the American Midwest and the South, arose to challenge the concentrated political power and abusive practices of monopolistic corporations in a variety of economic sectors.<sup>2-7</sup> The populist movement proposed several significant reforms such as a progressive income tax, public ownership of railroads, and direct votes of the people to approve or disapprove legislation.<sup>4,8,9</sup> The preamble to the 1892 Omaha Platform of the Populist Party clearly stated the primary reason for these proposals (including the call for a direct vote by the people):

The conditions which surround us best justify our cooperation: we meet in the midst of a nation brought to the verge of moral, political, and material ruin. Corruption dominates the ballot-box, the

legislatures, the Congress, and touches even the ermine of the bench. The people are demoralized; most of the States have been compelled to isolate the voters at the polling places to prevent universal intimidation and bribery. The newspapers are largely subsidized or muzzled, public opinion silenced, business prostrated, homes covered with mortgages, labor impoverished, and the land concentrating in the hands of the capitalists. The urban workmen are denied the right to organization for self-protection, imported pauperized labor beats down their wages, a hireling standing army, unrecognized by our laws, is established to shoot them down, and they are rapidly degenerating into European conditions. The fruits of the toil of millions are badly stolen to build up colossal fortunes for a few, unprecedented in the history of mankind; and the possessors of these, in turn, despise the Republic and endanger liberty.<sup>8</sup>

Although this strong current of agrarian and labor protest subsided by 1896, the movement continued to promote direct votes by the people.<sup>1</sup> Entrenched large corporations opposed legislation allowing a direct vote by the people. However, in 1898, South Dakota became the first state to enact initiative legislation (table 14.1),<sup>9</sup> quickly followed by 19 mostly western and southern states from 1900 to 1918. Since 1918, only four states have enacted some form of state initiative and/or referendum. In 2005, 18 states allowed voters to enact by initiative a constitutional amendment, 21 allowed enactment via a state statute, and 27 states allowed some form of initiative and/or referendum (tables 14.1 and 14.2).

The populists' call for a direct vote of the people—to bypass the stranglehold of powerful corporate interests, such as the oil and railroad industries, over state legislatures—is as salient today as it was more than a century ago.<sup>9-11</sup> From 1988 to 2006, direct referendum and initiative votes by the people for state antitobacco legislation—which would bypass the influence of the

**Table 14.1 U.S. States in 2005 with Statewide Initiatives and Referenda**

State	Date adopted	Initiative	Referenda
South Dakota	1898/1972/1988	Yes	Yes
Utah	1900/1917	Yes	Yes
Oregon	1902	Yes	Yes
Nevada	1908	Yes	Yes
Montana	1904/1972	Yes	No
Oklahoma	1907	Yes	Yes
Missouri	1908	Yes	Yes
Michigan	1908	Yes	Yes
Maine	1908	Yes	Yes
Arkansas	1910	Yes	Yes
Kentucky	1910	No	Yes
Arizona	1911	Yes	Yes
California	1911	Yes	Yes
New Mexico	1911	No	Yes
Idaho	1912	Yes	Yes
Colorado	1912	Yes	Yes
Nebraska	1912	Yes	Yes
Washington	1912	Yes	Yes
Ohio	1912	Yes	Yes
Mississippi	1914/1992	Yes	No
North Dakota	1914	Yes	Yes
Maryland	1915	No	Yes
Massachusetts	1918	Yes	Yes
Alaska	1956	Yes	Yes
Wyoming	1968	Yes	Yes
Illinois	1970	Yes	No
Florida	1972	Yes	No
Total		24	23

*Note.* NA = not applicable. From University of Southern California. Initiative and Referendum Institute. 2004. States with direct and indirect initiative amendments: Direct and indirect initiative statutes and popular referendum. <http://www.iandrinstitute.org>.

tobacco industry in state legislatures—occurred 42 times in 17 states (including four protobacco industry-sponsored initiatives) (table 14.3).<sup>12,13</sup> Tobacco industry interests frequently used media channels to attempt to sway public opinion against these ballot measures. Despite these efforts, the success of many of these initiatives demonstrates how, through direct votes, antitobacco advocates can undertake initiative and referendum efforts to bypass state legislatures and enact vigorous antitobacco programs.

## Criticisms of State Initiatives and Referenda

Critics argue that direct votes of the people in policy areas (such as state antitobacco legislation) violate a founding principle in the establishment of the U.S. Constitution that the United States is a republican form of government.<sup>14,15</sup> Rather than governance

**Table 14.2 U.S. States in 2005 by Type of Initiative Allowed**

State	Date adopted	Initiative to adopt state constitutional amendment	Initiative to adopt state statute
South Dakota	1898/1972/1988	Yes	Yes
Utah	1900/1917	No	Yes
Oregon	1902	Yes	Yes
Nevada	1908	Yes	Yes
Montana	1904/1972	Yes	Yes
Oklahoma	1907	Yes	Yes
Missouri	1908	Yes	Yes
Michigan	1908	Yes	Yes
Maine	1908	No	Yes
Arkansas	1910	Yes	Yes
Kentucky	NA	No	No
Arizona	1911	Yes	Yes
California	1911	Yes	Yes
New Mexico	NA	No	No
Idaho	1912	No	Yes
Colorado	1912	Yes	Yes
Nebraska	1912	Yes	Yes
Washington	1912	No	Yes
Ohio	1912	Yes	Yes
Mississippi	1914/1992	Yes	No
North Dakota	1914	Yes	Yes
Maryland	NA	No	No
Massachusetts	1918	Yes	Yes
Alaska	1956	No	Yes
Wyoming	1968	No	Yes
Illinois	1970	Yes	No
Florida	1972	Yes	No
Total		18	21

*Note.* NA = not applicable. From University of Southern California. Initiative and Referendum Institute. 2004. States with direct and indirect initiative amendments: Direct and indirect initiative statutes and popular referendum. <http://www.iandrinstitute.org>.

by the people through direct votes on legislation, a republican form of government means that representatives chosen through elections govern the people.

In addition, critics of direct votes by the people often indicate that initiatives and referenda are poorly written.<sup>14,15</sup> This argument overlaps the first argument

because the job of elected officials in a republican form of government is to write intelligent and effective legislation for the public good. This often does not occur with ad hoc initiatives and referenda. Moreover, critics charge that if the initiatives or referenda are “locked in” as a state constitutional amendment, then such poorly written legislation diminishes the public

**Table 14.3 Tobacco Control State Initiatives and Referenda from 1988 to 2006**

State	Year	Measure type	Measure number	Subject matter	Passed?
California	1988	Initiative	Proposition 99	Tax increase	Yes
Montana	1990	Initiative	I-115	Tax increase	No
Massachusetts	1992	Initiative	Question 1	Tax increase	Yes
Arizona	1994	Initiative	Proposition 200	Tax increase	Yes
California	1994	Initiative	Proposition 186	Tax increase	No
California <sup>a</sup>	1994	Initiative	Proposition 188	Preemption of local clean indoor air regulations	No
Colorado	1994	Initiative	Amendment 1	Tax increase	No
Michigan	1994	Referendum	Proposal A	General tax increase that included tobacco tax increase	Yes
Arizona	1996	Initiative	Proposition 200	Tax increase	Yes
Oregon	1996	Initiative	Measure 44	Tax increase	Yes
California	1998	Initiative	Proposition 10	Tax increase	Yes
Arizona	2000	Initiative	Proposition 200	Tax increase	Yes
Arizona	2000	Initiative	Proposition 204	MSA funding for health care	Yes
Arkansas	2000	Initiative	Act 1	MSA funding for university facilities	Yes
Montana	2000	Referendum	C-35	MSA funding for health care and tobacco control	Yes
Oklahoma	2000	Referendum	State Question 692	Creates tobacco settlement trust fund	Yes
Oregon	2000	Initiative	Measure 4	MSA funding for health care	No
Oregon	2000	Referendum	Measure 89	MSA funding for health, housing, and transportation	No
Utah	2000	Referendum	Proposition 2	Creates tobacco settlement trust fund	Yes
Washington	2001	Initiative	Measure 773	Tax increase	Yes
Arizona	2002	Referendum	Proposition 303	Tax increase	Yes
Florida	2002	Initiative	Amendment 6	Smoke-free worksites and public places	Yes
Michigan	2002	Initiative	Proposal 02-4	MSA funding for health care and tobacco control	No
Missouri	2002	Initiative	Proposition A	Tax increase	No
Montana	2002	Initiative	I-146	MSA funding for state tobacco prevention program	Yes
Oklahoma	2002	Referendum	State Question 701	Modifies tobacco trust fund expenditures	No
Oregon	2002	Referendum	Measure 15	Bonds for public education and earthquake repairs paid by tobacco settlement funds	Yes
Oregon	2002	Referendum	Measure 16	Bonds for emergency services and earthquake repairs paid by tobacco settlement funds	Yes
Colorado	2004	Initiative	Amendment 35	Tax increase	Yes
Oklahoma	2004	Referendum	State Question 713	Tax increase	Yes

**Table 14.3 Tobacco Control State Initiatives and Referenda from 1988 to 2006 (continued)**

State	Year	Measure type	Measure number	Subject matter	Passed?
Montana	2004	Initiative	I-149	Tax increase	Yes
Arizona	2006	Initiative	Proposition 201	Smoke-free worksites and public places	Yes
Arizona	2006	Initiative	Proposition 203	Tax increase	Yes
Arizona <sup>a</sup>	2006	Initiative	Proposition 206	Smoke-free worksite and public places	No
Florida	2006	Initiative	Amendment 4	MSA funding for state tobacco prevention and cessation programs	Yes
Nevada <sup>a</sup>	2006	Initiative	Question 4	Smoke-free worksites and public places	No
Nevada	2006	Initiative	Question 5	Smoke-free worksites and public places	Yes
Ohio <sup>a</sup>	2006	Initiative	Issue 4	Smoke-free worksites and public places	No
Ohio	2006	Initiative	Issue 5	Smoke-free worksites and public places	Yes
South Dakota	2006	Initiative	Measure 2	Tax increase	Yes
California	2006	Initiative	Proposition 86	Tax increase	No
Missouri	2006	Initiative	Amendment 3	Tax increase	No

Note: MSA = Master Settlement Agreement. From National Conference of State Legislatures. 2004. Initiatives and referenda: Tobacco. <http://www.ncsl.org/ncsl/db/elect98/irsch.cfm>. University of Southern California. Initiative and Referendum Institute. 2007. States with direct and indirect initiative amendments: Direct and indirect initiative statutes and popular referendum. <http://www.iandrinstute.org>.

<sup>a</sup>In these four states, voters rejected tobacco industry-sponsored ballot initiatives that were much weaker than legislation supported by health groups: Proposition 188 in California, Proposition 206 in Arizona, Question 4 in Arizona, Question 4 in Nevada, and Issue 4 in Ohio.

good. This is particularly true, as many critics argue, if voters are not “competent” to make informed decisions regarding complicated public policy issues.<sup>14,15</sup>

Yet another criticism of direct voting by the people is that initiatives and referenda have become a tool of well-financed and powerful special interests, and these special interests dominate the process.<sup>14,15</sup> Syndicated columnist David Broder strongly argued for this position in *Democracy Derailed: The Initiative Movement and the Power of Money*.<sup>14</sup> This trend, according to critics such as Broder, is contrary to the original intent of populist reformers—to bypass special-interest-dominated state legislatures and directly enact needed reforms that benefit average citizens.

These debates are particularly relevant to tobacco-tax initiatives and referenda in which tobacco control advocates, and in some cases the tobacco companies, attempted to bypass opposing interests in the legislatures and sought direct mandate from the voters. This chapter focuses on how the tobacco industry, using various forms of often expensive media communication approaches (most campaigns now are media based), has attempted since 1988 to frame campaigns to defeat state initiatives and referenda run by health and antitobacco reformers.<sup>16</sup> The remainder of this chapter will explore this question using seven case studies of initiatives and referenda to increase tobacco taxes among the 20 tobacco tax initiatives introduced between 1988 and 2006.

### Tobacco Control Initiatives: A Theoretical Perspective

In 1960, Schattschneider<sup>a</sup> provided an early examination in the field of political science and public policy of the connection between political mobilization of bias by groups and the public framing of an issue to effectively oppose or support public policies. This occurs, for instance, when the tobacco industry engages in media advertising to influence state tobacco tax initiative and referendum votes in its favor. Schattschneider argued that powerful interests, such as the tobacco industry, usually prefer to conduct policymaking in private because less public exposure means their policy goals usually are approved with the least political resistance. At the same time, an open and public struggle, as can occur with state initiatives and referenda, by ordinary citizens and organizations such as health groups with fewer political resources often can make the political process more competitive.

Theories expanding on Schattschneider's mobilization of bias theory, such as Stone's theory of causal stories in the policy process, have analyzed the function of political symbols and images in depicting problems and causal stories that are enacted into public policies.<sup>b,c,d</sup> According to Stone and others, symbols and images (including numerical) through media messages and arguments tell a particular story of what an interest group, such as the tobacco industry, supports in a manner that resonates with and can be easily understood by other people.<sup>b,c,d,e</sup>

<sup>a</sup>Schattschneider, E. E. 1960. *The semisovereign people*. New York: Holt, Rinehart, and Winston.

<sup>b</sup>Stone, D. 1989. Causal stories and the formation of policy agendas. *Political Science Quarterly* 104 (2): 281–300.

<sup>c</sup>Cobb, R., and M. H. Ross. 1997. Agenda setting and the denial of agenda access: Key concepts. In *Cultural strategies of agenda denial: Avoidance, attack, and redefinition*, ed. R. Cobb and M. H. Ross. Lawrence: Univ. of Kansas Press.

<sup>d</sup>Stone, D. 1997. *Policy paradox: The art of political decision making*. New York: W. W. Norton.

<sup>e</sup>Birkland, T. 2001. *An introduction to the policy process*. Armonk, NY: M. E. Sharpe.

## General Role of Media in State Initiatives and Referenda

Support can be mobilized through framing (a way to define a problem and suggest a solution<sup>17</sup>) a message for or against state initiatives and referenda, such as those for tobacco tax increases. As some scholars have argued, the side that can purchase more media exposure in key markets can significantly influence the outcome of these elections.<sup>9</sup> The use of media messages is a very important avenue to potentially reach and sway large numbers of voters.<sup>9</sup>

Opinion polls and focus groups are conducted in the beginning stage of many modern and professionally run

direct democracy campaigns, often even before the language of the proposal has been written.<sup>18</sup> This is done to identify which media themes might undermine the appeal of an initiative or referendum to voters and which media themes might enhance voters' support for the initiative or referendum.<sup>18</sup>

These polls and focus group findings also are an important research tool in crafting the language of the initiative or referendum.<sup>18</sup> Opponents of initiatives or referenda, particularly wealthy ones such as the tobacco industry, almost always conduct their own polls and focus groups to develop media themes to sway voters to oppose tobacco control initiatives or referenda.<sup>10,19</sup> As the direct democracy campaign nears the actual election, many groups also use tracking polls to gauge

sentiment for or against the measure and to determine if particular media arguments should be changed to sway key groups of voters. The remainder of this chapter analyzes this conflict between health advocates and the tobacco industry over causal stories to frame the debate about state tobacco initiatives and referenda from 1988 to 2006.

### Methods

This section examines the general success of the tobacco industry in all state tobacco initiatives and referenda, descriptively analyzing and tallying which state direct votes were in favor of tobacco control and which favored the tobacco industry from 1988 to 2006. It also provides specific and detailed analyses of how the tobacco industry mobilized against initiatives and referenda that solely raised tobacco taxes on statewide ballots during the same period.

A total of 42 state tobacco control initiatives and referenda were held from 1988 to 2006 (including four tobacco industry-sponsored initiatives in four states) (table 14.3). These initiatives and referenda occurred in 16 states, with Arizona (8), California (5), Oregon (5), Montana (4), and Oklahoma (3) accounting for 25 (60%) of the 42 campaigns.

Measures dealing only with tobacco taxes represented 20 (48%) of the 42 state tobacco control initiatives and referenda held from 1988 to 2006 (table 14.3). This large number of tobacco tax measures provides sufficient experience to document how the tobacco industry used media to mobilize voters in initiatives and referenda promoting tobacco control or weakening tobacco control. Eight initiatives and referenda (19%) centered on Master Settlement Agreement (MSA) funding allocations for health care, tobacco control, and university facilities. Eight initiatives

(19%) proposed limits on smoking in worksites and public places, two referenda (4.8%) focused on bonds for public works repaid with tobacco settlement funds, two referenda (4.8%) created tobacco settlement trust funds, one referendum (2.4%) aimed to modify tobacco trust fund expenditures, and one referendum (2.4%) imposed tax increases from various revenue sources. Four of the smoking restriction initiatives (9.5%)—California's 1994 Proposition 188, Arizona's 2006 Proposition 206, Nevada's 2006 Question 4, and Ohio's 2006 Issue 4—were weak tobacco industry measures defeated by the voters.<sup>20</sup>

The 18-year time span from 1988 to 2006 provides a sufficiently long period to observe general and ongoing tobacco industry arguments against state tobacco tax initiatives and referenda. In addition to examining general trends, this chapter provides in-depth discussions of some state initiatives and referenda from earlier and later portions of this 18-year period. These discussions demonstrate the consistency of the arguments generated in the context of state campaigns on increasing tobacco taxes. Two of the earliest case examples presented are tobacco tax increase initiatives in 1988 in California (Proposition 99) and in 1992 in Massachusetts (Question 1). These cases are contrasted with five later state tobacco tax initiatives and referenda to understand if the tobacco industry changed its media themes over time. The three direct votes in 2004 were two initiatives in Colorado (Amendment 35) and Montana (Initiative 149) and one referendum in Oklahoma (State Question 713). In 2006, direct tobacco tax votes in which media were used took place in California (Proposition 86) and Missouri (Amendment 3). In 2006, the industry did not run a statewide media campaign in South Dakota (e-mail communication from Jennifer Staley, American Cancer Society in South Dakota to M. Givel, 2007).



In the analysis presented below, the term *media* includes all known electronic media and print political advertising sources that the tobacco industry and its surrogates used to try to defeat tobacco tax-increase initiatives and referenda. All known media spots were examined, analyzed, and coded by summarizing the type of media used and the major theme(s) used in each media spot. All media advertisements were analyzed and themes were identified on the basis of careful examination by Michael Givel. These themes then were analyzed, as a whole, to determine if the tobacco industry had a consistent general argument or causal story against tobacco tax increases. State, rather than local, initiatives and referenda were examined because of the broader impact of these measures on all citizens of a state. This chapter treats each state and each advertisement as equivalent for the purposes of ascertaining and comparing the degree to which a theme appears in the campaign advertisements. The chapter does not review whether certain advertisements were shown repeatedly in highly visible venues (and thus viewed by large audiences).

## State Tobacco Control Initiatives and Referenda\*

As mentioned above, from 1988 to 2006 there were 42 state tobacco control initiatives (including 4 tobacco industry initiatives) and referenda (table 14.3). Voters in states that allow initiatives and referenda voted to enact 28 tobacco control initiatives and referenda and to defeat 4 protobacco initiatives. In sum, voters during this period voted for protobacco control measures and

against the tobacco industry in 32 (76%) of 42 initiatives and referenda. Clearly, tobacco control advocates have been quite successful when it comes to statewide tobacco-related initiatives and referenda that have bypassed state legislatures.<sup>19,21,22</sup>

## Tobacco Industry Opposition to State Tobacco Tax Initiatives and Referenda

### California's Proposition 99

One of the earliest state tobacco tax direct democracy measures, Proposition 99, was voted on in 1988 in California. Proposition 99 was an initiative that increased the tobacco tax by 25¢ per pack to fund antitobacco health education, indigent hospital care, environmental and conservation programs, antitobacco research, and an unallocated account to consist of 25% of the funding that the legislature could distribute for any of the other programs.<sup>19</sup> The voters enacted Proposition 99, which the tobacco industry vigorously opposed, by a margin of 58% to 42%.<sup>19</sup> The tobacco industry viewed Proposition 99 as a huge threat to its sales and profits in the large California market and devoted significant political and media resources to defeat the initiative.<sup>19</sup> By election day, the tobacco industry had spent \$21.4 million to defeat Proposition 99 compared with \$1.6 million spent by health and environmental advocates to enact the initiative.<sup>19</sup>

The tobacco industry's media campaign to defeat Proposition 99 included six

\**Editors' note:* Michigan's Proposal A (1994) was materially different from the other 41 initiatives and referenda, which focused exclusively on tobacco. Michigan's Proposal A affected many types of taxes, including tobacco excise taxes, sales taxes, income taxes, and business-related taxes. A summary of Proposal A appears as an appendix to this monograph.

radio and television advertisements in 1988 (table 14.4). The primary themes of the industry's advertisements opposing Proposition 99 included arguments that the funds would go to promoters of the proposition rather than to health care, the tax would be unfair to working families, and the tax would increase crime and smuggling in California. However, the combined effect of the increase in tobacco prices due to the tax and the antitobacco program associated with Proposition 99 has led to a significant decline in mortality from heart and lung diseases in California.<sup>23,24</sup>

### Massachusetts's Question 1

Another early state tobacco initiative to increase tobacco taxes modeled after California's Proposition 99 was voted on in 1992 in Massachusetts.<sup>21</sup> Question 1 proposed to increase the state tobacco tax by 25¢ per pack to fund a Health Protection Fund to pay for tobacco education, cessation, and prevention programs.<sup>13,21</sup> The measure, vigorously opposed by the tobacco industry, passed, with 54.4% voting yes and 45.6% voting no.<sup>13</sup> By the time of the election, the tobacco industry had spent \$7.1 million to defeat Question 1 compared with \$1.0 million spent by health advocates to enact the initiative.<sup>25,26</sup>

The tobacco industry's media campaign to defeat Question 1 included five television advertisements in 1992 (table 14.5). The campaign's primary themes suggested that the measure would restrict personal choice to smoke, discriminate against smokers, provide funding that would not be spent primarily on health care programs, reduce economic growth, and impose an unfair tax increase.

### Oklahoma's State Question 713

State Question 713, voted on in 2004, was an Oklahoma referendum to increase the tobacco tax by 4¢ per cigarette to fund health care and tobacco use cessation programs.<sup>13,27,28</sup> The measure passed, with 53.4% voting yes and 46.6% voting no.<sup>29</sup> Despite early widespread public support for the measure, the tobacco industry engaged in a significant mobilization effort to defeat the measure.<sup>28</sup> By election day, the tobacco industry had spent \$1.7 million to defeat State Question 713 compared with \$809,000 spent by health advocates to enact the referendum.<sup>30</sup>

The tobacco industry's campaign to defeat State Question 713 included two television advertisements and a direct mailer in 2004 (table 14.6). The campaign's primary themes were that the measure would create an unfair tax increase, be a tax cut for the

**Table 14.4 1988 Tobacco Industry Advertisements Opposing California's Proposition 99**

Media	Titles	Anti-Proposition 99 advertisement themes
Radio	Driving Woman	Health research funding would be diverted to promoters of proposition and unfair tax
Radio	Morning Couple	Health research funding would be diverted to promoters of proposition and unfair tax
Radio	Elderly Man	Health research funding would be diverted to promoters of proposition
Radio	Golf Clubs	Funding would be diverted to doctors and medical industry who promote the proposition
Television	Do You Realize?	Would divert millions of dollars to doctors and medical industry and unfair tax
Television	State By State	Would increase crime and smuggling

**Table 14.5 1992 Tobacco Industry Advertisements Opposing Massachusetts’s Question 1**

Media	Titles	Anti-Question 1 advertisement themes
Television	Tolerance	Would restrict personal choice and discriminates against smokers
Television	501 Warning	Health care funding would be diverted and unfair tax
Television	Look at the Language	Health care funding would be diverted and unfair tax
Television	Flood 2	Health care funding would be diverted, unfair tax, and would not support economic growth
Television	Closely	Health care funding would be diverted

**Table 14.6 2004 Tobacco Industry Advertisements Opposing Oklahoma’s State Question 713**

Media	Titles	Anti-State Question 713 advertisement themes
Television	200 Million Tax Increase	Health care money would be diverted, unfair tax increase, and tax cut for rich
Television	Old Tricks	Health care money would be diverted, unfair tax increase, and tax cut for rich
Mailer	What Else Aren’t They Telling Us?	Health care money would be diverted to Native Americans in form of “kickback” and unfair tax increase

rich, create higher taxes for the poor, and not pay for health care, with funding being diverted to Native Americans in the form of a “kickback” and to other projects.

### Montana’s Initiative 149

In 2004, Montana’s Initiative 149 proposed to raise tobacco taxes from 70¢ to \$1.70 per pack of cigarettes, from 35¢ to 85¢ per ounce for moist snuff, and from 25% to 50% of the wholesale price for all other tobacco products. The tax increase was proposed to fund health care, a prescription drug program, nursing homes, and other general state government programs.<sup>13</sup> The measure passed, with 63.3% voting yes and 36.7% voting no.<sup>31</sup> Given the early and large public support for the measure, the tobacco industry decided not to devote significant political and media resources to sway voter opinion against the initiative. By the day of the election, the tobacco industry had spent \$104,000 to defeat Initiative 149 compared with \$414,000 spent by health advocates to enact the initiative (e-mail communication from M. Jackson, Program & Data Technician, Office of

Political Practices, State of Montana, to M. Givel, 2005).

The tobacco industry’s campaign to defeat Initiative 149 included a direct mailer and a newspaper advertisement in 2004. This media approach was lower profile than the high-profile ongoing television advertisements used in California, Massachusetts, and Oklahoma. The primary themes of the tobacco industry’s media campaign (table 14.7) to defeat Initiative 149 were that the measure would increase “big government,” significantly increase taxes, unfairly discriminate against smokers, cause illegal smuggling and crime, and would not solve Montana’s budget problems.

### Colorado’s Amendment 35

Also in 2004, Colorado’s Amendment 35 proposed to raise tobacco taxes on cigarettes by 64¢ a pack to fund health care and tobacco education and cessation programs.<sup>13</sup> The initiative passed, with 61.4% voting yes and 38.6% voting no.<sup>32</sup> Because of early and large public support for



Advertisement from the Oklahoma Vote No on Question 713 campaign



Advertisement from Montana veterans, taxpayers, and tobacco retailers, wholesalers, and manufacturers against Initiative 149 campaign

the measure, the tobacco industry decided not to oppose the initiative. By election day, the tobacco industry had spent \$112,000 to defeat Amendment 35 compared with \$2.03 million spent by health advocates to enact the initiative.<sup>33</sup>

The tobacco industry's campaign to defeat Amendment 35 included two direct mailers in 2004. This media approach, again, was lower profile than the high-profile television advertisements used in 2004 in California, Massachusetts, and Oklahoma.

The primary themes of the media campaign to defeat Amendment 35 were that the measure would create an unfair tax increase, discriminate against smokers, lead to wasteful government spending, and cause economic hardship (table 14.8).

### California's Proposition 86

In 2006, California's Proposition 86 proposed to increase tobacco taxes on cigarettes by \$2.60 per pack to fund new health services, health insurance for children, and

**Table 14.7 2004 Tobacco Industry Advertisements Opposing Montana’s Initiative 149**

Media	Titles	Anti-Initiative 149 advertisement themes
Mailer	Vote No on Initiative 149	Would create big government and an unfair tax increase and discriminate against smokers
Newspaper advertisement	Another Tobacco Tax Hike? Consider the Consequences	Unfair tax, would cause crime and smuggling, discriminates against smokers, and would not solve state budget problems

**Table 14.8 2004 Tobacco Industry Advertisements Opposing Colorado’s Amendment 35**

Media	Titles	Anti-Amendment 35 advertisement themes
Mailer	The Facts on Constitutional Amendment 35	Unfair tax, would discriminate against smokers, lead to wasteful government spending, and cause economic hardship
Mailer	Vote No on Constitutional Amendment 35	Unfair tax, would discriminate against smokers, lead to wasteful government spending, and cause economic hardship

expanded tobacco prevention programs.<sup>34</sup> The initiative failed, with 48% voting yes and 52% voting no.<sup>34</sup> By election day, the tobacco industry had spent \$66.3 million to defeat Proposition 86 compared with \$16.2 million spent by health groups to enact the initiative.<sup>35</sup> The tobacco industry’s campaign to defeat Proposition 86 included 12 television advertisements. The primary themes of the media campaign were that the measure would create an unfair tax increase, lead to wasteful government spending, divert tobacco control funding to hospital interests, cause crime and smuggling, and allow hospitals to waive antitrust laws and escape civil and criminal penalties (table 14.9).

### Missouri’s Amendment 3

In 2006, Missouri’s Amendment 3 proposed to increase tobacco taxes on cigarettes by 4¢ each and 20% of a manufacturer’s invoice price, before discounts, to fund new health services and expand tobacco prevention programs.<sup>36</sup> The initiative failed, with 49% voting yes and 51% voting no.<sup>37</sup> By election day, the tobacco industry had spent \$5.3 million to defeat Amendment 3 compared with \$6.7 million spent by health groups to enact the initiative.<sup>38</sup>

The tobacco industry’s campaign to defeat Amendment 3 included two television and two radio advertisements. The primary themes of the media campaign were that the measure would create an unfair tax increase and divert funding to state programs not related to tobacco control (table 14.10).

## Results

Table 14.11 tallies the numbers of times a tobacco industry theme appeared in the early initiatives in California in 1988 and Massachusetts in 1992 to defeat tobacco tax measures. The most widely used themes were that the measures would divert funds from the stated purpose of the proposal such as health care or antitobacco programs and would impose an unfair tax increase. These were followed by several other themes, including that the measure would discriminate against smokers, increase crime and smuggling, hurt economic growth, and restrict adults’ personal choice to use tobacco. When assessed as a whole, these themes formed two major parts of an overall frame of the campaign. The first part of the frame was that the government had no right

## 14. Tobacco Industry Media Efforts

**Table 14.9 2006 Tobacco Industry Advertisements Opposing California’s Proposition 86**

Media	Titles	Anti-Proposition 86 advertisement themes
Television	LaDonna White	Unfair tax, tobacco control money would be diverted, and lead to wasteful government spending
Television	Mark Kogan	Unfair tax, tobacco control money would be diverted, and lead to wasteful government spending
Television	Ralph Di Libero	Tobacco control money would be diverted and would cause crime and smuggling
Television	A Lot	Tobacco control money would be diverted and lead to wasteful government spending
Television	Woman in Car	Tobacco control money would be diverted and lead to wasteful government spending
Television	Newspapers Say	Tobacco control money would be diverted to hospital interests and would allow hospitals to waive anti-trust laws
Television	Patricia Austin	Unfair tax and tobacco control money would be diverted to hospital interests
Television	I Thought	Unfair tax, tobacco control money would be diverted to hospital interests, and lead to wasteful government spending
Television	At First	Unfair tax and tobacco control money would be diverted to hospital interests
Television	I Liked The Idea	Tobacco control money would be diverted to hospital interests and would allow hospitals to waive anti-trust laws
Television	No Why	Tobacco control money would be diverted to hospital interests, would allow hospitals to waive anti-trust laws, and would allow hospitals to escape civil and criminal penalties
Television	Two Billion	Unfair tax and tobacco control money would be diverted to hospital interests

**Table 14.10 2006 Tobacco Industry Advertisements Opposing Missouri’s Amendment 3**

Media	Titles	Anti-Amendment 35 advertisement themes
Radio	Follow the Money	Unfair tax and would divert funds to politicians
Radio	Experienced	Unfair tax and would divert funds to politicians
Television	Lockbox	Diverts funds to politicians
Television	Settlement Player	Diverts funds to politicians

**Table 14.11 Number of Times Tobacco Industry Advertising Themes Were Used to Oppose California and Massachusetts Tobacco Tax Initiatives in 1988 and 1992**

Advertisement themes	Totals
Would divert funds from stated purpose of the program	9
Unfair tax increase	6
Would discriminate against smokers	1
Would hurt economic growth	1
Would increase crime, including smuggling	1
Would restrict personal choice by adults to use tobacco	1

**Table 14.12** Number of Times Tobacco Industry Advertising Themes Were Used to Oppose 2004 Colorado, Montana, and Oklahoma Initiatives and Referenda and 2006 California and Missouri Initiatives

Advertisement themes	Totals
Would divert funds from stated purpose of the program	19
Unfair tax increase	15
Would increase big and wasteful government	7
Would discriminate against smokers	4
Would increase crime, including smuggling	3
Tax cut for the rich	2
Would hurt economic growth	2
Would not solve state budget problems	1
Would restrict personal choice to use tobacco	1
Would waive anti-trust laws	1

to “unfairly” target smokers. The second part was that tobacco tax initiatives were inappropriate because the government is unable (compared with the market) to solve societal problems.

A numerical summary of the three ballot measures in Colorado, Montana, and Oklahoma in 2004 and in California and Missouri in 2006 indicates the predominant themes were that these measures would divert funds from the stated purpose of the measure and impose an unfair tax increase (table 14.12). This was followed by a subtheme that the measure would increase big and wasteful government. Less numerous themes included that these measures would discriminate against smokers, increase crime, be a tax cut for the rich, and impede economic growth. Again, when assessed as a whole, these themes in the later campaigns were identical to the themes used in the early state tobacco tax initiatives. The tobacco industry’s frame to oppose the initiative was that state governments had no right to “unfairly” target smokers with tobacco tax initiatives and the initiatives were inappropriate because of the government’s inability to solve societal problems.

## Summary

State initiatives and referenda are an effective way to implement tobacco control legislation in general and tobacco tax increases in particular. State initiatives and referenda, such as California’s Proposition 99, also have significantly decreased tobacco use.<sup>24</sup> The success of these measures makes them an important tool for tobacco control advocates in states that permit them. This is particularly true for legislation that cannot be effectively passed by using the regular state legislative process.

Despite the tobacco industry’s media campaigns, its efforts have failed for 32 (76%) of 42 state initiatives and referenda from 1988 to 2006. The industry’s media campaigns and the frames used in the campaigns generally are ineffective regardless of which theme is used. The range of ballot measures profiled here shows that media efforts and expenditures by the tobacco industry vary and are influenced by perceptions of the level of popular support for the measures. Moreover, state tobacco tax initiatives and referenda frequently have succeeded, even

in situations in which the tobacco industry spent considerably more than initiative proponents. These results indicate that the fundamental frames that the tobacco industry uses have had limited success in connecting with voters, compared with the benefits conveyed by these measures.

### Conclusions

1. Within those states that allow these processes, ballot initiatives and referenda have served as an effective tool for enacting tobacco control legislation by direct vote. Tobacco industry interests frequently have used media channels (such as radio, television, print media, and direct mail) to defeat these ballot measures.
2. Despite the tobacco industry's media efforts, it has generally not prevailed, losing in 32 (76%) of 42 state initiatives and referenda from 1988 to 2006. Given the industry's lack of success in

defeating tobacco control state initiatives and referenda at the state level, holding tobacco control initiatives or referenda is an important, though expensive, option if a state legislature has blocked tobacco control legislation.

3. The tobacco industry consistently has used several primary themes to defeat state tobacco tax increase initiatives. These include suggestions that the measures would impose unfair taxes and that tax revenues would not be spent on health care or tobacco control programs as intended. Secondary themes used consistently over an 18-year time span include that the measures would increase "big government" and wasteful spending, discriminate against smokers, and increase crime and smuggling. Other, less frequent themes were that the measures would be a tax cut for the rich, impede economic growth, fail to solve state budget problems, restrict personal choice, and violate antitrust laws.



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