

The Campaign to Raise the Tobacco Tax in Massachusetts

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ABSTRACT

Objectives. Question 1 raised the Massachusetts state tobacco tax to fund tobacco education programs. This paper examines the process of qualifying and passing Question 1.

Methods. Information was gathered from internal memoranda, meeting minutes, newspaper articles, internal documents, letters, newsletters, news and press releases, and personal interviews. Data about campaign contributions were obtained from the Massachusetts Office of Campaign and Political Finance.

Results. Three factors help explain why Question 1 passed: (1) the policy environment was favorable because of the social unacceptability of smoking; (2) the activists assembled a large coalition of supporters; and (3) the activists countered industry claims that the new tax would hurt small business and lower-income smokers and would be wasted by the legislature. The ballot initiative passed despite the industry's \$7 million campaign to defeat it.

Conclusions. The apparent influence of the tobacco industry on the legislature was the driving force behind the decision of public health activists to qualify Question 1. Moving policy-making out of the legislature into the public arena widened the scope of conflict and enabled public health activists to win. (*Am J Public Health*. 1997;87:968-973)

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Introduction

In 1992, Massachusetts voters passed Question 1,¹ a ballot initiative that raised the state tobacco tax to fund tobacco-education programs. A coalition of over 200 pro-health groups called the Massachusetts Coalition for a Healthy Future, led by the Massachusetts Division of the American Cancer Society, successfully used the initiative process in response to increased adolescent smoking rates^{2,3} and a lack of action by the legislature. Question 1 designated that the new revenues be used for tobacco education, subject to the approval of the legislature. A portion of the new revenues established the Massachusetts Tobacco Control Program,³ which set up a number of interventions aimed at reducing tobacco consumption by 50% by 1999.² Tobacco consumption declined by 12.5% the year after Question 1 went into effect in 1993.⁴

The use of ballot initiatives to fund tobacco education has grown in popularity since the passage of California's successful Proposition 99 in 1988.^{5,6} In the past 5 years, Arizona and Massachusetts have passed ballot initiatives, while Colorado, Montana, and Arkansas have been unsuccessful. Initiatives move policy-making out of the legislative arena, where the tobacco industry has traditionally been strong, into the public arena, where activists can appeal directly to the public. To help public health activists to better understand the politics of tobacco-tax ballot initiatives, this paper describes and analyzes the development and passage of Question 1.

Methods

We gained access to American Cancer Society and coalition internal memoranda, meeting minutes, internal docu-

ments, letters, newsletters, advertisements, and news and press releases. We also gathered information on the Question 1 campaign from newspaper articles published in the *Boston Globe*. Polling data were gathered from the American Cancer Society and Martila & Kiley. Using internal American Cancer Society and coalition documents, we identified individuals, such as representatives of the coalition steering committee, involved in the development and passage of Question 1. Data about campaign contributions were obtained from the Massachusetts Office of Campaign and Political Finance.

The Origin of the Initiative

The drive for Question 1 began in early 1990 when the American Cancer Society began planning a statewide Cancer Awareness Campaign "to reduce smoking related deaths in Massachusetts by developing a comprehensive and highly visible campaign on tobacco prevention and control," using education, legislation, media, and public policy.⁷ The American Cancer Society thought that a comprehensive tobacco-education and prevention program could dramatically reduce the number of cancer deaths in Massachusetts since 85% of all lung cancers and 30% of all cancers in the state were linked to tobacco use.⁸

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Editor's Note. See related editorial by Warner (p 906) in this issue.

Although the American Cancer Society expressed a number of concerns—such as the public's antitax mood, battling a powerful industry, and raising enough funds to run an effective campaign—its board of directors voted unanimously⁹ to qualify a ballot initiative for the 1992 ballot if three conditions were met: (1) a majority of the 42 local units of the American Cancer Society had to approve the idea; (2) a coalition had to be formed with adequate financial resources; and (3) in a public opinion poll, at least 60% of voters had to approve a tobacco-tax increase.

Meeting the Three Conditions

By March 1991, 40 units voted in favor of the tobacco-tax ballot initiative and 2 units voted against it.^{10,11} Thus, with eventual coalition partner Blue Cross/Blue Shield contributing \$10,500 to cover half the cost, the American Cancer Society approved funding for a public opinion poll.

Drafting the Initiative

The ballot initiative was filed with the attorney general and given the designation Initiative Petition 91-18. Decisions about the size of the tax and the programs to be funded were determined primarily by the American Cancer Society (personal interview, May 11, 1995, with Peter Enrich, a lawyer involved in writing the initiative petition). The ballot initiative proposed an increase of 25 cents per pack of cigarettes and 25% of the wholesale price of smokeless tobacco. The new revenues would be placed into the newly created Health Protection Fund and be spent for the following purposes: (1) for comprehensive school health-education programs, which would incorporate information relating to the hazards of tobacco use; (2) for workplace-based and community smoking-prevention and smoking-cessation programs, for tobacco-related public service advertising, and for drug education programs; (3) for the support of community health centers and their programs of prenatal and maternal care, which incorporate smoking-cessation assistance and guidance regarding the harmful effects of smoking on fetal development; and (4) for ongoing activities relating to the monitoring of morbidity and mortality from cancer and other tobacco-related illnesses in the state.¹

The Health Protection Fund was created to show that the funds were intended for tobacco education and not

part of the state general fund (personal interview, May 11, 1995, with P. Enrich). However, the state constitution prohibits ballot initiatives from earmarking revenues for any specific purposes.¹² The petition had to be worded carefully so that it would withstand any constitutional challenges. Thus, the proposal was drafted so that the new revenues would be "subject to appropriation" (emphasis added) by the legislature.¹

In mid-August 1991, the coalition got its first challenge from the tobacco industry. Attorneys from the Boston law firm Ferriter, Scobbo, Sikora, Caruso & Rodophele, PC, representing the Tobacco Institute, issued a memorandum to the attorney general opposing the certification of Initiative Petition 91-18, claiming it was not in proper form because it violated the state constitution, making specific appropriations from the general treasury.¹³ In September, over tobacco industry objections, the attorney general certified the coalition's ballot initiative.¹⁴

The First Signature Drive

In September 1991, the coalition began its first drive for petition signatures. In Massachusetts, in order to come before the legislature, a petition needs to have certified signatures totaling at least 3% of the number of votes cast in the previous state gubernatorial election. Thus, the coalition needed to obtain at least 70,286 certified signatures of registered voters. And since no more than 25% of the signatures could come from any one county, the effort had to be statewide.¹⁵

The coalition's campaign consultant, who was familiar with tobacco industry tactics, advised the coalition to collect twice as many signatures as it needed, or roughly 150,000, because one of the tobacco industry's most effective strategies for defeating such ballot initiatives is to disqualify petition signatures that do not conform to strict election laws.¹⁶⁻¹⁹ Thus, campaign organizers realized that not only was the number of signatures important, but the signatures also had to conform to certain legal requirements.²⁰

By the November deadline, the coalition had gathered over 145,000 signatures.²¹ Meanwhile, the tobacco industry brought in signature experts to try to disqualify signatures but could not challenge enough signatures (personal interview, February 22, 1995, with Dr. Blake Cady, former president of the Massachusetts Division of the American Cancer Society and coalition campaign chairper-

son). A total of 122,525 signatures were certified.^{22,23}

Inaction in the Legislature

According to state law, any ballot initiative that gains the required number of signatures must come before the legislature, which can either approve it with no further revisions, in which case it becomes law, or reject it, in which case it goes before voters at the next state election after a second group of signatures is gathered.¹⁵ The ballot initiative was referred to the Joint Committee on Taxation. Final legislative action had to be taken by early May 1992.

By the May deadline, the committee had not voted on the measure.²⁴ It also had not voted on another tax ballot initiative slated for the November ballot. The opponents of this ballot initiative filed a lawsuit against the secretary of state to keep it off the ballot, arguing that the state constitution allows only petitions reported on by the appropriate committee to be submitted to the voters.^{25,26} Since any ruling would also extend to the tobacco-tax ballot initiative, the American Cancer Society filed a friend-of-the-court brief in support of the secretary of state, claiming that a committee report was not a prerequisite to placing the ballot initiative on the ballot.

The Supreme Judicial Court convened in mid-May to begin hearing this lawsuit as well as another case involving the American Cancer Society. Back in early January 1992, after failing to disqualify petition signatures, the opposition filed a lawsuit against the attorney general challenging his certification of the tobacco-tax ballot-initiative petition, arguing the petition violated state law by making a specific appropriation of money from the state treasury.^{27,28} The American Cancer Society filed a friend-of-the-court brief in support of the attorney general, insisting the petition was consistent with state law because it made allocations subject to legislative appropriation.

The Second Signature Drive

In May 1992, a second signature-collection campaign was necessary to place the ballot initiative on the November ballot since it was not approved by the legislature. By law, this meant gathering an additional 11,715 signatures (0.5% of the total number of votes cast in the previous gubernatorial race) from registered voters who had not signed the first petition. As in the first signature drive, no

TABLE 1—Tobacco Industry Contributions to Oppose Question 1 In the 1992 Election*

Firm	1991 Total, \$	1992 Total, \$	Total, \$	%
American Tobacco	12 019.00	527 587.00	539 586.00	7.59
Brown & Williamson	18 039.00	119 618.78	137 657.78	1.94
Lorillard	12 990.00	524 281.00	537 271.00	7.56
Philip Morris	75 320.00	3 188 510.53	3 243 830.53	45.83
R.J. Reynolds	51 632.00	2 278 884.20	2 330 516.20	32.78
Smokeless Tobacco Council	0.00	214 389.00	214 389.00	3.02
Tobacco Institute	5 575.72	100 704.85	106 280.57	1.49
Total			7 109 531.08	

*Amount from major donor statements of the Committee Against Unfair Taxes and tobacco firms filed with the Massachusetts Office of Campaign and Political Finance, 1991/92 election cycle.

more than 25% could come from any single county. Since the coalition was prepared for a "no" vote, signature campaign plans were already in place, including a signature "blitz" scheduled for the last weekend in May.^{29,30} Again, the goal was to collect twice as many signatures as were needed. This initiative process provides the legislature with oversight over initiatives.

During the second signature drive, the tobacco industry tried to disrupt the process by offering two compromises. First, a tobacco industry representative offered to support a 15-cent tobacco tax increase, with 5% of the revenues going toward tobacco-control programs (personal interview, April 26, 1995, with Candace Pierce-Lavin, a member of the American Cancer Society Tobacco-Tax Taskforce). In its second attempt, another tobacco industry representative offered an 18-cent tobacco tax increase, with 5% going toward tobacco-control programs (interview with C. Pierce-Lavin). The coalition ignored both offers, viewing the tactic as an attempt to divert attention away from qualifying the ballot initiative on the ballot (interview with C. Pierce-Lavin).

By the June deadline for delivering petitions for certification, the coalition had more than twice the required number of signatures, of which 25 390 were ultimately certified.^{31,32}

Supreme Judicial Court Rulings

In July 1992, the Supreme Judicial Court handed down rulings in the two key lawsuits.³² In the first case, the court ruled that a committee report was not a prerequisite to placing a ballot-initiative petition on the ballot.²⁷ In the second case, the court ruled that crediting revenues to

the Health Protection Fund did not constitute an appropriation of monies from the general treasury.²⁸

The court also dismissed a complaint by the tobacco industry that the attorney general's summary did not alert voters to the possibility that revenues could be diverted to other purposes, noting that the summary contained the words "subject to appropriation" by the legislature. Although the tobacco industry lost this lawsuit, in the campaign, it warned voters that the legislature would divert the funds.

The Campaign

The tobacco industry strategy. During the initial signature drive in the fall of 1991, the Committee Against Unfair Taxes, a political action committee funded entirely by tobacco interests (Table 1),³³ was formed to oppose the tobacco-tax ballot initiative.³³ The major themes used by the committee or the tobacco industry³⁴ were the following: (1) the cigarette tax is regressive, affecting primarily lower-income smokers; (2) the tax would hurt the state economy because people living in border towns will cross over into lower-tax states to buy cigarettes; and (3) the legislature would use the tax money for other purposes, such as balancing the budget. By making taxes the focus of the campaign, the Committee Against Unfair Taxes hoped to capitalize on the voters' antitax mood.

The committee planned to undertake a major television and radio campaign.³⁵ By September, the tobacco industry launched its media campaign by airing a series of television spots.^{36,37} The tobacco industry also relied on a massive direct-mail campaign.

The coalition strategy. The 1991 public opinion poll conducted by Martila

& Kiley helped shape the coalition's campaign strategy.³⁸ This poll showed that even though voters were wary of additional taxes, the majority would support a new tax if the revenues were earmarked for programs they thought were worthwhile. In addition, 70% said they would support a tobacco-tax increase to fund health care-related programs to prevent tobacco use. The most popular item was funding programs in schools to prevent smoking.

The poll also showed that the American Cancer Society was trusted by over three fourths (77%) of voters on tobacco-policy matters while only 7% trusted the tobacco industry. When the issue was redefined as the American Cancer Society versus the tobacco industry, the American Cancer Society was favored 85% to 9%.³⁹ Thus, the coalition framed the campaign as the American Cancer Society versus the tobacco industry. The slogan "Help the American Cancer Society Fight the Tobacco Industry" became a prominent part of the campaign. Targeting the tobacco industry, not smokers, also allowed the coalition to ease public attitudes that antismoking activists were elitists unfairly imposing their own standards on others,⁴¹ an opinion that 46% of those polled shared.³⁹

The primary focus of the campaign was on the health problems caused by tobacco and the deaths caused by tobacco-related diseases. The health of children received particular attention. The Martila & Kiley poll showed that one of the strongest arguments in favor of the tobacco-tax ballot initiative was that it would result in fewer teenagers' becoming smokers. Thus, the motto "Tax Tobacco, Protect Kids" became another campaign theme. One brochure warned voters that at current smoking rates, over 120 000 children alive today would eventually die from tobacco-related diseases.

Another part of the coalition's strategy highlighted California's Proposition 99, which led to a drop in smoking by twice the national average since its 25-cent cigarette tax had gone into effect in 1989. A similar drop in Massachusetts was projected to result in 80 000 fewer smokers in the first year alone.⁴⁰ Finally, the coalition argued that reduced smoking would result in lower costs to taxpayers since tobacco-related illnesses cost the state \$1.5 billion a year in medical care and in lost worker productivity.

The Committee Against Unfair Taxes and the coalition entered the campaign with decidedly different approaches to

communicating their messages to the public. The coalition took advantage of free media, including television and newspaper editorial support, grassroots lobbying to build public support, press conferences designed to generate publicity, debates with the opposition, endorsements, and well-publicized campaign events.

National American Cancer Society Campaign Contribution

The tobacco industry's campaign against Question 1 was effective. Marttila & Kiley's second tracking poll on October 15 and 16 showed that public support for the ballot initiative had dwindled from 68% to 59% in the 12 days since the first tracking poll (Table 2).⁴¹ This decline coincided with an increase, from 15% to 40%, in the percentage of respondents who had seen the Committee Against Unfair Taxes' televised advertisements. Among those who had seen the tobacco industry's advertising, support was a shaky 51% to 44%. Among those who had not seen the advertising, support was a more solid 65% to 31%.

Campaign consultants Marttila & Kiley thought it was necessary for the coalition to buy television time and newspaper space. However, there was little money available for paid advertising, primarily because fund-raising from private donors was not going well. According to the coalition's fund-raising director, securing donations from private individuals was difficult because most charitable givers prefer to stay away from political issues (personal interview, February 28, 1995, with Alix Smullin, coalition director of fund-raising).

Desperate for funding, the Massachusetts American Cancer Society appealed to the National American Cancer Society for help. In return, the national American Cancer Society pledged \$250 000 to the campaign (personal interview, April 26, 1995, with Candace Pierce-Lavin, member of the American Cancer Society Tobacco Tax Taskforce). The actions of the national American Cancer Society were not controversial. The national American Cancer Society had supported the signature-gathering process for a similar ballot initiative campaign in Montana earlier. The national American Cancer Society had known about polls showing that the society was popular in the campaign. The national American Cancer Society Board of Directors gave its approval because its members thought this was a reasonable thing to do and

TABLE 2—Levels of Public Support for Question 1 from April 1991 to November 1992^a

	Benchmark Survey, 4/91	Tracking Poll 1, 10/2/92	Tracking Poll 2, 10/18/92	Tracking Poll 3, 10/26/92	Tracking Poll 4, 11/1/92
Yes/lean yes	70%	68%	59%	60%	56%
No/lean no	26%	30%	36%	36%	41%

Source. For benchmark survey, reference 38; for tracking poll 1, reference 57; for tracking poll 2, reference 41; for tracking poll 3, reference 42; for tracking poll 4, reference 47.

^a Polling conducted by Marttila & Kiley, Inc., Boston, Mass. Poll question asked of respondents: "There may be a referendum on the November 1992 ballot proposing an increase in state taxes on cigarettes of 25 cents per package. This would basically double the state cigarette tax from 26 cents to 51 cents per pack. The funds generated from this tax increase would be earmarked for certain health care-related programs to prevent tobacco use. If there were an election on it tomorrow, would you be inclined to vote yes, or would you be inclined to vote no on this proposal?" (Permission granted by Marttila & Kiley, 1997.)

hoped to encourage, motivate, and inspire the ballot initiative's proponents. The then-new chief executive officer considered this request to be a part of customer service (e.g., supporting requests from the field) (personal interview, August 10, 1995, with Alan Erikson, of the national office of the American Cancer Society).

A significant portion of the new funds was used to tape a television advertisement and purchase commercial air time. In the paid advertisement, over a display of packages of well-known brands of cigarettes arranged like tombstones in a graveyard, a narrator asked voters whom they trusted more—the tobacco industry or the American Cancer Society. The advertisement effectively juxtaposed the American Cancer Society's pro-health, pro-children stance with the tobacco industry's interests. The advertisement emphasized this point by claiming that the tobacco industry would not be spending millions of dollars to oppose Question 1 if cigarette smoking in California had not fallen by twice the national average after voters there approved Proposition 99.

The coalition's commercial advertising appeared to have had an impact. On October 27, 1992, Marttila & Kiley conducted Tracking Survey #3 (Table 2).^{42,43} Support for the ballot initiative had stabilized at about 60%, up 1 percentage point from the previous poll. Even though the percentage of voters who had seen the opposition's ads had increased from 40% to 61%, the coalition's ad was seen by 42% of voters. In fact, among those who had seen the ads of the Committee Against Unfair Taxes, support for Question 1 had grown from 51% to 58%. In addition, the proportion of voters who believed Question 1 would reduce smoking had grown

from 41% to 48% since the second tracking poll.

The tobacco industry countered the American Cancer Society's new ads by launching a new television campaign against Question 1. These advertisements portrayed smokers as a minority group that was in danger of losing its civil rights and urged people to show tolerance toward smokers. The chairperson of the coalition commented, "How dare the tobacco industry pretend to be a defender of tolerance. What could be more intolerant than the tyranny of an industry that hooks kids before they can make a reasonable choice?"⁴⁴

The coalition's campaign also gained momentum from the endorsement by the popular former US senator from Massachusetts Paul Tsongas⁴⁵ and from a study showing that the tobacco industry was responsible for almost half of the increase in the price of cigarettes since 1980.⁴⁶ That study appeared to have undermined the tobacco industry's argument that the tax would hurt lower-income smokers.

The Final Days

On October 31, 1992, Marttila & Kiley ran the last of its tracking polls (see Table 2).⁴⁷ Support had dropped from the previous poll. Fifty-three percent said they would definitely vote yes on Question 1, and 3% indicated that they were leaning toward voting yes.

In the days before the election, the coalition bought full-page advertisements in the *Boston Globe*. The national American Cancer Society's campaign contribution had given the coalition the means to launch a paid newspaper advertising effort a day or two before the election. These ads restated the themes of health, protecting

TABLE 3—Contributions of the Massachusetts Coalition for a Healthy Future in Favor of Question 1 in the 1992 Election*

Organization	Total, \$	%
American Cancer Society, Massachusetts Division	367 408.44	36.03
American Cancer Society, National	250 500.00	24.57
American Heart Association	20 000.00	1.96
American Medical Society	8 750.00	0.86
Blue Cross/Blue Shield	95 082.62	9.33
Massachusetts Association of HMOs	21 199.00	2.08
Massachusetts Medical Society	159 888.05	15.68
WHDH-TV (free air time)	15 100.00	1.48
Other (individual and under \$50)	81 721.53	8.01
Total	1 019 649.64	

*Amounts from major donor statements of the Massachusetts Coalition for a Healthy Future filed with the Massachusetts Office of Campaign and Political Finance, 1991/92 election cycle.

children, and the success of California's tobacco-control program, as well as an endorsement from former US Surgeon General C. Everett Koop. Blue Cross/Blue Shield placed its own full-page advertisements spotlighting the economic impact of smoking.^{48,49}

By the campaign's end, the tobacco industry had spent a total of \$7 109 530 to oppose Question 1, compared with \$1 019 649 (Table 3) spent by the coalition in favor of the ballot initiative.³³ Four years earlier in California, the tobacco industry had spent \$21 360 000 to defeat Proposition 99.⁵⁰ Although total tobacco industry expenditures in California exceeded expenditures in Massachusetts by over \$14 million, the tobacco industry spent the same amount (\$2.56, in 1992 dollars) per actual voter in Massachusetts as in California. The Coalition for a Healthy California, however, spent about \$1.6 million in favor of Proposition 99, about \$590 000 more than the Massachusetts coalition spent to pass Question 1 in Massachusetts. However, the Massachusetts coalition spent 95% more (\$0.37 vs \$0.16, in 1992 dollars) per actual voter than the California coalition. On election day, November 3, 1992, Massachusetts voters approved Question 1 by 54% to 46%.⁵¹

Discussion

Moving policy-making out of the legislature into the public arena led to what E. E. Schattschneider termed a widening of the scope of conflict.⁵² According to Schattschneider, the outcome of any conflict is determined by its scope.

As the scope of conflict widens, however, the influence of the tobacco industry can be limited. "Private conflicts are taken into the public arena precisely because someone wants to make certain that the power ratio among the private interests most immediately involved shall not prevail."^{52(p37)} As the conflict becomes public and a greater number of participants become involved, pressure groups such as the tobacco industry cannot exert the same influence as they could in private. As a result, groups such as the coalition can prevail.

Assembling a large coalition also helped health activists build public support for the ballot initiative. The coalition ensured widespread support for the ballot initiative, mobilized grassroots support, and allowed activists to neutralize the influence of the tobacco industry.

The policy environment was also favorable for passing Question 1. Public approval for raising tobacco taxes to fund tobacco-control programs in Massachusetts was high (e.g., 1985 and 1991 voter surveys).^{39,53} The growing social unacceptability of smoking, no doubt influenced by the increasing evidence on the adverse health effects of tobacco use,⁵⁴ and the unpopularity of the tobacco industry helped the coalition to pass Question 1. Another important factor was the central role played by the American Cancer Society.

The coalition also won by minimizing the tobacco industry's argument that the legislature could not be trusted to appropriate funds to tobacco-education programs. The coalition promised voters it would stay together after the election to lobby the legislature for full funding of

these programs. However, the legislature has diverted Question 1 funds for non-tobacco-education programs, and only little more than 25% of the revenues are being spent on tobacco education.⁵⁵ (More research is needed to determine if the tobacco industry played a role in the diversions.) This appears to verify the tobacco industry's claim that the legislature would use the tax money for other purposes and represents a major stumbling block for coalitions in other states. Opponents may cite Massachusetts as a reason not to vote for similar ballot initiatives.

Although using the initiative process was essential for tobacco control in Massachusetts, there are instances where it may not be desirable. A ballot measure may not lend itself to ready comprehension by a public "educated" merely by the media campaigns funded by its sponsors. In these cases, the initiative process may undermine representative democracy.⁵⁶ □

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