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### ***FDA Names Director of New Center for Tobacco Products***

On August 19, the U.S. Food and Drug Administration (FDA) announced that Lawrence Deyton, MSPH, MD, was selected to be the director of the newly established Center for Tobacco Products at FDA. As director of the center, Dr. Deyton will be charged with implementing the recently passed Family Smoking Prevention and Tobacco Control Act, signed into law by President Obama in June. Before coming to the FDA, Dr. Deyton played a significant role in increasing the use and effectiveness of the smoking cessation programs at the Department of Veteran's Affairs, resulting in a decrease from 33 percent in 1999 to 22 percent in 2007 in the smoking prevalence rate among the veteran population. To see an American Lung Association statement on Dr. Deyton's appointment, please [click here](#).

### **Additional Resources**

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### ***Ohio Judge Rules Disputed Money Must Be Used for Tobacco Prevention and Cessation***

An Ohio judge ruled on August 11 that the endowment fund of the Ohio Tobacco Prevention Foundation must be used to reduce tobacco use in Ohio, and that it was illegally taken by the legislature and governor in 2007. The Ohio Tobacco Prevention Foundation was set up in 2000 to receive a portion of Ohio's annual master settlement agreement payments, but those funds have regularly been diverted. Last year, the governor and the legislature sought to take most of the remaining funds to pay for an economic development plan. The judge found that the elimination of the \$230 million in funds to reduce tobacco use and using it for other purposes would adversely impact tobacco control efforts in Ohio. The tobacco prevention programs in Ohio have been very effective and successful at reducing

smoking rates. Since 2000, the middle school smoking rate has declined 63.5 percent and the high school smoking rate has declined 42 percent. In addition, the adult smoking rate has declined from 26.3 percent in 2000 to 20.1 percent in 2008. Gov. Ted Strickland immediately asked the attorney general to appeal the ruling. (Source: *Judge to Ohio: Hands off tobacco money*, Stephen Majors, Associated Press, August 11, 2009.)

### ***Debate over E-Cigarettes Moves to Court***

On August 17, A U.S. District Court in Washington D.C. heard a lawsuit filed by electronic cigarette companies Smoking Everywhere, Inc. and Sottera Inc., who claim that the U.S. Food and Drug Administration (FDA) does not have jurisdiction over their products. Meanwhile, Oregon Attorney General John Kroger has taken steps to ban the sale of two brands of e-cigarettes until they have been proven to be safe for use by FDA. Attorney General Kroger reached an agreement with Sottera Inc., the manufacturer of the Njoy brand of e-cigarettes, to

halt sales. Smoking Everywhere Inc. did not reach an agreement with the Attorney General and Kroger filed a lawsuit to block the sales of that brand of e-cigarettes. Kroger based his decision on findings by the FDA last month that e-cigarettes contained carcinogens and other toxic chemicals such as diethylene glycol, which is a chemical found in antifreeze. (Source: *Oregon AG settlement blocks e-cigarette sales*, William McCall, Associated Press, July 31, 2009.)

### ***Rhode Island to Provide Help to Quit to Many Smokers***

Smokers in Rhode Island will now have access to the help they need to quit smoking, courtesy of regulations that went into effect in August. Health insurers in Rhode Island are now required to cover all smoking cessation treatments that are approved by the U.S. Food and Drug Administration, which gives smokers access to Chantix, Zyban, and the five nicotine replacement therapies currently on the market. The regulations also require that smokers have access to counseling. Healthcare providers will be given flexibility to provide treatments to patients based on what works for them. With the highest cigarette tax in that nation at \$3.46 per pack, these new regulations are a perfect example of good, multi-faceted tobacco control policy. This makes Rhode Island the first state in the nation to require private insurers to fully comply with the U.S. Public Health Service guidelines regarding smoking cessation. (Source: *RI health insurers to cover smoking cessation treatments*, Mario Hilario, [turnto10.com](http://turnto10.com), August 14, 2009.)

### ***Smoking Continues to Decline among Montana Youth***

Thanks to successful tobacco prevention programs, youth smoking rates in Montana continue to decline. According to the 2009 Montana Youth Risk Behavior Survey, the percentage of high school students who are current smokers has fallen dramatically since 1997, from 38.1 percent to 18.7 percent. In addition, only 7.9 percent of high school students are frequent smokers, down from 19.3 percent in 1997. Montana is one of a select few states in the nation that provides fairly significant funding for its state tobacco prevention and cessation program. (Source: *Smoking rate decreases among Montana youth*, Kay Rossi, [montanasnewsstation.com](http://montanasnewsstation.com), August 24, 2009.)

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## **News on Smokefree Air Laws/Ordinances**

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### **South Dakota**

Originally scheduled for August 24, the trial to determine whether to put South Dakota's smokefree air law on the ballot in 2010 for a public vote has been delayed until October 26. The law, which was due to take effect July 1, was halted when opponents of the smokefree indoor air law filed a petition to refer the law to the ballot submitting over 25,000 signatures in support. Supporters of the law challenged the petition and enough signatures were ruled invalid that the Secretary of State rejected the petition. Opponents claim that technicalities resulted in the invalidation of the petition and that because they substantially complied with the law, the judge should put the measure on the ballot. (Source: *SD smoking ban legal fight focuses on technicality*, Chet Brokaw, Associated Press, August 20, 2009.)

### **St. Louis County, MO**

On August 25th, the St. Louis County Council gave final approval to a smokefree indoor air ordinance by a vote of 4-3. The bill contains many exemptions, most notably for casino floors, smoking lounges at the airport, and bars that get 25 percent or less of their income from food. Bar owners and public health groups both oppose the ordinance. The ordinance will be put before the voters in November if not vetoed by the county executive. (Source: *St. Louis County smoking ban moves closer to ballot measure*, Associated Press, August 26, 2009)

To view your state's restrictions on smoking, go to: <http://slati.lungusa.org>, click on a state and then the "Clean Indoor Air" link.

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## News on Cigarette Tax Increases

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### Connecticut

Still in the midst of a stalemate over the state budget, Gov. Jodi Rell and legislative leaders have reached an agreement to increase the cigarette tax by \$1.00 per pack, according to media reports. The total state tax on a pack of cigarettes would rise to \$3.00 per pack, which would make Connecticut's cigarette tax the second highest in the nation behind Rhode Island at \$3.46 per pack. No formal budget deal has been agreed to by the governor and legislative leaders, but the cigarette tax increase is expected to be part of a Democratic budget that will be voted on in a current special session of the legislature. (Source: *Budget Negotiators in Accord to Raise Cigarette Tax to \$3 a Pack*, Christopher Keating, Hartford Courant, August 26, 2009).

### Michigan

In an effort to close a \$1.8 billion budget deficit for the fiscal year that starts October 1, Michigan Gov. Jennifer Granholm has proposed a variety of tax increases, including a 25 cent boost in the cigarette tax. The cigarette tax would rise to \$2.25 per pack, and is expected to raise \$54 million. The tax on tobacco products other than cigarettes would also double, which is expected to raise \$45 million. (Source: Governor backs taxes to help erase deficit, Mark Hornbeck, The Detroit News, August 14, 2009.)

For more information on tobacco taxes in your state, go to: <http://slati.lungusa.org>, click on a state and then the "Tobacco Excise Tax" link.

If you have questions or comments about the content in this e-newsletter, or have questions on tobacco control policy issues, please contact Thomas Carr, Manager, National Policy, American Lung Association National Office, Washington, DC, at [tcarr@lungusa.org](mailto:tcarr@lungusa.org). To subscribe to this e-newsletter, go to [www.lungnews.kintera.org](http://www.lungnews.kintera.org).

For the American Lung Association nearest you, contact 1-800-LUNGUSA or visit [www.lungusa.org](http://www.lungusa.org).

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