

New Jersey and Federal Tobacco Control Laws and Regulations

**Presented by
New Jersey Global Advisors on Smokefree Policy
(NJ GASP)**

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NJ GASP Mission

- **Promote** tobacco-free and smokefree lives for all people, through public health initiatives.
- **Educate** the community, policymakers, and public health professionals on the benefits of tobacco-free and smokefree lives.
- **Provide technical assistance** to enforce New Jersey state and local laws on tobacco control.
- **Serve as a resource on emerging trends** and issues in tobacco control.

Presentation Overview

- Key federal tobacco control legislation enacted by United States federal government.
- Key New Jersey State tobacco control legislation.
- Emerging trends and hot topics in tobacco control.

Federal Legislation on Tobacco

Prevent All Cigarette Trafficking Act (PACT) regulates cigarettes and smokeless tobacco product sales, through mail and internet:

- **Took effect on June 29, 2010.**
- Curbs cigarette and smokeless tobacco sales to children. Requires age verified at purchase / delivery.
- Helps to collect taxes on cigarettes and smokeless tobacco sold through the mail and internet, requiring tax stamps be affixed before delivery.
- Bans delivery of products through U.S. Postal Service.

Family Smoking Prevention and Tobacco Control Act

- Signed by U.S. President Obama on **June 22, 2009**.
- Amends the Federal Food, Drug, and Cosmetic Act (FFDCA), to grant authority to the FDA, to regulate the manufacturing, marketing and sale of cigarettes and smokeless tobacco products.
- The bill adds a new chapter to the FFDCA to regulate tobacco products. under a new standard of **"appropriate for the protection of the public health."**

Key Points of Family Smoking Prevention and Tobacco Control Act

- Restrictions on marketing and sales to youth.
- Bans flavorings in cigarettes (except for menthol).
 - **NJ already banned flavored cigarettes in 2008 (except clove and menthol).**
- Requires detailed disclosure of ingredients, nicotine and harmful smoke constituents.
- Allows FDA to require changes to tobacco products to protect the public health.
- Strictly regulates "reduced harm" products.
- Requires bigger, better health warnings.

<http://www.tobaccofreekids.org/reports/fda/summary.shtml>

Provisions took effect on June 22, 2010, :

- **Nationwide prohibition** on cigarette and smokeless tobacco sales to children under age 18.
 - **NJ bans the sale of any tobacco product, and electronic cigarettes to persons under age 19.**
- **Prohibits cigarette sales in packs of less than 20.** This will eliminate so-called "kiddie packs" and "loosies" that are more affordable and appealing to kids.
 - **NJ already requires sale of 20-pack for several years.**
- **Requires stores to place behind the counter,** cigarettes and smokeless tobacco products, out of reach of children.
 - **Many local NJ towns already require behind the counter.**

- **Restricts vending machines and self-service displays** to adult-only facilities.
 - **Many local NJ towns already ban the sale of cigarettes in vending machines and self-service display racks.**
 - **In NJ, minors are allowed to enter bars, just not served alcohol; so federal law bans machines in most NJ bars.**
 - **Clubs that host ‘teen nights’ are NOT adult-only facilities, machines banned in clubs that host teen nights.**
- **Ban all tobacco-brand sponsorships** of sports and entertainment events.
- **Ban virtually all free tobacco samples** and giveaways of non-tobacco items (hats, T-shirts), with the purchase of tobacco.

<http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm216406.htm>

Federal Legislation on Tobacco

SCHIP (State Children's Health Insurance Program)

- Increases federal tobacco taxes to reduce youth smoking, and reduce public health care costs.
- **Took effect April 1, 2009.**
- New federal tobacco taxes are:
 - \$1.00/pack - cigarettes (a 61 cent increase).
 - \$1.00 /pack - small cigars (a 96.3 cent increase).
 - \$1.00/pack - RYO tobacco (a 95.5 cent increase).
 - 13 to 40 cents /regular cigar, depending on cigar price.
 - 11.3 cents/can of smokeless tobacco (a 7 cent increase).

<http://www.tobaccofreekids.org/research/factsheets/pdf/0343.pdf>

Key Federal Laws that Ban Smoking

- **All Federal buildings of the Executive branch are 100% smokefree, effective June 19, 2009**
 - No smoking in outdoor courtyards.
 - No outdoor smoking within 25 feet of building, including doorways and intake ducts. [Click here](#) for the announcement.
- **U.S. Navy bans smoking in its submarines, as of December 31, 2010.**
- No smoking on all **domestic commercial flights**.

Need to Revise Federal Regulations on Worker Safety

- NJ Casino workers, workers in states with weak smoke free air laws, are exposed to secondhand smoke.
- The Occupational Safety and Health Administration's Act that governs worker safety needs to allow for worker complaints based on secondhand smoke.
- President George W. Bush's administration issued a directive disallowing secondhand smoke claims.
- GASP shared a policy memo with federal government, outlining concerns with the directive.

Second-hand Smoke Health Concerns

- **Secondhand smoke (SHS)** is smoke exhaled by smoker, and sidestream smoke (off the tip).
- There is **no known safe level of exposure to SHS** (2006 U.S. Surgeon General's Report).
- SHS is a **known Class A human carcinogen**. Same class as asbestos and benzene (U.S. Environmental Protection Agency).
- Smoking and SHS exposure are **#1 cause of preventable disease/death in world**.

U.S. Surgeon General's 2006 Report

- **Health effects of SHS on children:**

- sudden infant death syndrome
- preterm delivery
- low birth weight
- childhood cancer risks

(Ch. 5, pp. 242-243, U.S. Surgeon General's 2006 Report)

- **Studies show that SHS can lead to:**

- An increase in fetal mutation
- Increased risk of miscarriage

New Concerns with Third-hand Smoke

- Third-hand smoke is second-hand smoke that lingers long after the cigarette or cigar is extinguished.
- Embeds as residue on any surface: walls, in carpeting, furniture, on clothing, in hair, toys, etc.
- Carcinogens and toxins in third-hand smoke may affect brain development in babies and young children.
- Young children crawl on carpeting and suck on clothing, upholstery, skin, etc. that has third-hand smoke residue.

New Concerns with Exposing Pets to Secondhand Smoke

- Pets can develop respiratory infections, lung inflammation or asthma when breathing in SHS.
- Cats exposed to SHS were twice as likely to develop the feline lymphoma.
- Risk tripled with 5 years of SHS exposure.
- Two smokers in house, 4 times more likely.
- Tobacco, cigarette butts, chew and other tobacco products are attractive to pets. If eaten, these items could be also be toxic to pets.

SMOKEFREE and SO FREAKIN' HAPPY



Fluffy  **quits**.com

Important with any smokefree air law:

- With smokefree policies... **Only the behavior of smoking is prohibited, not the person....**

New Jersey is a leader in the United States, on tobacco control laws:

- Strong statewide smokefree air law (except casinos).
- First state to ban smoking in all college and university residential housing (on and off campus).
- First state to ban the use of electronic cigarettes in public places and workplaces.
- First state to ban the sale of electronic cigarettes to persons under age 19.
- First state to implement ban on flavored cigarettes (except menthol and clove).

New Jersey is a leader in the United States, on tobacco control laws:

- First state to ban smoking in foster homes and cars, for foster children who are wards of the State.
- One of first states to require fire safe cigarettes that self-extinguish.
- One of highest cigarette taxes in nation (rank 6th highest at \$2.70/pack. New York is #1 at \$4.35 + \$1.50 for New York City).
- One of first states to ban cigarettes as a prize in charitable games.
- Ban novelty lighters (look like toys, cartoons, that attract children).

More NJ state laws on tobacco control

- Ban smoking in public places, workplaces:
- Ban smoking in private clubs, even if no workers, just volunteers.
- Ban smoking in hospitals, state psychiatric facilities, medical residential facilities such as nursing homes, substance abuse facilities, etc.).
- Ban smoking on public transport (buses, trains, etc.).
- Ban smoking in all schools and school property (K-12).

New Jersey Smoke-Free Air Act (NJSFAA)

- NJSFAA effective April 15, 2006.
- Rules enacted in May and October 2007, to help implement NJSFAA.
- **Amended to include electronic cigarettes, March 13, 2010.**
- **Covers almost all indoor public places and workplaces:**
 - **Offices, factories, commercial buildings and facilities, and government facilities.**
 - **Restaurants, bars, clubs, theatres.**
 - **Bowling alleys, sports facilities, race tracks, bingo sites.**
 - **Private clubs, whether social, recreational, civic, fraternal, religious, academic, military, etc.**
 - **Shopping malls, retail stores.**

- **Public and private elementary and secondary schools, including all outdoor grounds.**
- **Child care facilities.**
- **Places of worship.**
- **Health care facilities and offices, hospitals, nursing homes, addiction treatment facilities.**
- **Hotel common areas.**
- **Public transportation vehicles and stations and platforms, parking garages.**
- **Apartment building common areas (lobbies, stairwells).**
- **Covers some outdoor areas of public places and workplaces.**
- **Bans secondhand smoke migrating from outside, into an interior space that is required to be smokefree.**

New Jersey Smoke-Free Air Act (NJSFAA)

- Exemptions include:
 - Casino gaming floors.
 - Cigar lounges and bars in existence as of 12/31/04 that meet ventilation and separate enclosure requirements.
 - Tobacco retail establishments to sample a product.
- Exempted businesses need to file annual waiver applications and meet requirements each year.

Enforcement and Fines

- Enforced by local and county health department and police departments, state health department.
- Fines: \$250 (1st offense), \$500 (2nd), \$1000 (3rd or more).
- GASP receives complaints and provides technical assistance to resolve complaints.

Internet Resources on NJSFAA

- NJ Department of Health and Senior Services' website:
<http://www.state.nj.us/health/ctcp/smokefree/index.shtml>
- NJSFAA language found at:
<http://www.state.nj.us/health/ctcp/smokefree/act.shtml>
and <http://www.njleg.state.nj.us/2004/bills/PL05/383 .pdf>
- GASP website info on NJSFAA at:
http://www.njgasp.org/h_newact_intro.htm ; includes
table of contents for 2007 Rules.

More NJ state laws on tobacco control

NJ prohibits smoking in college and university residential housing (dormitories):

- **Covers on-campus and off-campus housing that is school sponsored.**
- First in nation, effective October 22, 2005.
- Law NJSA 26:3D-17 at http://www.njleg.state.nj.us/2004/Bills/PL05/203_.PDF

More NJ state laws on tobacco control

NJ permits a smoking ban on grounds of a State psychiatric hospital, and other Human Services facilities, if the facility offers a smoking cessation program for its patients.

- Effective July 7, 2008.
- The Commissioner of Human Services may, by regulation, prohibit smoking on the grounds of other Human Services facilities.
- Law NJSA 26:3D-55 at:
http://www.njleg.state.nj.us/2008/Bills/PL08/7_.PDF

NJ's "Fire-safe" Cigarette Law

Reduced Cigarette Ignition Propensity and Firefighter Protection Act.

- Effective June 1, 2008.
- Only cigarettes that meet New Jersey's new fire safe cigarette standards are permitted to be sold in New Jersey. Need to "self-extinguish" if not puffed on, decreasing the risk of sleep-related cigarette fires.
- 78% of structure fires reported in New Jersey in 2006 were in residences. 204 of those fires were started by the improper use of smoking materials, resulting in 14% of all civilian fire fatalities.
- DCA's Division of Fire Safety is primary enforcer.
- <http://www.njleg.state.nj.us/2006/Bills/PL07/86 .PDF>

NJ Bans Sale and Giving of Tobacco to Person Under Age 19

- Effective March, 2006.
- Bans sale, furnishing or giving tobacco or electronic smoking devices to a person under age 19 (can violate law without a sale).
- Law does not prohibit purchase or use of a person under age 19. Some NJ towns have local ordinances that ban minors from purchasing or using of tobacco.
- Law NJSA 2A:170-51.4 at http://www.njleg.state.nj.us/2004/Bills/A1500/1300_U1.PDF

Key pending NJ bills on tobacco control

- **To increase the licensing fees to sell cigarettes**, to fund the state's tobacco control program. Currently, fee is only \$50 per license/year. Retail liquor license costs up to \$2500/year.
- **To create licensing fee system for Other Tobacco Products** (cigars, little cigars, chew, etc). No state has a licensing fee system for OTPs. Need to mirror new licensing fee for cigarettes. Would fund state's tobacco control program.
- **To eliminate smoking ban exemption for casinos and simulcasting facilities.** Protect casino workers and patrons. Federal government and university studies show poor air quality in smoky casinos.
- **Ban smoking in all state, county and local outdoor recreational areas** accessible to the public. Many local towns have passed this law.
- **To create a motor vehicle offense if smoking in a motor vehicle with a child present.** Dedicates penalties to Smoking Cessation Fund.

Voluntary Initiative: NJ Tobacco-Free Hospital Campuses

- Voluntary initiative led by American Cancer Society.
- Members include NJ hospitals, advocacy organizations like GASP.
- Majority of hospitals in the collaborative have instituted smokefree campus-wide policies.
- Some have banned all tobacco use.
- GASP honored the Collaborative for their efforts to promote safe and healthful work environments, and for hospital patients and visitors.

Emerging Trends / Hot Topics in Tobacco Control

Outdoor secondhand smoke

- Need outdoor setbacks for public places, private business, and residential properties, to prevent smoke from entering inside.
- Can be as dangerous as indoor secondhand smoke levels. Need to create smokefree outdoor recreational areas.
- Voluntary policies: businesses are permitted by law, to make their properties 100% smokefree, including outdoors.

Emerging Trends / Hot Topics in Tobacco Control

Smokefree Multi-Unit Housing

- Needed in common areas, private units, outdoors.
- There is no Constitutional right to smoke.
- Smokers not a protected group under the disability laws.
- NJ SFAA requires common spaces to be smokefree:
 - Traditional: Inside shared space include hallways, foyers, stairwells, laundry rooms, etc.
 - Nontraditional: shared space can include ventilation systems and shared walls and floor/ceiling spaces between walls where smoke migrates.
- Landlords can create a 100% smokefree policy. GASP tracks buildings in NJ. Accomplished in Ocean City and Woodbridge Township.

Emerging Trends / Hot Topics in Tobacco Control

Alternate nicotine products:

- Electronic or E-cigarettes - vapor to deliver nicotine.
 - This month, the Federal Food and Drug Administration (FDA), classified the product as a drug delivery device.
 - FDA now requiring e-cigarette companies to file applications for their products to be classified as a drug, and seek FDA approval.
- More products not FDA-approved for cessation:
 - Nico-gel, a product to use for skin absorption.
 - Nico-water, contains nicotine.
 - Nico-strips, which melt on the tongue.
 - Tablets and gum containing nicotine.

E-cigarettes – what are they?

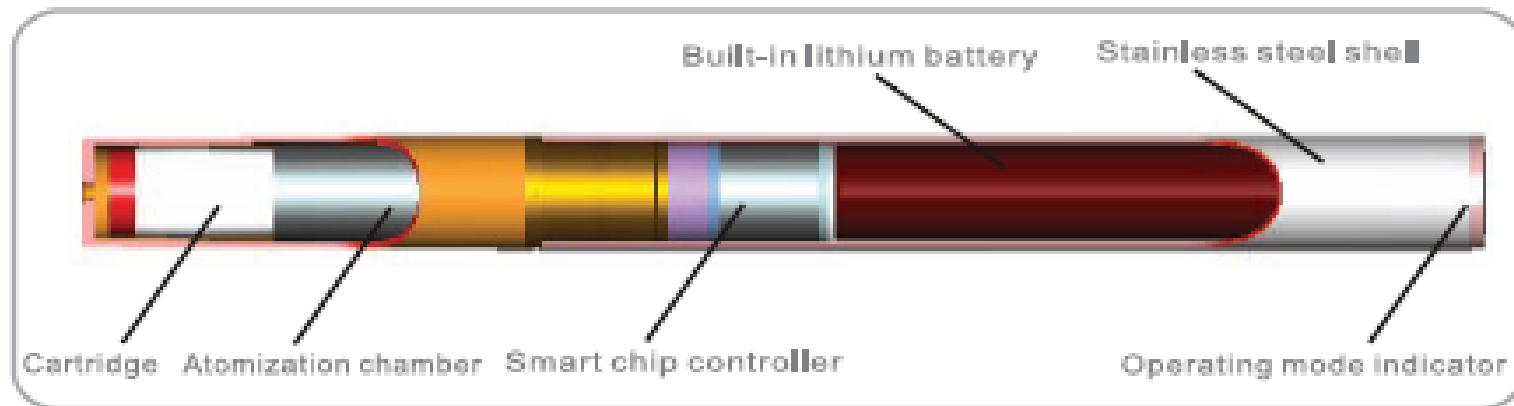
- Electronic cigarettes are battery-powered devices that contain a liquid solution.
- Solution in different concentrations of nicotine and in flavors, including mint, strawberry and chocolate (enticing to teens).
- When a user inhales, a sensor detects the air movement and triggers a heating element, which activates a chemical that vaporizes the liquid, delivering it to the user's lungs.
- The user exhales a vapor that looks like smoke, which contains substances that may be harmful.

E-cigarette component diagram (from FDA Analysis, May 4, 2009)

Nicotine and/or other flavorants in liquid form, are inserted into the white cartridge shown at the left:

Cigarette body

The cigarette body is an integrated structure consisting of stainless steel shell, lithium ion battery assembly, smart chip and program controlled circuits, atomization chamber and cartridge and so on. In the front of it, there exists an operating mode indicator.



July 2009 FDA analysis of e-cigarettes

- **Health effects** of using electronic cigarettes or inhaling their vapors second-hand are **not known**.
- FDA analysis of 18 cartridges found **toxic chemicals and carcinogens**, including diethylene glycol, an ingredient found in **antifreeze**.
- Read GASP's paper on the health concerns with electronic cigarettes at <http://njgasp.org/E-Cigs%20White%20Paper.pdf>

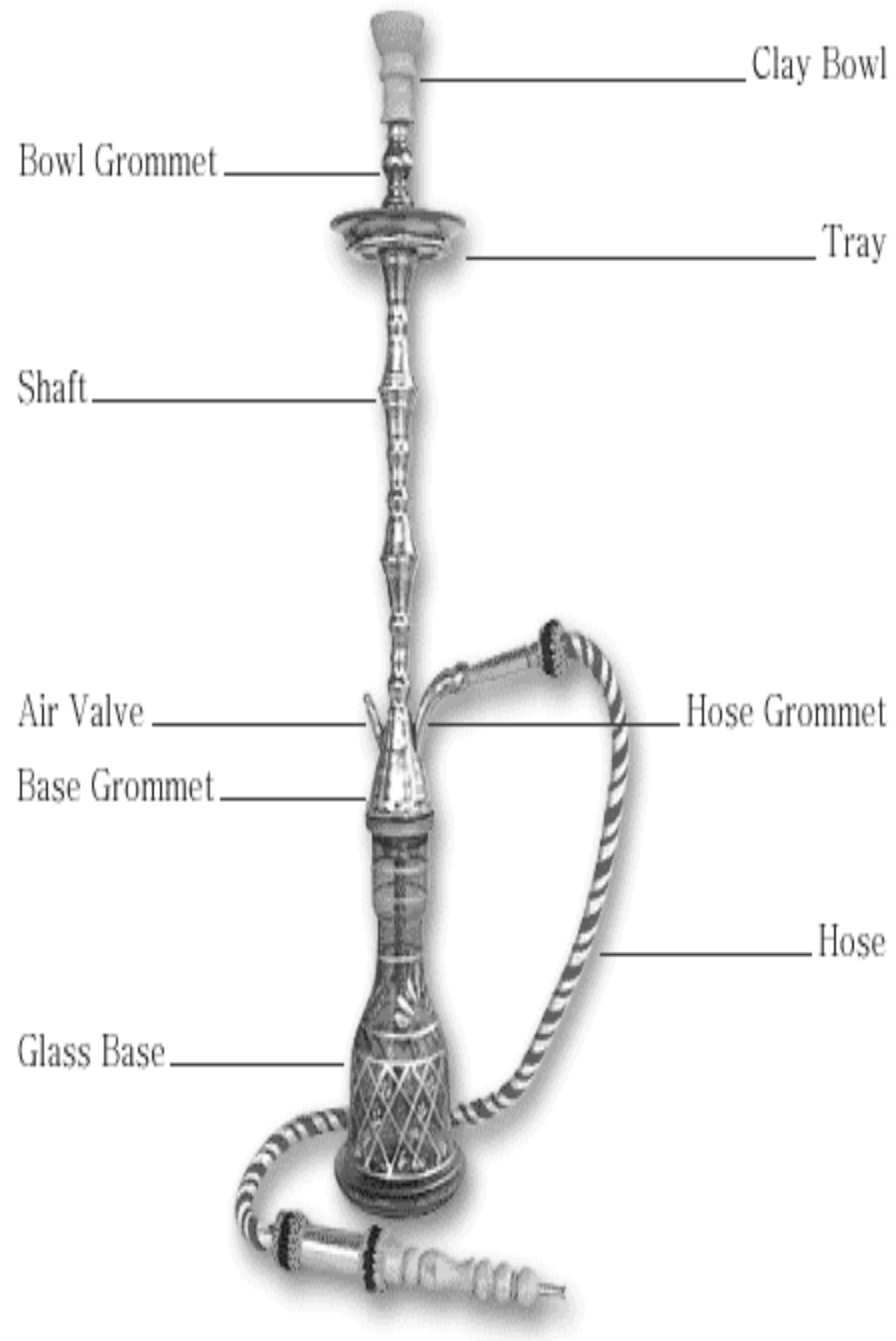
Emerging Trends / Hot Topics in Tobacco Control

Hookah/Waterpipe Smoking:

- Thought to have originated at least 4 centuries ago in Africa or Asia.
- One account is invented by doctor from India: smoke filtering thru water would make it harmless. To date, this misperception that water cleans the smoke, is still strongly believed.
- Since 1990's, hookah smoking is gaining popularity in U.S. and Europe.

Water pipes also known as:

- *Hookah* – India
- *Shisha or Goza* – Egypt, North Africa
- *Narghile* – Turkey, Syria, East Mediterranean
- Waterpipe tobacco also called *maassel*.



How a Hookah/Water Pipe Works

- When breathe in through its mouthpiece, suction formed and vacuum draws outside air into the top of the head, then over lit charcoal and through tobacco, creating smoke.
- Smoke goes thru the body, causing the water to bubble in the bowl.
- The water cools the smoke, and the smoke rises from the water, and through the hose, into mouthpiece, and inhaled by smoker.
- Smoker then exhales, releasing secondhand smoke into air.

Appeal to Youth, College-age

- Fruit/candy flavorings mask tobacco flavor.
- Water cools smoke, creating false impression that smoke is safe.
- Some may not contain tobacco, so false impression that is safe to use.
- **Trend: hookah lounges/cafes opening in college towns** (unless prohibited smokefree air law).

Public Health Hazard: Infectious Disease

U.S. Centers for Disease Control, 2007:

- "Over recent years, there has been a resurgence of use around the world, most notably among youth....
Sharing a hookah may increase the risk of transmission of tuberculosis, viruses such as herpes or hepatitis, and other illnesses."

U.S. Centers for Disease Control: Fact sheet on hookahs, updated April 2007.

http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/hookahs.htm

Public Health Hazard: Infectious Disease

“...Sheesha pipes are *an ideal tool for users to catch the [H1N1] virus since they are often passed from person to person.*” The warning was recently added to the Bahrain Health Ministry's swine flu awareness campaign.

<http://www.tradearabia.com/news/newsdetails.asp?Sn=HEAL&artid=167292>

Public Health Hazard: Infectious Disease

“The World Health Organization regional office in Cairo estimates that **17 percent of TB cases in the eastern Mediterranean are attributable to the smoking of water pipes.**”

March 24, 2008 newsclip from IRIN, the humanitarian news and analysis service of the UN Office for the Coordination of Humanitarian Affairs.

<http://www.irinnews.org/report.aspx?ReportID=77426>

Smoking and Secondhand Smoke Concerns from Hookah Smoke

WHO's 2005 Advisory Note:

- Waterpipe smoke contains numerous toxicants known to **cause lung cancer, heart disease and other diseases**, adverse effects on pregnancy.
- **Same secondhand smoke disease risks caused by cigarette smoking.**

Smoking and Secondhand Smoke Concerns from Hookah Smoke

August 2009 study by Tobacco Control Collaborating Centre (UK):

- In one waterpipe smoking session, **waterpipe smoker may inhale up to equivalent of 100 cigarettes.**
- one session of smoking shisha resulted in **carbon monoxide levels at least four to five times higher than** the amount produced by **one cigarette.**
- High levels of carbon monoxide can lead to **brain damage and unconsciousness.**

Conclusion

- ✓ Important to educate the public and policymakers on the need for 100% smokefree environments. This protects nonsmokers and provides nonsmoking environments for smokers to quit.
- ✓ **Keys to success are tobacco-free policy, prevention and cessation initiatives.**
- ✓ **Goal is to improve public health and quality of life, reduce health care costs, and maintain a well-funded, government-sponsored comprehensive tobacco control program.**