

# History of the Tobacco Master Settlement Agreement & Tobacco Control in NM

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**Center for Public Health  
and Tobacco Policy**

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- The information provided in these slides and during this presentation is for educational purposes and is not to be construed as a legal opinion or as a substitute for obtaining legal advice from an attorney. Further, nothing on these slides is intended to reflect a view on specific legislation.



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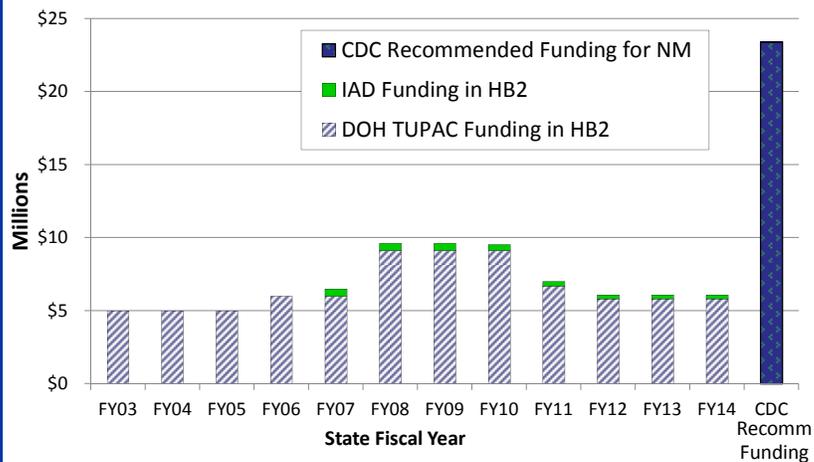
## Overview of Topics

- Tobacco Control & the MSA in NM – a snapshot
- Public Health-Related Provisions of the MSA (1998)
- Family Smoking Prevention and Tobacco Control Act & FDA Regulation of Tobacco (2009)

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## MSA Funding of Tobacco Control

MSA Tobacco Control Funding in NM



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## ***Funding Tobacco Control Saves Money and Saves Lives***

- When adequately funded, comprehensive state tobacco prevention programs reduce tobacco use, save lives, and cut smoking-caused costs.
- The more states spend on tobacco control programs, the greater the impact.
- States with sustained, well-funded prevention programs have reduced youth smoking by 45 to 60 percent.

Sources: <http://www.tobaccofreekids.org/research/factsheets/pdf/0045.pdf>; Farrelly, MC, et al., "The Impact of Tobacco Control Programs on Adult Smoking," *American Journal of Public Health* 98:304-309, February 2008; Tauras, JA, et al., "State Tobacco Control Spending and Youth Smoking," *American Journal of Public Health* 95:338-344, February 2005.

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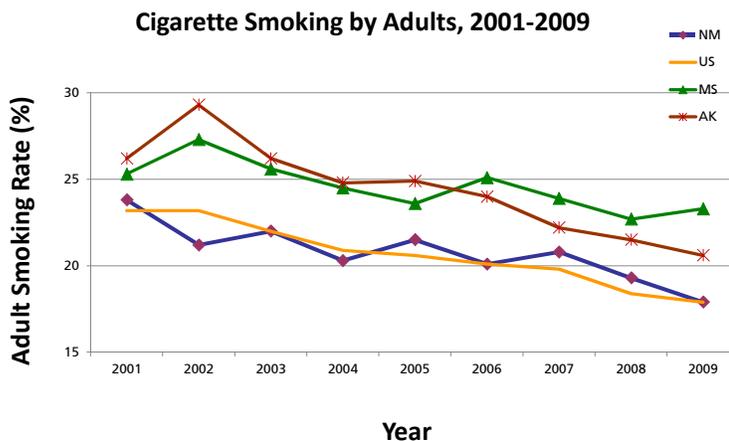
## ***Protect Tobacco Control Funding***

- When program funding is cut, smoking rates stop declining (California, Indiana) or actually rise (e.g., Florida, Ohio, Massachusetts).
- States must:
  - ✓ Insulate against the tobacco industry attempts to reduce program funding
  - ✓ Sustain funding over time to protect initial tobacco use reductions and to achieve further cuts in tobacco use.

Sources: <http://www.tobaccofreekids.org/research/factsheets/pdf/0045.pdf> & <http://www.tobaccofreekids.org/research/factsheets/pdf/0270.pdf>

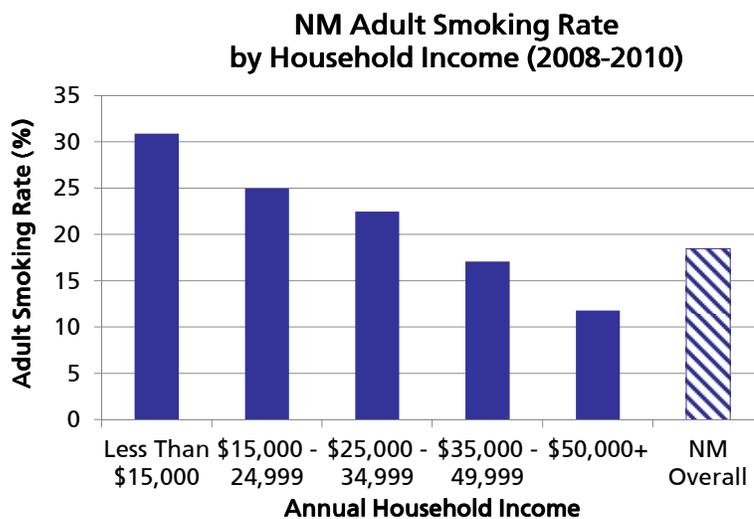
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## Progress in New Mexico – Adult Smoking



Source: Behavioral Risk Factor Surveillance System (2001-2009), [www.cdc.gov/brfss](http://www.cdc.gov/brfss)

## New Mexicans with Lowest Income Have Highest Smoking Rate



Source: Behavioral Risk Factor Surveillance System, [www.cdc.gov/brfss](http://www.cdc.gov/brfss)

## *Moving Forward*

- Restore funding to tobacco control programming
- Return to saving 50% of MSA payments in the permanent fund
- Cover comprehensive cessation services through Medicaid
- Increase the tax on non-cigarette tobacco products

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## *The Master Settlement Agreement*



**Legacy**

American Legacy Foundation<sup>®</sup>



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## Advertising and Marketing Restrictions: Limits on Advertising & Promotion to Youth



**MSA § III (a) Prohibition on Youth Targeting**  
**Tobacco Control Act Sec 102: Specific Limits on Marketing**



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## Advertising and Marketing Restrictions

**MSA III § (a) Prohibition on Youth Targeting**

**Example of Magazines with High Youth Readership:**

- ✓ **ESPN the Magazine**
- ✓ **Sports Illustrated**
- ✓ **Rolling Stone**
- ✓ **Entertainment Weekly**
- ✓ **People**
- ✓ **In Style**

Source: GFK Mediamark Resource & Intelligence

Factors:

Advertising volume; % youth readership; population exposure



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## Advertising and Marketing Restrictions

### MSA III § (a) Prohibition on Youth Targeting

#### Camel Crush Ad Campaign (2013)



*In Style Magazine, May 2013*



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## Advertising and Marketing Restrictions

### MSA III § (a) Prohibition on Youth Targeting

#### Tobacco Control Act – Sec. 907



Flavored Cigarettes



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## Advertising and Marketing Restrictions

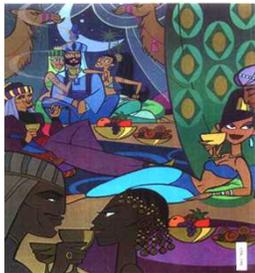
### MSA § III (b) Ban on Use of Cartoons



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## What is a Cartoon?



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## Advertising and Marketing Restrictions

### MSA § III (c) Limitation of Tobacco Brand Name Sponsorships

#### Tobacco Control Act - Sec. 102



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## Advertising and Marketing Restrictions

### MSA § III (d) Elimination of Outdoor Advertising and Transit Advertisements



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## Advertising and Marketing Restrictions

### MSA § III (e) Prohibition on Payments Related to Tobacco Products and Media

Sylvester Stallone

April 28, 1983

Mr. Bob Koveloff  
ASSOCIATED FILM PROMOTION  
10100 Santa Monica Blvd.  
Los Angeles, CA 90067

Dear Bob:

As discussed, I guarantee that I will use Brown & Williamson tobacco products in no less than five feature films.

It is my understanding that Brown & Williamson will pay a fee of \$500,000.00.

Hoping to hear from you soon;

Sincerely,

Sylvester Stallone  
SS/sp



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## Advertising and Marketing Restrictions

### MSA § III (f) Ban on Tobacco Brand Name Merchandise

#### Tobacco Control Act – Sec. 102



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## Advertising and Marketing Restrictions

**MSA § III (f) Ban on Youth Access to Free Samples**

**Tobacco Control Act – Sec. 102**



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## Advertising and Marketing Restrictions

**MSA § III (j) Ban on Non-Tobacco Brand Names**



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## Advertising and Marketing Restrictions

### MSA § III (k) Minimum Pack Size of Twenty Cigarettes Tobacco Control Act Sec. 102



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## MSA § III (r) Prohibition on Material Misrepresentations of Fact

### “Nicotine Is Not Addictive”



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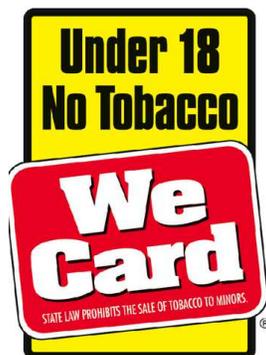
## MSA § III: (m) Limitations on Lobbying



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## The Tobacco Control Act and Retail Sales Restrictions

- Proof of age
- Face to face sales
- Minimum package size



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## The Tobacco Control Act and Other Tobacco Products

### FDA Jurisdiction Granted by Tobacco Control Act:

- Smokeless tobacco,
- cigarettes,
- roll-your-own tobacco



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## The Tobacco Control Act and Other Tobacco Products

### Authority for FDA Jurisdiction, must be explicit

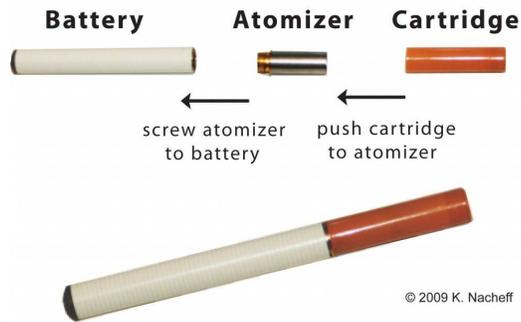
- Cigars, little cigars, pipe tobacco
- E-cigarettes
- Novelties (sticks, strips & orbs)



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# e-cigarettes



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## e-cigarettes

- Individual Stories vs. Public Health Concerns
- Not scientifically shown to be effective tobacco cessation tool
- FDA needs to determine if e-cigarettes are:
  - safe for use?
  - effective for cessation?



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## *Recap of Topics*

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## *Thank you*



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<http://publichealthlawcenter.org/programs/tobacco-control-legal-consortium>



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