

Heartland Ideas

In Defense of Smokers



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This essay presents an overview of the controversy over tobacco control, with links to documents in HTML and PDF formats available from *PolicyBot*, the free online database and search engine that also resides on The Heartland Institute's Web site. You can go directly to the "Smoking" topic in *PolicyBot* and view hundreds of documents without the assistance of this essay by clicking [here](#).

Why Defend Smokers?

Everywhere you look, anti-smoking groups are campaigning against smokers. They claim smoking kills one third or even half of all smokers; that secondhand smoke is a major public health problem; that smokers impose enormous costs on the rest of society; and that for all these reasons, taxes on cigarettes should be raised.

There are many reasons to be skeptical about what professional [anti-smoking advocates](#) say. They personally profit by exaggerating the health threats of smoking and winning passage of higher taxes and bans on smoking in public places. The anti-smoking movement is hardly a grassroots phenomenon: It is largely funded by taxpayers and a few major foundations with left-liberal agendas.

A growing number of independent policy experts from a wide range of professions and differing political views are speaking out against the anti-smoking campaign. These persons aren't defending the tobacco industry, they [defend smokers](#) for several reasons:

- Smokers already pay taxes that are too high to be fair, and far above any cost they impose on the rest of society.
- The public health community's campaign to demonize smokers and all forms of tobacco is based on junk science.
- Litigation against the tobacco industry is an example of lawsuit abuse, and has "loaded the gun" for lawsuits against other industries.

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Click on the link. Look for links that address the health effects of smoking. Do the titles show both sides or just one? Respond to the questions on the handout.

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- Banning Industrial Sand Mining Would Be a Mistake**
February 24, 2015, 9:46 PM
- Heartland Daily Podcast – Isaac Orr:**

- Smoking bans hurt small businesses and violate private property rights.
- The harm caused by smoking can be reduced by educating smokers about safer options such as electronic cigarettes and smokeless tobacco.
- Appeals to “protect the children” don’t justify the war being waged against adult smokers.
- Punishing smokers “for their own good” is repulsive to the basic libertarian principles that ought to limit the use of government force.

The rest of this essay provides facts and analysis in support of each of these arguments. It ends with advice on how to get more involved in the tobacco control debate.

Taxing Smokers

Cigarettes are already the most [heavily taxed](#) commodity in the U.S. The federal excise tax is \$1.01 a pack and the national average state excise tax is about \$1.36 per pack, for a total of \$2.37 per pack. Some cities and states impose far higher taxes. The combined state-local tax rate in Chicago is \$6.16 per pack, and in New York City it is \$5.85 per pack.

Such high and discriminatory taxes on smokers are unfair. Kip Viscusi, the University Distinguished Professor at Vanderbilt University (and previously the Cogan Professor of Law and Economics and Director of the Program on Empirical Studies at Harvard Law School) has repeatedly demonstrated that smokers pay more in excise taxes than the [social costs](#) of their habits. Even before the Master Settlement Agreement greatly increased the cost of cigarettes, “excise taxes on cigarettes equal or exceed the medical care costs associated with smoking.” For example, Illinois’ cigarette taxes, according to Viscusi, were \$0.13 more per pack than the social costs of smoking *before* the settlement added \$0.40 to the price of a pack of cigarettes, *before* the \$0.40 a pack tax hike approved by the state legislature in 2002, and *before* Cook County’s \$0.82 a pack boost in 2004.

Cigarette taxes also are an inefficient and unreliable way to raise funds for government. [Excise taxes](#) require relatively high rates to raise funds, creating opportunities and incentives for evasion and the transfer of economic activity to states with lower taxes. Dramatic price hikes and extreme taxes on cigarettes are threatening to create a stampede of tax evasion, black-market transactions, counterfeiting, and even use of lethal violence against convenience store clerks and truck drivers. Recent tax hikes adopted by New York, Cook County, Illinois, and elsewhere threaten to take us to a neoprohibitionist era with all the crime, expenses, and loss of respect for law enforcement that accompanied Prohibition.

Excise taxes are also [regressive](#). People with low incomes not only pay a higher percentage of their incomes on cigarette taxes than do wealthier people, they even pay more in absolute terms. Persons earning less than \$10,000 paid an average of \$81 a year in tobacco taxes, versus \$49 for those who make \$50,000 or more. This was *before* recent massive tax hikes!

Finally, excise taxes require regular rate increases to keep pace with inflation, whereas income, sales, and property taxes all rise with inflation or economic growth. Because of their narrow bases, excise taxes are unstable revenue generators.

Second-hand Smoke

Is [second-hand smoke](#) a rationale for higher taxes on tobacco or smoking bans? The research used to justify government regulation of second-hand smoke has been powerfully challenged by critics, including [Congress’s own research bureau](#). According to the EPA, the risk ratio for forty years of exposure to a pack-a-day smoker is just 1.19. Epidemiologists as a rule are skeptical of any relative risks lower than 3 and dismiss as random ratios less than 1.3.

An [important report](#) on second-smoke appeared in the May 12, 2003 issue of the *British Medical Journal*. Two

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epidemiologists, James Enstrom at UCLA and Geoffrey Kabat at the State University of New York at Stony Brook, analyzed data collected by the American Cancer Society from more than 100,000 Californians from 1959 through 1997.

"The results do not support a causal relation between environmental tobacco smoke and tobacco related mortality," the researchers wrote, although they do not rule out a small effect. "The association between tobacco smoke and coronary heart disease and lung cancer may be considerably weaker than generally believed."

"It is generally considered that exposure to environmental tobacco smoke is roughly equivalent to smoking one cigarette per day," according to Enstrom and Kabat. "If so, a small increase in lung cancer is possible, but the commonly reported 30 percent increase in heart disease risk--the purported cause of almost all the deaths attributed to secondhand smoke -- is highly implausible."

Smoking Bans

Unjustified concern over the health effects of second-hand smoke have led to calls for [bans on smoking](#) in public spaces. Are these bans justified?

Most seats in most restaurants are already designated nonsmoking, and there is little evidence that nonsmokers who visit restaurants and bars believe smoking is a major concern. In restaurants with smoking and nonsmoking sections, better ventilation systems rather than smoking bans can solve any remaining concerns.

Smoking bans have had severe negative effects on restaurants, bars, and nightclubs in cities where such bans have been enacted. Smokers choose to stay home or visit with friends who allow smoking in their homes, or spend less time (and less money) in bars and nightclubs before leaving. Smoking bans can also move noisy and potentially dangerous crowds onto sidewalks, and divert police resources from battling more serious crime.

Smoking bans violate the private property rights of individuals. The owners of bars, restaurants, and other businesses should be free to decide whether to allow smoking in their establishments and what kinds of accommodations to make for nonsmokers. Their customers should decide how important it is to be able to smoke or to experience a smoke-free environment.

Lawsuit Abuse

"The states' [legal crusade](#) against the tobacco industry will one day rank as one of the worst developments in American public law in the twentieth century," wrote [Michael DeBow](#), a professor of law at Cumberland School of Law, Samford University.

In 1998, Philip Morris and other major tobacco companies settled a lawsuit brought by 46 states and five territories, promising them an astounding \$243 billion over 25 years, and then approximately \$18 billion a year in perpetuity. The cost of this so-called Master Settlement Agreement (MSA) is entirely passed through to smokers; it is not paid by "tobacco companies." The agreement dramatically increased the retail price of cigarettes.

The MSA was supposed to end litigation against tobacco companies, but lawsuits continue to be filed anyway, with irresponsible juries awarding millions and even billions of dollars to smokers who knew the risks but continued to smoke anyway. Besides thousands of frivolous civil suits pursued by lawyers who long ago forgot the meaning of justice, the U.S. Justice Department is still pursuing a legal case against the tobacco industry initiated by the Clinton administration.

The MSA also "loaded the gun" for trial lawyers to go after other industries, generating approximately \$13.75 billion in projected payments to lawyers. It was, wrote DeBow, "the largest transfer of wealth as a result of litigation in the history of the human race, a transfer that is being and will continue to be financed almost entirely by smokers paying higher prices for cigarettes."

Harm Reduction

Anti-smoking activists give smokers a stark choice: Stop smoking or die! In fact, there is a third path: [reduce the harm](#) by shifting to less-hazardous products that provide similar enjoyment. For example, switching from cigarettes to smokeless tobacco products or [electronic cigarettes](#) dramatically reduces the health risk.

For many years, Swedes have used a kind of "[spitless tobacco](#)" called "[snus](#)." At least partly because of the widespread use of snus, Sweden has the lowest rate of cigarette smoking *and lung cancer* in Europe. Surely there are lessons here for U.S. tobacco policy.

Over the past several years, several millions cigarette smokers worldwide have quit smoking or dramatically reduced their cigarette consumption thanks to the use of smoke-free, tobacco-free, and often nicotine-free electronic cigarettes. In April 2014, the *International Journal of Environmental Research and Public Health* published a report summarizing a survey of more than 19,000 past and present users of electronic cigarettes – the largest survey of its kind to date.

Here is what the survey found:

- Electronic cigarettes helped 81% of the survey respondents quit smoking. Among those who had not quit entirely, one-third were non-daily smokers, and the rest had decreased consumption from 20 cigarettes to 4 per day.
- Smokers primarily begin using electronic cigarettes for harm reduction and to reduce second-hand smoke exposure to family members.
- Electronic cigarettes appear to be effective even in highly-dependent smokers.
- Side effects are minor and reported health benefits are substantial.

Here is what this means for public policy:

- Electronic cigarettes are reducing smoking rates.
- Adult smokers should not be discouraged from using electronic cigarettes.
- Over-regulation of electronic cigarettes could make the products less appealing to potential quitters.
- In light of their public health benefits, governmental policies should not treat electronic cigarettes the same as traditional tobacco products.

Unfortunately, some public health organizations and lobbying groups have made a business out of opposing smoking. If electronic cigarettes solve many of the problems that come from smoking tobacco, their "business" may be hurt. This conflict of interest means they will be among the last to admit that [electronic cigarettes](#) are a safe alternative for smokers.

[Underaged Smoking](#)

Kids shouldn't smoke cigarettes, but what is the best way to discourage [underaged smoking](#)? The tobacco industry is working hard to enforce minimum age standards by pushing retailers to require proof of age at the time of purchase. Despite hysteria from the anti-smoking establishment on this matter, [cigarette advertising](#) does not target young people.

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Click on this link. Look up Sean Gabb, the author of the first article, on Wikipedia. What do you find? What else do you notice about these links? Use the information here to respond to the questions on the handout.

Saying we need high taxes on cigarettes to discourage teenagers from smoking is **dishonest**, since most teenage smokers don't buy their cigarettes, and get them instead from parents and adult friends. It is unfair to impose dramatically higher taxes on the adults who buy 95 percent or more of all cigarettes sold in order to make cigarettes less attractive to the few teenagers who actually pay for their cigarettes.

Smoker's Rights

Another reason to oppose the current campaign against smokers is because it violates the legitimate rights of smokers. John Stuart Mill, in a slender book published in 1859 titled *On Liberty*, wrote: "The only purpose for which power can be rightfully exercised over any member of a civilized community against his will is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant." This is the basic premise of **libertarianism**, the political philosophy of the Founding Fathers.

Mill's statement is directly applicable to the controversy over smoking. Quite simply, a **just government** does not have the authority to ban smoking on private property or to tell smokers to quit or to punish them if they do not. Smokers are adults, not children, and they deserve to have their informed choices respected by others.

If we pass laws forcing smokers to change their behavior "for their own good," we need to ask: Where do we stop? Do we pass laws against smoking in private homes? Against frying food indoors (which also releases known carcinogens into the air)? Eating the wrong kinds of food? Eating too much? Weighing too much? Drinking too much (and not just when driving)? Exercising too little? Should we ban other risky behavior, such as skydiving, bungee-jumping, or riding motorcycles? How about drinking more than one cup of coffee each day?

Where to Go for More Information

In July 2006, The Heartland Institute published *Please Don't Poop in My Salad*--a collection of essays and presentations written by Heartland President Joseph Bast during the past several years concerning taxes and regulations imposed on tobacco and its consumers.

Defending smokers is a thankless task in today's politically correct environment, and Bast doesn't deny that smoking is an unhealthy habit. But today's taxes and bans go far beyond a reasonable public policy response to a public health problem. Bast asks for a reasoned debate that respects the rights of smokers and the owners of bars and restaurants.

The book is available for purchase in Heartland's online store at <http://store.heartland.org>. The entire book is also available online for downloading--free of charge--in Adobe Acrobat's PDF format, and individual chapters are available for viewing in HTML. [Click here!](#)

Two credible and interesting people who write frequently on tobacco issues are **Jacob Sullum** and **Kip Viscusi**. You can find articles by them in [PolicyBot](#) simply by searching for their names in the Author search box.

What You Can Do

First, read some of the studies and commentaries linked in the essay above and become more informed about the issue. Smoking is habit-forming and isn't healthy, and kids shouldn't smoke. But at some point, now some years ago, we went well beyond reasonable measures to discourage smoking and protect nonsmokers, and are now waging all-out war on smokers. That's wrong.

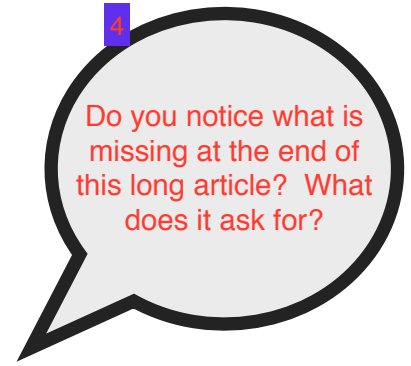
Second, check out these two very good **Web sites** devoting to protecting smoker's right: <http://www.forces.org> and <http://www.smokersclub.com>. Both sites include links to many other sites and local groups that hold meetings and engage in public education. See if you can find local activists who are defending smokers and work with them.

3

What about this link tells you it might not be the best source? Click on it and then click on the first link you see. What tells you it might not be credible?

Third, speak out on this issue by talking with your relatives, friends, and colleagues at work. Write letters to the editor, call radio talk show hosts, or just put a [bumper sticker](#) on your car explaining why you think smoker's have rights that deserve protection.

Finally, consider offering financial support to the groups that are working to defend smokers. The anti-smoking movement is fueled with billions of dollars a year in taxpayer dollars and grants from liberal foundations. Smokers need your help. Give if you can afford to.



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