

*Executive Summary*  
**Current Practices in Enforcement of California Laws Regarding Youth  
Access to Tobacco Products and Exposure to Secondhand Smoke**

**Todd Rogers, Ph.D., Ellen C Feighery, R.N, M.S., Harry H. Haladjian, B.A.**  
**Technical Assistance Legal Center, Public Health Institute**  
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**Introduction**

Since the inception of the tobacco control program in California, the Department of Health Services, Tobacco Control Section (TCS) has devoted considerable resources to stimulate adoption of state laws and local ordinances, conduct media advocacy and education to stimulate compliance, and train enforcement agencies to increase active enforcement of laws designed to reduce illegal sale of tobacco to minors and exposure to secondhand smoke

From 1996-2000, TCS tracked the activities of local enforcement agencies as part of the Independent Evaluation (IE) of the California Tobacco Control Prevention and Education Program. Beginning late 2003, the Technical Assistance Legal Center (TALC) took on the task of periodic assessment of local enforcement agencies activities.

This report presents findings on the amount and type of enforcement of youth access and secondhand smoke laws occurring throughout California in 2003 and early 2004. In addition, trend analyses of data collected from enforcement agencies in the 18 counties that were the focus of the IE are also included to determine changes in enforcement activity since 1996.

**Methods**

***Youth Access Enforcement Survey***

The youth access survey addressed enforcement of Penal Code (PC) §308(a), prohibiting the sale of tobacco products to people less than 18 years of age, and PC§308(b), prohibiting anyone less than 18 years of age to buy or possess tobacco. Of the 376 police and sheriff offices in all California counties and municipalities targeted for the survey, 284 completed the survey for a response rate of 76%. All but two of California's 58 counties (Inyo and Nevada) were represented in the final sample.

***Secondhand Smoke Enforcement Survey***

The second survey focused on the enforcement of secondhand smoke (SHS) laws, including Labor Code (LC) §6404.5 Smoke-free Workplaces, LC§6404.5 Smoke-free Bars, Health and Safety Code (HSC) §104495 Smoke-free Playgrounds and Tot Lots, as well as knowledge about Government Code (GC) §7596-7598 that bans smoking within 20 feet of main entrances, exits and operable windows. Of the 426 SHS enforcement agencies targeted for the survey, 237 completed the survey (56% response rate). Sixteen counties were not represented by main enforcement agencies in the sample (Colusa, Del Norte, El Dorado, Inyo, Mariposa, Merced, Mono, Plumas, San Benito, Shasta, Sierra, Siskiyou, Sutter, Trinity, Tuolumne and Yuba).

## **Summary of Findings**

### ***Youth Access***

- The youth access survey results indicate that enforcement agency actions have not changed much since the 2000 Independent Evaluation survey. About 30% of enforcement agencies conducted youth decoy operations, as compared to about 35% in 2000, a nonsignificant decline.
- Fewer than 10% of enforcement agencies report that warnings and citations were issued to merchants. However, a very high proportion of law enforcement agencies reported that they issued warnings (82%) and citations (90%) to minors possessing tobacco products.
- In 2004, significant predictors of whether decoy operations were conducted were: perceptions of greater collaboration with other groups on enforcing youth access policies; participation in any training for local enforcement; and receipt of any funding for local enforcement.
- Law enforcement agencies continue to rank various policies and procedures such as suspension/revocation of licenses, civil and criminal penalties for owners and clerks, as effective strategies to reducing youth access to tobacco.

### ***Secondhand Smoke***

#### **Enforcement of LC§6404.5 — Smoke-free Workplaces (Excluding Bars)**

- Almost two-thirds of enforcement agencies reported conducting at least one workplace-related SHS enforcement activity in late 2003 and early 2004. Over half the agencies reported in 2004 that they responded to inquiries and complaints, but relatively few agencies issued fines (11%) or citations (20%). Trends from 1996 to 2004 indicate declines in the percent of agencies responding to complaints or issuing warnings for SHS law violations. Importantly, no significant changes over time were found for the percent of agencies conducting compliance checks or issuing citations over time. Agencies in rural counties reported conducting significantly fewer enforcement activities than did agencies in urban and suburban counties of California.
- Most enforcement agencies perceived that the rate of compliance with workplace SHS laws is high. Significant predictors of whether enforcement activities were conducted are: the relative importance of enforcing these laws compared to other laws, and collaboration with other agencies.
- The level of enforcement agency collaboration with other groups is lower in 2004 than in previous years, although most enforcement agencies reported that they collaborated on enforcement activities at least once in the previous six months. Important barriers to enforcement continue to be limited staff and insufficient budget. On average, agencies from rural counties reported significantly higher barriers to enforcement than did those from urban and suburban counties.

#### **Enforcement of LC§6404.5 — Smoke-free Bar Provision**

- Levels of enforcement of the smoke-free bar provision are higher than for other workplace provisions included in LC§6404.5. About three-quarters of the responding agencies in 2004 conducted at least one bar-related enforcement activity during the previous six months. In contrast to other workplace-related enforcement activities, responses did not vary significantly among agencies in urban, suburban and rural counties. Roughly two-thirds of all agencies reported that they responded to inquiries and

complaints and about half issued warnings. More agencies also reported issuing fines for violations of the smoke-free bar provisions than other workplace provisions.

- Two variables predicted whether an agency enforced the bar related provision of LC§6404.5: the relative seriousness of the SHS problem in bars compared to other community problems; and enforcement agency collaboration with other agencies.

### **Enforcement of HSC§104495— Smoke-free Playgrounds and Tot Lots.**

- The levels of enforcement activities related to HSC§104495 are lower than for either of the smoke-free workplace provisions of LC§6404. Only about 40% of the responding agencies reported conducting any enforcement activities related to this law, and about one-third conducted compliance checks or responded to inquiries and complaints. Even fewer issued citations and virtually none (2%) issued fines for violations of the law.
- Most of the agencies believe that this issue is less serious than other community problems. Barriers to enforcement, such as limited staff and insufficient funding, ranked higher than for smoke-free workplace provisions. Two variables predicted whether an agency enforced LC§6404: perceived barriers to enforcement and collaboration with other agencies.

## **Conclusions**

### ***Youth Access***

The reduction in the percent of agencies actively enforcing PC308 (a) is disappointing given that TCS has continued to expend resources to stimulate enforcement through funding augmentations, trainings and technical assistance to law enforcement agencies. However, that this level of enforcement is statistically the same as what was reported in 2000 may be good news given the downturn in the economy and resulting cutbacks in local community services over the past several years.

Law enforcement agencies' perspectives on various policies and procedures as effective strategies to reducing youth access to tobacco may be useful to local programs attempting to strengthen youth access laws in their communities, and may represent an opportunity for collaboration with their local law enforcement agencies on these efforts.

Predictors of enforcement (e.g., collaboration with other groups to enforce youth access policies; participation in enforcement training; and receipt of funding for local enforcement) confirm the importance of providing ongoing support for local law enforcement agencies.

### ***Secondhand Smoke***

In general, enforcement agencies believe that there are high rates of compliance in their communities with the three SHS laws that were addressed in the survey. There is, however, variability in enforcement of SHS laws at the local level. Smoke-free bar provisions appear to be more actively enforced than other workplace provisions, while the law requiring smoke-free playgrounds and tot lots is enforced less than either of the other two laws.

Perceptions about the importance of the laws, the seriousness of the problems they are intended to address and the amount of collaboration with other agencies on enforcement activities all predict whether an agency actively enforces these laws.

The lower level of enforcement of the workplace SHS law in rural communities warrants further examination to determine if this is due to the perceived importance of enforcing these laws, or reduced opportunities for collaboration with other agencies.

The findings point to important roles Local Lead Agencies and their partners can play both in educating their communities and enforcement agencies about reducing exposure to secondhand smoke through law enforcement and in facilitating collaboration with SHS enforcement agencies.