



How a Bold Public Official in the Conservative Heartland Won an Improbable Victory over Big Tobacco

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In 2003, tough new regulations to ensure smoke-free environments in workplaces and public locations were enacted by the Oklahoma legislature. This was a striking victory for public health and reformers advocating tobacco controls in one of the most conservative heartland states – a victory that no one would have predicted just a few years earlier. For decades, tobacco industry insiders and lobbyists correctly saw their relationship with Oklahoma legislators as a “love fest.” Compared to many other states, Oklahoma did very little to regulate smoking or tax cigarettes, despite mounting evidence of smoking’s adverse impact on health.

Inaction might well have continued but for the arrival in 2001 of an activist new Commissioner of Public Health. Recruited from Florida and installed by Governor Frank Keating, Dr. Leslie Bietsch instituted “emergency” regulations and launched an aggressive public campaign for tobacco controls – getting out well in front of health advocacy groups and provoking ire from lobbyists and many legislators. Bietsch only lasted two years, but his battle against tobacco interests was a critical turning point. Not only was he victorious in the arena of clean indoor air, he also set the stage for increasing Oklahoma’s cigarette taxes to levels more on par with other states. As we analyze in our new book *Heartland Tobacco War*, Bietsch’s story shows how a principled public official can escape the constraints of business as usual and mobilize public pressure to support reforms.

Decades of Resistance to Public Health Action

In 1985, the R.J. Reynolds Tobacco Company announced in an internal analysis that “no piece of smoking restriction legislation has ever been voted on by either house of the Oklahoma State Legislature” and noted that “groups interested in pursuing passage of smoking restrictions are either assuming a low profile or are virtually non-existent.” Over the next two decades, the tobacco industry successfully parried public health initiatives in Oklahoma, ensuring the failure of significant efforts to restrict smoking in public locales and workplaces. Urged on by Tobacco Institute lobbyists, the Oklahoma legislature required restaurants to maintain smoking sections. And in 1986 it blocked local municipalities from enacting stronger clean indoor air laws and measures to prevent youth access to tobacco products. This “preemption” law ensured that all such efforts would be routed through the state legislature, where industry interests normally enjoyed overwhelming influence.

Steps toward the 2003 Breakthrough

Real change in clean indoor air regulation did not happen in Oklahoma until the 2000s, when an aggressive two-year public campaign led to Senate Joint Resolution 21, enacted in 2003: a smoking ban in all indoor workplaces as well as in public enclosed areas, except designated “smoking rooms” in restaurants with

separate ventilation and negative air draft. Restaurants had until March 2006 to come into compliance.

The road toward this achievement required leadership from Health Commissioner Bietsch and involved the use of unorthodox strategies to battle the tobacco industry. In January 2002, the new Commissioner immediately banned tobacco use at all health department buildings across the state. Next, he acted in tandem with the Oklahoma Health Commission, to impose administrative rules that banned smoking in health care facilities, and promulgated a second set of rules that covered most public places with some exceptions such as designated smoking areas. Most of the new rules in the first and second set were eventually approved by then-governor Frank Keating.

But the opposition saw Bietsch's boundary-breaking steps as overly aggressive and unconstitutional. Two businesses affiliated with the Oklahoma Restaurant Association – a lobbying partner of the tobacco industry – filed lawsuits against the Public Health Department and the Governor, claiming that the emergency health ruling was part of an agenda to create a bureaucratic dictatorship. In response, the American Lung Association filed suit against the business plaintiffs, the Oklahoma Restaurant Association, and the Public Health Department, alleging that allowing any smoking in restaurants violated the Americans with Disabilities Act.

Both lawsuits eventually died, after the Oklahoma Restaurant Association publicly endorsed legislative steps that eventually evolved into Senate Joint Resolution 21. Ironically, opponents of tobacco regulations tried to make legislative proposals so stringent that they would be defeated. But the public attention that Dr. Bietsch's campaign had brought to the issue led to the final enactment of an effective version of the resolution, bringing regulations for clean indoor air to a state that had previously been dominated by the tobacco industry.

Lessons from a Surprising Success

The story of Oklahoma's tobacco control politics vividly illustrates the creative role public administrators can play in real-life policymaking. Dr. Bietsch deployed the emergency powers of the office of Health Commissioner to arouse public interest and put pressure on elected lawmakers to support new public health legislation. His efforts marked a stark departure from the passive style of public administration practiced by his Oklahoma predecessors as well as peers in other states. His boldness came at a cost, but led to the early 2000s Oklahoma breakthroughs in clean indoor air regulation, and laid the basis for a long overdue cigarette tax increase.

In the final analysis, the moral of this story involves more than a set of policy gains in one state-level tobacco control struggle – although Oklahomans owe a great deal to Bietsch and the work he did. This remarkable heartland tobacco war shows that well-financed, sophisticated, and seemingly invincible political insiders who maintain an iron grip on policymaking can be overcome and defeated. But more than simply outside mobilization may be required. Bold public administrators can play a key role from the inside, working hand in glove with various bureaucratic agencies as well as with nonprofit organizations and civic activists. This kind of inside-outside alliance, in which forward-looking public administrators play a pivotal leading role, offers one possible formula for reshaping regulations and laws in the future, even in states that appear most resistant to progressive change.

Read more in Michael Givel and Andrew Spivak, *Heartland Tobacco War* (Lexington Press, 2013).