

Banning smoking in cars carrying children: an analytical history of a public health advocacy campaign

Abstract

Objective: Framing public health policy reform in ways that attract public and political support is a core skill of advocacy. In this paper we summarise the 12-year Australian history of advocacy for banning smoking in cars carrying children, culminating in the governments of the Australian States of South Australia and Tasmania enacting legislation.

Method: 'Smoking in cars' was searched on the factiva.com print news media database, with returns limited to Australian newspapers published before 1 June 2007.

Results: The issue of smoking in cars received extensive and emotive media coverage, primarily in support of legislating a ban. Invoking the protection of vulnerable children in the debate about smoking in cars was a powerful and persuasive theme. Unlike all other advocacy for smoke-free areas, this debate was not contested by the tobacco industry or other commercial interest groups.

Conclusions: Even in the absence of a co-ordinated advocacy campaign, public opinion studies on support for such legislation have been consistently strong. Communities view the protection of children as paramount and non-negotiable.

Implications: Smoke-free cars legislation can and should be fast tracked in order to capitalise on this community support.

Keywords: Smoking; tobacco; advocacy; second-hand smoke; legislation; cars.

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Public health advocacy campaigns for law reform typically span years and sometimes decades, particularly when contested by powerful interest groups resisting change. They are marked by incremental steps involving advances in scientific evidence, growing public acceptance and political resolve that can eventually converge to make policy and legislative change possible.¹ While rapid legislative change is common in response to public health emergencies, policy change to control chronic disease is almost invariably slower, despite the greater burden of preventable illness often involved. Chronic public health problems are rarely identified, solutions proposed and comprehensive controlling policies implemented without strong advocacy.² Advances in tobacco control legislation are no exception.

A small body of research has reflected on elements apparently essential for securing tobacco control legislation.³⁻⁶ These include the availability of strong scientific evidence that smoking or exposure to second-hand smoke (SHS) is harmful,⁷ research demonstrating that proposed policies reduce smoking and/or exposure to smoke,⁸ strategic framing of problems and solutions through the news media to ensure that the dominant discourse is supportive of change,^{9,10} political champions,³ particularly parliamentarians,⁴ and windows of political opportunity opening.

Framing public health policy reform in ways that attract public and political

support is a core skill of advocacy.⁵ In this paper we summarise the 12-year Australian history of advocacy for banning smoking in cars carrying children, culminating in the governments of the Australian States of South Australia¹¹ and Tasmania enacting legislation to ban smoking in cars carrying children. We review the dominant news themes presented over the history of public discourse about this issue in Australian print news media and analyse the evolution of a proposal initially rejected by legislators as inappropriate to one now being embraced by even politically conservative politicians.

Background

The internal environment of a car is a site for significant potential SHS exposure.¹²⁻¹⁴ Australians spend considerable time in cars. In 1992 (the most recent date for which data is available), Australians using cars did so for an average of 1 hour 27 minutes per day.¹⁵ A New Zealand study, published in 2006, measuring fine particulate levels in a car with a person smoking inside, found that air quality in a car with a window partially or wholly down was similar to that found in a typical smoky bar. When smoking occurred with car windows closed, particulate levels were at least twice those found in the smokiest bar.¹²

Given the time families spend in cars with children and the number of families that still permit smoking in their cars, SHS exposure among children from such families is likely

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to be significant.¹⁶ Research among a Perth-based birth cohort of 14-year-olds found that children exposed to SHS in family vehicles were more likely to develop a persistent wheeze than those exposed to SHS only in the home.¹⁷

Methods

After trialling different search strings, 'smoking in cars' was searched on the factiva.com print news media database, with returns limited to Australian newspapers published before 1 June 2007. Two groups dominate newspaper publishing in Australia: the Fairfax group publications archive on factiva is 13-22 years old and the News Limited archive is eight years old. Articles were excluded if they reported exclusively on smoking in cars outside Australia.

All eligible articles were entered into a spreadsheet, ordered by date and graphed to assess periods of high publication activity (see Figure 1). All eligible articles were also coded for content against 17 themes discerned from the reportage as coding proceeded. A minimum of one theme and a maximum of eight themes were identified per article.

Results

Three hundred press reports were returned by the search. Four were eliminated as overseas reports, leaving 296 eligible articles for analysis. There were 880 instances of arguments supporting or opposing banning smoking in cars within these articles. Nearly 80% of arguments supported such a ban (see Table 1).

Timeline

Banning smoking in cars first raised

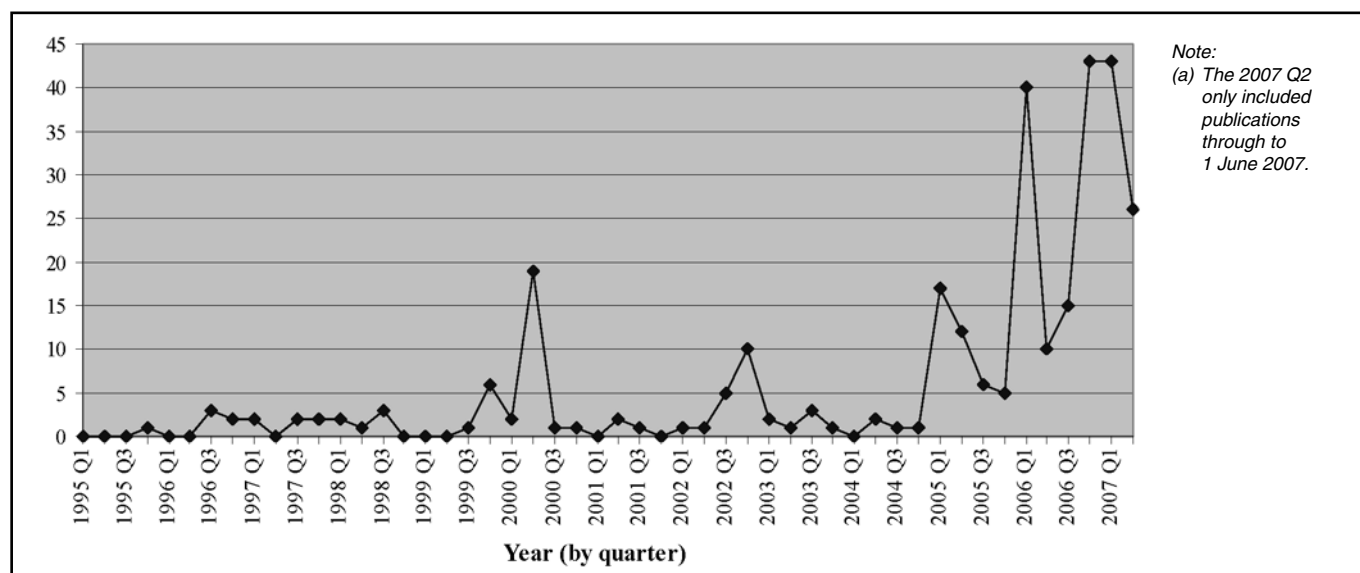
In October 1995, the world's first report measuring public support for the regulation of smoking in cars carrying children was

published by author SC and others. At the time, SC was serving as a member of a National Health and Medical Research Council (NHMRC) working party examining the health effects of passive smoking. With an opportunity arising to add questions to a survey of community health attitudes, SC successfully proposed the addition of a question gauging support for banning smoking in cars carrying children, anticipating the usefulness of such information to the NHMRC working party's deliberations. Seventy-two per cent of Sydney respondents (and 63% of smokers) agreed that it should be illegal to smoke in a car carrying children.¹⁸

This report generated no print news coverage until the publication in November 1995 of the draft NHMRC report, which contained a recommendation that the "legal prohibition of smoking in private motor vehicles during periods when minors are passengers should be considered by State and Territory governments".¹⁹ The report summarised evidence on the particular vulnerability of children to health problems caused by exposure to tobacco smoke and noted that legislation was important as children were unable to "care for their own wellbeing and to choose their environments".¹⁹ The recommendation on cars attracted 19 stories from November 1995 to November 1997. Despite the final report not including any recommendations, the media continued to report the draft report's recommendation (successful court action by the Tobacco Institute of Australia saw all recommendations stripped from the final report, published in November 1997). A South Australian study published in September 1996²⁰ found that almost two-thirds (65%) of smokers with children allowed smoking in their cars.²¹

The issue then disappeared from news coverage until September 1999, when a NSW independent State politician called for a ban, proposing a law to stop smoking in cars carrying anyone aged under 18.²² The bill was defeated with "outraged upper house MPs [blaming] the defeat of the bill ... on the two major parties' ties with tobacco companies".²³

Figure 1: Number of articles in Australian print media containing 'smoking in cars',^a 1995 to June 2007.



Major health groups get behind ban

The first major spike in reportage ($n=19$) appeared in May 2000 when nine Victorian health organisations released a report on smoking being the State's leading cause of preventable deaths.²⁴ The Australian Medical Association (AMA) Victorian branch and Quit Victoria voiced support for a ban on smoking in private cars, particularly to protect children. The Anti-Cancer Council supported a voluntary ban rather than legislation.²⁵ The Victorian Government quickly ruled out the possibility of banning smoking in cars.²⁶

Small publication spikes occurred in 2002 when the AMA (Western Australia) resurrected the proposal and when a South Australian Democrats politician endorsed the need for a total ban on smoking while driving, framing the primary benefit as reduced driver distraction and drawing analogies with the proscription on mobile phone use in cars.²⁷ A NSW study, published in 2002, found that 38% of smokers had no restrictions about smoking in their vehicles.²⁸

First positive government response

In 2005, the issue again rose to news prominence and maintained a high profile through to the end of the study period (1 June 2007)

Table 1: Media themes in Australian print media reportage on banning smoking in cars to 1 June 2007 (n=296 reports).

Theme	Number (%) of occurrences of theme ^a n=296 reports
Supportive of legislation	
Need legislation or have passed legislation banning smoking in cars when children in car	183 (62)
SHS harmful	173 (58)
Protection of children: smoking in cars is child abuse	104 (35)
Political or public support for ban, polls	89 (30)
Calls for total ban on smoking while driving	34 (11)
Smoking while driving causes accidents	30 (10)
Butts thrown from cars cause fires	26 (9)
Ban analogous with legislation on mobile phone use, mandatory seat belts, infant restraints	37 (13)
National action plan at 15 December 2006 meeting of the Ministerial Council on Drug Strategy	21(7)
Total incidence of supportive arguments (n=880 arguments presented in the 296 reports)	697 (79)
Opposing legislation	
Enforcement too difficult: police have other priorities	57 (19)
Education not legislation: legislation as last resort	36 (12)
Ban is 'nanny state', slippery slope, argument about 'what's next?'	36 (12)
Not supportive of legislation	29 (10)
Invasion of parental rights	5 (2)
SHS not harmful	4 (1)
Smoking not a distraction, does not cause accidents	4 (1)
Discarded butts do not cause fires	2 (1)
Total incidence of opposing arguments (n=880 arguments presented in the 296 reports)	173 (20)

Note:

(a) If a theme appeared twice in the same article it was only recorded once.

with an unprecedented 216 reports appearing in 30 months, mostly reporting on South Australia and Tasmania enacting bans. This compares with only 26 news reports in the preceding 30-month period (June 2002 to December 2004). Seventeen reports in early 2005 were stimulated by two key public statements. First, the federal Australian Democrats party joined their SA colleagues in calling for a total car smoking ban, again citing driver safety and bushfire risk from discarded cigarettes.²⁹ In March 2005, the AMA WA reiterated its 2002 call for a ban on smoking in cars carrying children.³⁰

The AMA WA continued its campaign through to May 2005 when it surveyed all WA politicians about their preference for legislation from three options: "ban on adults smoking with children under 18 in a vehicle, a ban on adults smoking with any passengers in a vehicle or a total ban on smoking in vehicles".³¹ The majority of MPs who responded favoured a ban when children under 18 were in the vehicle. The WA Health Minister was unsupportive, favouring an educational approach.³²

In July 2005, Action on Smoking and Health released a public opinion survey showing that 90% of Australians supported the banning of smoking in cars carrying children.³³ Other Australian tobacco control agencies cited this figure and urged State governments to pass a ban.

In January 2006, nearly a decade after the issue first received news coverage in Australia, the Tasmanian Government announced it would include a ban on smoking in cars carrying children in a discussion paper to be released in June 2006.³⁴ In March 2007, it announced that legislation banning smoking in cars carrying children under 18 would be implemented.³⁵ A draft amendment bill released in May 2007 proposes an implementation date of 1 January 2008.³⁶

In February 2006, the SA Democrats proposed legislation to ban smoking in cars carrying children aged under 12,³⁷ softening their previous position from a total smoking ban in cars. In August 2006, the South Australian Government announced plans to ban smoking in cars in which children under the age of 16 were passengers, with fines of up to \$200 applying.³⁸ The bill was passed in March 2007 and implemented on 31 May 2007, World No Tobacco Day, making South Australia the first State in Australia to pass the provision into law. The first reports of fines appeared in July 2007.³⁹

In February 2006, a NSW parliamentary inquiry into tobacco control strategies⁴⁰ included a discussion of a total ban on smoking in cars, but this was not included in the final recommendations. The NSW Premier did not support the proposal, calling it "excessive" and "difficult to enforce",⁴¹ with the Cancer Council NSW expressing its support for an educational approach, which it suggested would have a "bigger impact".⁴²

In November 2006, the federal Parliamentary Secretary for Health and Ageing, Christopher Pyne, urged States and Territories to enact legislation banning smoking in cars.⁴³ He again raised the issue at a December 2006 meeting of the national Ministerial Council on Drug Strategy, generating 21 print media reports. British American Tobacco Australia was supportive and also advocated increased education.⁴⁴ Reactions from the States were

mixed, with Western Australia and NSW maintaining their previous positions favouring education over legislation.^{45,46} In May 2007, the Queensland Premier ruled out legislation, arguing "parents have to take responsibility for their children".⁴⁷ ACT Liberal Senator Gary Humphries has called on the ACT Government to ban smoking in cars.⁴⁸

In 2007, Quit Victoria released survey findings showing high levels of community support for a ban on smoking in cars when children are present (90% of Victorians including 85% of smokers).⁴⁹ The Victorian Government was noncommittal towards implementing a ban.⁵⁰

In March 2007, Australian research was published showing that children exposed to cigarette smoke in cars were more than twice as likely as other children to develop asthma.¹⁷ The findings received national press coverage and renewed calls for more States to follow Tasmania and SA's legislative lead.^{51,52}

Media themes

Supporting car smoking bans

Seventy-nine per cent of all identified themes were in support of banning smoking in cars. Three major themes were evident in support of restrictions on smoking in cars. The first – that SHS is harmful – appeared explicitly in 58% of articles and was the unstated sub-text in many more. Only four articles (1%) contained comments challenging the proposition that SHS was harmful. A second theme framed the issue as being about the protection of defenceless children with no choice about being exposed to SHS. This theme was explicit in 35% of articles. Highly emotive terms such as "gas chamber" and "child abuse" (eight and 10 instances respectively) were used to describe the conditions experienced by a child inside a smoky car.

A third supportive theme (13% of articles) saw attempts to counter practical concerns raised about enforcement or the appropriateness of the law. Concerns about how police could reliably discern smoking in cars was countered with how police were readily able to implement laws against mobile phone use while driving, wearing of seatbelts, and restraining small children and infants in baby capsules. For example: "We already regulate the car – you can't be in a car without a seatbelt, you can't talk on the mobile phone. Given the evidence of the harm caused by SHS, should we continue to avoid the issue? If it was the law parents who are still smoking in cars with children would be far more conscious of the harm that their smoking would be doing."⁵³ Themes about road safety (10% of articles) and bush fire prevention (9% of articles) emerged when support for a total ban on smoking in cars was mooted.

Opposing car smoking bans

The primary reason stated for not being in support of a ban was that enforcement would be too difficult (19% of articles). Twelve per cent of articles contained arguments that education campaigns were preferable, or more effective, than legislation. The WA Health Minister, Jim McGinty, was adamant that an education approach was the only solution: "When it comes to smoking in private

homes and cars we agree with the views of public health experts that it is better to change people's attitudes through education rather than legislation".⁵⁴

Twelve per cent of articles contained arguments that banning smoking in cars was an invasion of personal space or a symptom of the "nanny state". However, this argument rarely appeared when the ban was specified for the protection of children. Only five articles (2%) felt that bans to protect children were an invasion of parental rights. A further 10% of articles contained quotes unsupportive of legislation, but giving no specific reason.

Conclusions and Implications

Smokers' homes, indoor workplaces (including bars and other hospitality industry worksites), and the confined spaces of public transport are where prolonged, confined and often heavy exposure to SHS most occurs. Globally, legislation for smoke-free environments has commenced with restrictions on public transport, followed by indoor workplaces, with hospitality venues typically being last to be subject to legislation. Each of these are public spaces where the moral force of restrictions are grounded in Millian ethical concerns of preventing harm to others.⁵⁵

While homes remain a significant source of exposure, no government has ventured to legislate against smoking in homes, although increasingly public awareness campaigns are urging residents to make their homes smoke free. Homes are assumed to be the "castles" of their occupants where a wide range of private freedoms of expression are sanctified that are prohibited in public.

Cars represent an intriguing and symbolically important interface between public and private worlds. While the interior of cars might be considered by many to be another form of 'private' space, the law has long colonised cars as effectively being public spaces by subjecting their occupants to legal requirements regarding seatbelts, car standards, driving conduct and mobile phone use designed to protect both public safety (harm to others) and that of occupants (via the benevolent paternalism inherent in seat belt legislation). However, these restrictions are all intended to prevent or reduce harm from injury while restrictions on smoking in cars address health consequences arising from chronic exposure, traditionally invoking less urgent responses from governments.

A ban on smoking in cars, designed explicitly to protect children, thus takes a legislative first step into legally outlawing what has hitherto been assumed to be a private self-regulated behaviour (parents' freedom to expose their children to high concentrations of tobacco smoke in settings assumed to be private). The ability of parents to exercise this 'freedom' in public settings such as on public transport and in enclosed shopping precincts has long been denied through reference to the health and amenity of others, creating a paradox: why should parents be prevented from placing their children's and others' health at risk in public vehicles, but given carte blanche to do so in private vehicles? Legislation focused on a setting where those thus harmed are most likely to be family members moves the boundaries of health protection legislation in an important new direction.

Invoking the protection of vulnerable children in the debate about smoking in cars called up an almost invincibly powerful sub-text for advocates. Unlike all other advocacy for smoke-free areas, this debate was not contested by the tobacco industry or other commercial interest groups motivated by the potential to see restrictions reduce sales and further denormalise use. Indeed, one tobacco company was publicly supportive of legislation. With there being no lobby group dedicated to protecting the rights of parents to harm the health of their children, opposition to the proposal was left to those with wider political agendas concerned about usurping parental decision-making and setting a precedent for 'slippery slope' state legislative incursions into private space. As shown, however, these objections were rare, with the unstated corollary being that anyone opposing such legislation was defending the rights of irresponsible parents to harm their children.

Comparisons of the ease with which police issued fines for mobile phone use in cars (25,240 fines in NSW alone in one year)⁵⁶ diffused objections about the impracticality of enforcement of car smoking bans. However, those States steadfastly advocating education instead of legislation today remain in the majority. While education campaigns about second-hand smoke exposure have proven to be an effective tool in tobacco control, they are most effective when paired with legislation.⁵⁷ With some non-government organisations being funded by State governments to run educational campaigns about this issue, several such agencies were absent from public advocacy for legislation. The ability of government funding to potentially compromise NGOs' resolution on legislative advocacy should be a caution to public health advocates.

The 12-year history we have described occurred against a backdrop of often volatile public debate about government action to protect the health of adults from SHS. We found no records in the print media of advocacy for smoking bans in cars before 1995 and advocates consulted did not recall raising the issue on radio or television prior to this. When the first public opinion study on support for such legislation was published in 1995, the public was supportive of the proposition despite the absence of any major advocacy efforts, suggesting that the community found it entirely sensible to transpose its support for smoking restrictions that protected adults to those designed to protect the most vulnerable members of the community.

We would confidently predict that the vanguard legislation enacted in two Australian States will domino across all States in the next few years in ways identical to the progression of all other legislation on SHS. Other overseas jurisdictions have passed bills that call for bans on smoking in cars when children are passengers. Arkansas (United States [US]) prohibits smoking in a car with a child who is required to be restrained in a safety seat (any child who is less than seven years old or weighs less than 60 pounds). An offence is punishable by a fine of \$25, which is waived if the smoker enrolls in a smoking cessation program.⁵⁸ Louisiana (US) bans smoking in cars with passengers aged 13 or younger and offenders may be subject to a \$150 fine or 24 hours of community service.⁵⁹ An additional 15 States in the US have introduced or are considering legislation.

This paper shows that tobacco control organisations have strong community support when advocating for policies that protect children. Smoking bans in cars, unlike other policies to limit exposure to SHS, do not have a vocal and organised opposition. Tobacco control advocates have an opportunity to capitalise on this community support and fast-track legislation banning smoking in cars when children are passengers. Translating community support into political action is the most significant challenge. Our study is limited in that we have only examined the print media coverage of this issue. It is possible that examining television and radio coverage would have provided additional insight.

Postscript

In the course of researching this paper we discovered a curious 'factoid'. In May 2005, a claim by the AMA that "exposure to second-hand smoke in a car was 23 times more toxic than in the home" first appeared in the Australian print media.³¹ This factoid was sourced back to a statement made by a Colorado (US) senator to a local newspaper. An exhaustive search of research literature has failed to locate a scientific source for this claim. An Internet search, however, showed that many tobacco control organisations are using this claim in their communications. The statistic appeared 10 times in press reports, with an additional four clippings claiming it to be "20 times more toxic".

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