

BALLOTWATCH

Important Facts

- Four propositions that would increase taxes on tobacco products (AZ, CA, MO, SD).
- Competing measures to ban smoking in three states (AZ, NV, OH).

FOCUS ON TOBACCO

Tobacco has emerged as a key issue in ballot proposition campaigns this fall. Four states are considering tax increases on tobacco products, and six anti-smoking measures are on the ballot in three states.

Tobacco Taxes

Voters in four states — Arizona, California, Missouri, and South Dakota — face propositions to increase taxes on tobacco products. All four measures are initiatives, placed on the ballot by citizen petition.

California's Prop. 86 proposes a whopping \$2.60 per pack (300%) increase, expected to raise about \$2 billion annually. The money is dedicated to hospitals and anti-smoking campaigns. Proponents, led by large health provider organizations, argue that the money will fund badly needed services, and the tax will deter smoking that ultimately imposes costs on taxpayers. Opponents include the tobacco industry, business and taxpayer groups, and Gov. Arnold Schwarzenegger (R). They argue that the measure goes too far by exempting hospital from antitrust regulations, and that the regressive tobacco tax places an unfair burden on the poorest people in the state who are the most likely to smoke. By mid-October, proponents had



raised \$14 million and opponents had raised \$55 million.

Arizona's Prop. 203 would raise the cigarette tax from \$1.18 to \$1.98 per pack, and provides for miscellaneous tax increases on other tobacco products, generating projected revenue of about \$150 million annually. The revenue is earmarked for preschool and children's health care programs. The measure is sponsored by Eddie and Nadine Basha, owners of the Basha supermarket chain, and supported by five former governors (three Democrats and two Republicans) and most business groups. A notable exception is the Greater Phoenix Chamber of Commerce that came out against the measure on the general principle that ballot box budgeting should be avoided.

Missouri's Amendment 3 was placed on the ballot by the state supreme court in

mid-October, overruling a decision by election officials that not enough valid signatures had been collected. It would increase the cigarette tax from 17 to 97 cents a pack and triple other tobacco taxes, raising a projected \$350 million per year. The money is dedicated to health services for the poor and anti-smoking education. Proponents point out that Missouri's cigarette tax is among the lowest in the country, and argue that the tax will deter smoking and the revenue will be used to offset taxpayer costs when smokers receive publicly funded medical services. Opponents argue the tax will put Missouri retailers at a disadvantage relative to competing border state retailers. Voters narrowly rejected a more modest tobacco tax increase in 2002.

South Dakota's Measure 2 would increase the cigarette tax from 53 cents to \$1.53 per pack, and roughly triple taxes on other tobacco products. The projected revenue of approximately \$35 million per year will be deposited in the state's general fund. If revenue exceeds \$30 million, it will be divided between property tax relief, education, and health.

There is also a proposal on the ballot in Cuyahoga County, Ohio, where a 30 cent per pack tax is being proposed to fund local arts program. Unlike most local ballot

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FOCUS ON TOBACCO (CONTINUED)

propositions, this one has attracted this interest of the tobacco industry, which is funding an opposition campaign.

Smoking Bans

Three states, Arizona, Nevada, and Ohio, will vote on proposals to ban smoking in public places such as restaurants and bars. The sponsors include health care groups. Industry-sponsored "counter-initiatives" that propose less restrictive smoking bans are also on the ballot in all three states. The counter-initiatives are intended to siphon away support from the original measure by offering a more moderate alternative, or possibly to result in rejection of both measures if voters become confused.

Smoking bans appear to be gaining traction across the country at both the state and local level. Two recent smok-

ing ban initiatives were successful in Florida (2002) and Washington (2005), and bans have been approved by legislatures in California and New York.

In Arizona, if both proposals receive more votes in favor than against, the one with the most affirmative votes goes into effect. Prop. 201, the health care industry measure, also includes a 2 cents per pack cigarette tax to fund enforcement of the law. Tobacco giant R. J. Reynolds has provided about 99% of the \$2.7 million funding for Prop. 206, the counter-initiative. The counter-initiative also overrides all local smoking bans.

In Nevada, the proposal with most yes votes wins. Question 5, the more restrictive of the two, would make Nevada the first state in the country to ban smoking in hotel and motel rooms. Question 4, backed by gaming

interests, allows smoking in hotel and motel rooms as well as bars and restaurants where children are not allowed. Neither measure bans smoking on casino floors. Tobacco companies are not active in the Nevada campaigns.

In Ohio, health groups made a tactical mistake by writing their initiative, Issue 5, as a statute. The tobacco industry's counter-initiative, Issue 4, is a constitutional amendment that would trump Issue 5 if both pass, regardless of their relative vote totals. Issue 4 would also override tougher restrictions put in place by local governments.

For other reports, please visit www.iandrinstute.org. Media inquiries, please contact Gilien Silsby, Director of Public Relations, (213) 740-9690 (office), (213) 500-8693 (cell), gsilsby@law.usc.edu.

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Tobacco Propositions			
State	Number	Description	Poll (Yes-No)
AZ	Prop. 201	Smoking ban (more restrictive)	57-33, ASU/KAET-TV, 9/21-9/24
AZ	Prop. 203	Tobacco tax	62-28, ASU/KAET-TV, 9/21-9/24
AZ	Prop. 206	Smoking ban (less restrictive)	55-34, ASU/KAET-TV, 9/21-9/24
CA	Prop. 86	Tobacco tax	56-42, Survey USA, 9/24-9/26; 53-40, Field Poll, 9/14-9/24
MO	Amendment 3	Tobacco tax	...
NV	Question 4	Smoking ban (less restrictive)	77-17, Mason-Dixon, 9/19-9/21
NV	Question 5	Smoking ban (more restrictive)	62-34, Mason-Dixon, 9/19-9/21
OH	Issue 4	Smoking ban (less restrictive)	53-36, University of Akron, 8/20-9/29
OH	Issue 5	Smoking ban (more restrictive)	48-44, University of Akron, 8/20-9/29
SD	Measure 2	Tobacco tax	59-35 KELO-TV 7/24-7/26