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Since the mid-1980s, U.S. tobacco policy has been an intense and acrimonious issue between antitobacco advocates and the tobacco industry. In the United States, the tobacco industry has responded to heightened state antitobacco litigation, adverse public opinion, and public health advocacy by aggressively mobilizing against tobacco taxes and regulations. This article examines whether these tobacco policy trends can be generalized to punctuated equilibrium theory ideas that policy monopolies are stable over long periods and usually change because of sharp and short-term exogenous shocks to the policy system. From 1990 to 2003, there was a sharp mobilization by health advocates in all states and a significant rise in new legislation to control tobacco use. The tobacco industry, nevertheless, was able to generally keep state tobacco taxes low and counter significant regulatory threats to tobacco sales. From this, I conclude that the policy monopoly favoring the tobacco industry did not significantly change, despite the symbolic appearance of punctuation in the policy system.

Introduction

During the 1990s, tobacco use came under increasingly intense political opposition by antitobacco advocates who advocated for increased tobacco taxes and stronger tobacco-use regulations (Givel & Glantz, 2001a; Studlar, 2002). The tobacco industry responded to this heightened political threat in all 50 states in the United States since the early 1990s by using its influence to politically mobilize and advocate for lower tobacco taxes and weaker tobacco regulations than those proposed by health advocates (Derthick, 2005; Givel & Glantz; Morley et al., 2002; Studlar).

This article examines whether tobacco policymaking trends in all 50 states from 1990 to 2003 correspond to ideas espoused in the punctuated equilibrium theory at the federal level by Baumgartner and Jones and Worsham (Baumgartner & Jones, 1993; Worsham, 1998). This theory holds that policy monopolies are stable over long periods and they usually change in response to sharp, short-term exogenous shock to the policy system (Baumgartner & Jones, 1991, 1993; Jones, Baumgartner, & True, 1998). Worsham added to punctuated equilibrium theory by noting that competitive coalitions can challenge dominant policy coalitions or
monopolies with varying effects on the degree of dominance by the policy monopoly (True & Utter, 2002; Worsham, 1998).

In the case of state tobacco policymaking, coalitions of health groups attempted to shock or punctuate the equilibrium of the tobacco policy system from 1990 to 2003 with their challenge to the state policy monopolies historically exercised by the tobacco industry. Since 1990, the states have been a major venue for tobacco policymaking with legislation proposed in the areas of youth-access legislation, clean indoor air enforcement, and tobacco excise taxes. (Derthick, 2005; Givel & Glantz, 2001a; Morley et al., 2002; Studlar, 2002). This article will determine whether this punctuated shock to the equilibrium of tobacco policy monopolies in the states from 1990 to 2003 was successful or not.

**Literature Review**

The specific focus of this research on state tobacco policymaking and punctuated equilibrium theory in the 1990s is on the “black box” or legislative policy formulation and enactment in a subsystem (Baumgartner & Jones, 1991, 1993; Easton, 1965; Jones et al., 1998; Sabatier, 1991). Punctuated equilibrium theory was borrowed from a similar theory in evolutionary biology espoused by Gould and Eldredge in 1977 (Gould & Eldredge, 1977). Gould and Eldredge argued, contrary to the predominant theory of evolution that species evolve gradually; species stay the same for long periods of geologic time; and new species can arise suddenly. They also wrote that there are empirical examples of little evolutionary change for long periods of time in the geologic record of some snail populations, followed by sharp and punctuated change, and followed again by gradual change (Gould & Eldredge, 1977). Proponents of the punctuated equilibrium theory in political science have argued by analogy that public policy in the United States usually changes gradually over long periods. However, these incremental changes are interspersed with occasional sharp bursts of policy change, resulting in fundamentally new policies (Baumgartner & Jones, 1991, 1993; Jones et al., 1998).

**Policy Monopolies**

Adherents of punctuated equilibrium theory also argue that governmental venues such as legislative policy subsystems are often characterized by long periods of policy stability in the political system because of policy monopolies favoring privileged groups like the tobacco industry. At certain points in the policymaking process, rapid policy change occurs and the powerful groups lose their dominance (Baumgartner & Jones, 1991, 1993; Jones et al., 1998; Legro, 2000; Pollock, 1994). During these short and dramatic periods of policy change, prior policies associated with dominant policy monopolies in subsystems are either replaced or substantially reformulated. Baumgartner and Jones (1993) have characterized such policy changes as coming “quickly and dramatically” and in “short periods” (pp. 17, 55). Baumgartner and Jones further clarify the time period
involved for “dramatic changes” when they argued that, “At any one time, there may be little change, but periods of stability may be punctuated by fitful bursts of mobilization that change the structure of bias for decades to come” (pp. 10, 101–102).

Sources of influence typically cited by punctuated equilibrium theorists for punctuated legislative policy and issue change include changes in: public opinion, regulations, legislative oversight, market conditions, political activism, and majority ruling coalitions. Punctuated equilibrium theorists also argue that dominant policy monopolies in subsystems often are characterized by a lack of interference by other interest groups and advocates such as health advocates. Policy monopolies in subsystems rebuff the efforts of outside groups to become part of the decision making process. This is done, in part, by deferring to the expertise of existing policy experts and specialists who participate in the policy monopoly (Baumgartner & Jones, 1993). Powerful monopolies in subsystems will use resources such as lobbyists, litigation, and public relations campaigns to ward off sharp policy changes by political outsiders. Worsham refined the punctuated equilibrium theory by noting that subsystem politics can be dominant like iron triangles, transitory where members of the dominant coalition factionalize into differing interests, and competitive where a new coalition with a significantly different agenda can challenge the dominant policy monopoly of a particular group in a subsystem. (Worsham, 1998)

Equilibrium and Disequilibrium

In addition, punctuated equilibrium theory also focuses on a balance of power between opposing forces or even advocacy coalitions that can shift or move public policies between equilibrium and disequilibrium (Baumgartner & Jones, 1993; Sabatier & Jenkins-Smith, 1993). Power, in this traditional view is described as the ability of one person or entity to force or compel someone else or another entity to do something, even against their will (Bachrach & Baratz, 1962).

For instance, the tobacco industry has publicly argued that unfettered tobacco use is a matter of individual choice and freedom from unreasonable government regulations and taxes (Givel & Glantz, 2001a; Studlar, 2002). Privately the tobacco industry also argues that less government regulation on tobacco products and lower tobacco taxes support the industry’s objectives of increased profits and sales (Givel & Glantz; Studlar). In contrast to the policy ideas espoused by the tobacco industry, health advocates have countered with policy ideas that stress better public health through reduced tobacco use by stronger regulations, higher tobacco taxes, and litigation against the industry (Derthick, 2005; Glantz & Balbach, 2000; Morley et al., 2002; Studlar). This conflict and disequilibrium over policy goals between the tobacco industry and health advocates represents an ongoing struggle for political and policy dominance and power in state legislatures.

This focus on equilibrium and disequilibrium reflects a classic clock-like and deterministic Newtonian scientific world view that is reflected in neo-orthodox
economic theories (Baumgartner & Jones, 1993; Gleick, 1987). Under this orderly and classical world view, empirically observed variables are scientifically analyzed as policy systems that move in and out of equilibrium and disequilibrium. Policy variables may include one or more independent variables that impact upon one or more dependent variables (Baumgartner & Jones, 1993).

Baumgartner and Jones (1993) have also written that when periods of punctuated change occur that permanently alter prevailing arrangements of power in dominant policy monopolies, these changes reflect positive feedback because of an exogenous shock on the policymaking system. Even in times of policy stability, there will never be perfect equilibrium. Politics is in a constant state of disequilibrium (Baumgartner & Jones, 1993). However, disequilibrium does not mean anarchy; political institutions such as legislatures maintain stability. Stability can be caused by powerful interests like the tobacco industry having access to decision making through a dominant policy monopoly that repels advocates who espouse policy goals and ideas contrary to their interests such as stronger tobacco regulations and higher tobacco taxes. Most policy change is because of heightened public attention to issues. Change occurs when those with less power effectively mobilize. Baumgartner and Jones noted that changes in issue definition by political movements and insurgencies often result in positive feedback in the form of desired policy changes (1991, 1993). Sometimes, those with less power can mobilize and negative feedback happens when little or no policy change occurs (Baumgartner & Jones, 1991, 1993; Schattschneider, 1960).

**Tobacco Policy Monopolies**

Baumgartner and Jones argue that in the 1970s, the tobacco policy monopoly with respect to public health and tobacco use at the federal level was either destroyed or weakened (Baumgartner & Jones, 1993). They argue that when tobacco was characterized as an economic issue that supported the industry and tobacco farmers, federal policy was supportive. However, this changed beginning in the 1960s, because of an E. E. Schattschneider-like “mobilization of bias” by health advocates and government agencies regarding health dangers due to tobacco use (Schattschneider, 1960). U.S. federal policy was mixed regarding the tobacco industry, which lost its policy monopoly, due to the inclusion of public health concerns. Schattschneider argued that the way for the less powerful to create change is by expanding the scope of the conflict to make it as public as possible. Some federal policy economically supported tobacco farmers, while other federal policy was designed to counter the adverse effects of tobacco use (Baumgartner & Jones). A sharp mobilization of bias by health advocates with respect to tobacco use and public health also occurred from 1990 to the early 2000s at the state level in the United States (Derthick, 2005; Givel & Glantz, 2001a; Morley et al., 2002; Studlar, 2002). This article will examine whether the pro tobacco policy monopoly subsystem in all states was or was not maintained.
Data Sources

The research in this study to discern the theoretical implications of legislative policymaking as described by Baumgartner and Jones and Worsham was descriptive and analytical. This time period for this study from 1990 to 2003 was examined to descriptively ascertain and measure on a long-term basis what has happened to state tobacco tax and regulatory policy outputs in an era of heightened advocacy for more stringent state tobacco control policies.

The data necessary to test the application of punctuated equilibrium theory are drawn from the STATE (State Tobacco Activities Tracking and Evaluation System): Tobacco Map Reports created by the U.S. Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office of Smoking and Health (CDC). This CDC tracking system measures key state tobacco control policy outputs, including the number of states that passed preemption of stronger local ordinances with respect to youth access and clean indoor air and tobacco excise tax data from 1990 to 1999. Recent research studies indicate preemption of stronger local ordinances, which is supported by the tobacco industry, weakens effective local tobacco control policies that decrease health risks (Austin-Lane, Girasek, & Barbour, 2004; Derthick, 2005; Givel & Glantz, 2001a; Givel & Glantz, 2004–05; Morley et al., 2002; Studlar, 2002). In addition, over 100 peer-reviewed studies on state tobacco tax policymaking have indicated that a 10 percent rise in tobacco prices results in a decrease of between 2.5 percent to 5.0 percent in tobacco consumption (Chaloupka, Cummings, Morley et al., 2002).

In addition, I used data not obtainable from STATE with data from the Coalition on Smoking or Health, American Lung Association, and Federation of Tax Administrators to identify significant state legislative policy outputs associated with tobacco taxes from 1999 to 2003, tobacco licensing, and state funding for antitobacco education programs (American Lung Association, 2004, 2005b; Coalition on Smoking or Health, 1990; Federation of Tax Administrators, 2004). The additional data were used in conjunction with the CDC STATE data to describe state tobacco tax and regulatory policy outputs from 1990 to 2003.

Results

Background on State Tobacco Lobby Influence

The most robust factor in explaining the enactment of state tobacco policy legislation and programs is the power and influence of the tobacco lobby (Austin-Lane et al., 2004; Chaloupka et al., 2002; Gamkhar & Sim, 2001; Givel & Glantz, 2000a, 2000b, 2001a; Morley et al., 2002). In tandem with the power of the tobacco lobby, other factors that significantly contribute to the influence of the tobacco lobby in state tobacco policymaking include the condition of the state’s budget, gubernatorial involvement, a state’s tobacco economy, and state political priorities (Austin-Lane et al., 2004). Despite public pronouncements that tobacco use is a question of adult choice, privately the primary impetus for the industry’s state
legislative political efforts is to maintain and preserve its tobacco sales and increase profits (Givel & Glantz, 2001a; Morley et al., 2002). For instance, a 1991 internal Philip Morris memorandum stated:

During the next five years, PM-USA [Philip Morris, USA] plans to continue its profit growth, generating operating income increases of 13.5% annually. Domestic cigarettes will contribute a cumulative $18.0 billion to the corporate cash flow over the plan period. Market share will reach 49.6% in 1995, while volume will grow at a compound annual rate of half a percent.

PM-USA volume growth will occur despite a 2.9% compound annual decline in industry volume. Industry volume will be negatively affected by increasing smoking restrictions, the decreasing acceptability of smoking and increasing excise taxes. Corporate affairs will use direct lobbying, the media, and industry allies to minimize state and local tax increases, promote accommodation in public places [smoking with non-smoking in public places] and preserve the industry’s freedom to advertise and promote cigarettes to adult smokers (Philip Morris Tobacco Company, 1995).

Efforts to maintain sales and profits have occurred through ongoing advocacy in all state legislatures by the tobacco industry. The tobacco industry has consistently opposed vigorous antitobacco regulations and educational programs and higher taxes on tobacco products (Derthick, 2005; Givel & Glantz, 2001a; Morley et al., 2002; Studlar, 2002).

_Tobacco Lobby Tactics in States_

The primary approach by the tobacco industry, which has been a powerful force in all states, in advancing this policy goal has been the ongoing employment of well established and astute contract lobbyists. The state contract lobbyists often have decades of experience and expertise in working with state legislatures to advance or block legislation. For instance, in Missouri, tobacco lobbyist John Britton began his career as a lobbyist over 45 years ago (Givel & Glantz, 2000b).

The tobacco lobbyists have advanced on an ongoing basis the tobacco industry’s policy agenda and clashed with the health advocates’ agenda, such as supporting stronger clean indoor air regulation. (Chaloupka et al., 2002; Derthick, 2005; Givel & Glantz, 2001a, 2001b, 2002; Givel, Dearlove, & Glantz, 2001; Morley et al., 2002; Pertschuk, 1992; Studlar, 2002). Coordination of these state lobbying efforts occurred through a top-down relationship with top tobacco industry management at the national corporate level developing and consulting with the contracted state lobbyists (Givel & Glantz, 2001a). This consultation included the development of uniform policy positions that should be promoted or discouraged in each state (Goldstein et al., 1997).
The state lobbyists employed a bundle of tactics to influence states’ tobacco policies. These tactics included direct campaign contributions, indirect campaign contributions to organizations such as political parties designed to assist legislator’s election campaigns, and gifts and honoraria to legislators. Other tactics included occasional alliances with other allied interest groups (such as the hospitality industry to counter clean indoor air ordinances) and the development of front groups such as the National Smokers Alliance primarily funded by Philip Morris (Dearlove & Glantz, 2000; Givel & Glantz, 2000a, 2000b, 2001a, 2001b, 2002; Givel et al., 2002; Glantz & Balbach, 2000). The development of myriad front groups allowed the tobacco industry and its political allies to act without being publicly associated with the tobacco industry. Tactics of the front groups often included orchestrated grassroots advocacy campaigns through the mail or phone calls to pressure policy makers (Dearlove & Glantz, 2000; Givel & Glantz, 2000a, 2000b, 2001a, 2001b, 2002; Givel et al., 2001; Glantz & Balbach, 2000). Other tactics have been testimony before legislative bodies, without any real formal contact with legislators or their staff.

In contrast to the tobacco lobbyist’s tactics, organized health advocates in state legislatures have primarily used insider advocacy tactics to advance their agenda of better public health (Aguinaga-Bialous & Glantz, 1997; Begay & Glantz, 1995; Bialous & Glantz, 1999; Bialous, Fox, & Glantz, 2001; Dearlove & Glantz, 2000; Givel & Glantz, 1999, 2000a, 2000b, 2001b, 2002; Givel et al., 2001; Glantz & Balbach, 2000; Ibrahim & Glantz, 2003; Magzamen & Glantz, 1999; Monardi & Glantz, 1996, 1997a, 1997b, 1998a, 1998b; Monardi, O’Neill, & Glantz, 1996; Nixon & Glantz, 2002; Studlar, 2002). Insider advocacy is based on advocates lobbying for their policy goals and ideas in the “halls of power” in state capitals. By contrast, outsider tactics occur beyond official institutions of power to pressure legislators in conjunction with insider lobbying. Outsider tactics have included: low-cost newspaper issue advertisements, free media interviews, letters to the editor and opinion editorials, community forums, rallies, and public demonstrations (Derthick, 2005; Givel & Glantz, 2001a; Morley et al., 2002; Studlar, 2002).

State Tobacco Policy Outputs from 1990 to 1999

Since the beginning of the 1990s, there has been a sharp rise in antitobacco activism, adverse public opinion, litigation, and new legislation to counter the tobacco industry and reduce tobacco use (Derthick, 2005; Studlar, 2002). Despite this sharp rise in activism, CDC data suggest from 1990 to 1999, including in 1999 when payments to the states began from the historically significant state Master Settlement Agreement (MSA), which was signed in 1998 between 46 Attorneys General and the tobacco industry, that key policy outputs primarily favored the tobacco industry. As shown in Figure 1, from 1990 to 1999, state tobacco excise taxes and their effect on tobacco consumption remained low in 20 states with tobacco excise taxes 25 cents or lower per pack and 12 states with tobacco excise taxes between 26 cents and 49 cents per pack (Coalition on Smoking or Health, 1990; Office of Smoking and Health, 2000).
In addition, states significantly increased from 7 to 19 from 1990 to 1999 the number of laws that preempted stronger local clean indoor air ordinances. At the same time, by 1999, a few states had enacted effective state clean indoor air legislation (Figure 2). Recent research and government reports indicate that because of severe illness and death for nonsmokers, exposure to tobacco smoke should be avoided, which can only occur in smoke-free areas (California Environmental Protection Agency–Air Resources Board, 2006; Pion & Givel, 2004; United States Environmental Protection Agency, 1992). In addition, by 1999, 20 states (up from one in 1990) had enacted new tobacco youth-access ordinances that

![Figure 1. Tobacco Tax Distribution by Number of States in 1999.](source)

![Figure 2. State Public Smoking Restrictions 1999.](source)

*Total number of states without effective smoking restrictions include the categories of: smoking areas with separate ventilation, designated smoking areas, and no smoking restrictions.
preempted local ordinances (Coalition on Smoking or Health, 1990; Office of Smoking and Health, 2000). Public health advocates had very modest legislative success from 1990 to 1999, with 30 states requiring the licensing of tobacco sellers’ vending machines and over-the-counter sales (Coalition on Smoking or Health; Office of Smoking and Health). Tobacco licensing allows for the tracking of tobacco sales violations and subsequent revocation of licenses to sell tobacco (Coalition on Smoking or Health, 1990; Office of Smoking and Health, 2000).

Master Settlement Agreement

In 1998, 46 Attorneys General and the tobacco industry negotiated the MSA, which awarded the states $206 billion, adjusted for inflation over 25 years, with the first payment beginning in 1999 (Campaign For Tobacco Free Kids, 2004). This agreement represented a significant and historic development in state tobacco control policymaking. The MSA had no restrictions on how the funds were to be spent including on tobacco control efforts (Campaign For Tobacco Free Kids). Nor has the MSA had a significant and detrimental impact on tobacco sales and profits (Sloan, Mathews, & Trogdon, 2005). In addition to funding from the MSA, from 1999 to 2003, 14 states increased their tobacco excise taxes to greater than 50 cents per pack (Figure 3). By 2003, only four states had fully, and eight states had partially, funded state tobacco prevention programs from MSA funds and other state revenue sources that met the CDC’s minimum level of state funding for vigorous tobacco control prevention efforts (Campaign For Tobacco Free Kids; Sloan et al.).

![Figure 3. Tobacco Tax Distribution by Number of States for 1999 and 2003. Source: Federation of Tax Administrators located at http://www.taxadmin.org/fta/rate/cigarett.html](http://www.taxadmin.org/fta/rate/cigarett.html)
In the post-MSA period from 1999 to 2003, state regulation of tobacco use through effective public smoking restrictions in government work sites, private work sites, and restaurants increased slightly (Figure 4). On the other hand, state preemption of stronger local clean indoor air ordinances increased from 19 to 21 from 1999 to 2003 (American Lung Association, 2004). State preemption of stronger local youth-access ordinances also increased from 20 to 24 from 1999 to 2003 (American Lung Association). Finally, from 1999 to 2003, the number of states that licensed tobacco sales increased from 30 to 49 (American Lung Association, 2005a).

In summary, from 1990 to 2003, one modest tobacco control policy trend was an increase in state licensing of tobacco sales. From 1999 to 2003, another pro tobacco control policy occurred with 14 additional states enacting tobacco excise taxes at 50 cents or greater per pack. However, overall spending in 2003 from the MSA and other state revenue sources for comprehensive state antitobacco programs favored the tobacco industry. State tobacco control efforts from 1990 to 2003 in the areas of state preemption of local clean indoor air and youth access enforcement ordinances and state public smoking restrictions continued to strongly favor the tobacco industry. In the aggregate, these policy outputs represents a failure from 1990 to 2003 to punctuate or replace the tobacco policy monopoly equilibrium in the states despite a sharp mobilization for increased tobacco regulation, higher tobacco taxes, and litigation against the industry. (Derthick, 2005)

![Figure 4. Total States without Effective Smoking Restrictions in 1999 and 2003.
Source: CDC STATE: State Tobacco Activities Tracking Evaluation System.
*Defined as public areas with some form of allowed smoking.](image)
Discussion

From 1990 to 2003, the primarily negative feedback occurring through the “rules of the game” that shaped state tobacco legislation, meant that the dominant policy monopoly favoring the tobacco industry did not significantly and sharply change in the 50 states (Baumgartner & Jones, 1993; Worsham, 1998). Instead, despite the symbolic appearance of punctuation in the policy system, the tobacco industry was able to use its political resources to counter the health advocates’ mobilization, adverse public opinion regarding tobacco use, litigation, and even a rise in new state tobacco control legislation. In fact, the feedback loop in this case was primarily negative. This confirms Baumgartner and Jones and Worshams’ assertion that not all mobilizations or sharp shocks to the system by the less powerful will be successful. This does not mean that another (or different) shock to the system will not result in punctuated change.

While protobacco state policy monopolies were challenged by mobilizations of health advocates at the state level, the continued dominance by the tobacco industry was reflective of neopluralist theory that posits that while a wide variety of groups compete in the political process, only business organizations have a privileged position (Dahl, 1978, 1982, 1983, 1990, 1996; Lindblom, 1977, 1982a, 1982b, 1983; Manley, 1983). According to Lindblom and Dahl, polyarchy includes freedom of association, freedom of expression, the right to vote and fair elections, competition among politicians and political parties, alternative sources of information, and peaceful transitions of political power (Dahl, 1978, 1982, 1983, 1990, 1996; Lindblom, 1977, 1982a, 1982b, 1983; Manley, 1983). From the neopluralist view, corporations often use their financial resources for political purposes in a variety of government venues like state legislatures to advance policy goals like reducing or eliminating taxes and regulatory oversight over businesses such as the tobacco industry to the disadvantage of less powerful groups like health advocates.

This maintenance of policy dominance has resulted in a sharp rise in the ongoing and acrimonious conflict between the tobacco industry and public health groups. Because the public health groups’ mobilization was not successful, there has been no agreement on a new policy idea or direction with respect to tobacco control in the states. At the center of these differences are largely irreconcilable views of what should be proper state tobacco policy. On one side is the tobacco industry who views more strenuous regulation of tobacco use and higher tobacco taxes as a threat to its sales and profits. On the other side are health advocates who view tobacco use as a serious public health problem. Without a change in mobilization tactics by the health advocates or some new form of an exogenous shock such as the election of more protobacco control politicians, the tobacco industry’s use of its vast financial resources and state lobbying network will likely prevail into the near future in terms of advancing its policy goals.

This state of disequilibrium where much friction and heat generated by the mobilization of health advocates, adverse public opinion, litigation, and new state tobacco legislation occurred with modest favorable state tobacco control policy
results meant that this attempt to punctuate equilibrium was thwarted. While the mobilization against the tobacco industry and tobacco use appeared to be a sharp and punctuated policy change regarding tobacco control, in reality, the dominant policy monopoly that the tobacco industry enjoyed in the states prior to the mobilization was primarily and successfully maintained.

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**References**


