

SB

203

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. SB 203

Revision Date: \_\_\_\_\_ Department Affected: \_\_\_\_\_  
 Title: That alcohol warning signs also warn of danger from smoking during pregnancy. BAU: Alcoholic Beverage Control Board  
 Component: \_\_\_\_\_  
 Sponsor: Sen. Sturgulewski & Sen. Menard  
 Requestor: Sen. HES Committee COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	2.0	.8	.8	.8	.8	.8
SUPPLIES	.2	.1	.1	.1	.1	.1
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL OPERATING</b>	<b>2.2</b>	<b>.9</b>	<b>.9</b>	<b>.9</b>	<b>.9</b>	<b>.9</b>

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	2.2	.9	.9	.9	.9	.9
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	<b>2.2</b>	<b>.9</b>	<b>.9</b>	<b>.9</b>	<b>.9</b>	<b>.9</b>

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year impact: This note intends that funds be appropriated for FY 92.

ANALYSIS: (Attach a separate page if necessary.)

See attached cost analysis for initial and annual issuance of signs to liquor licensees and permittees.

Prepared By: Patrick L. Sharrock *Patrick L. Sharrock* Phone: 277-8638  
 Division: Alcoholic Beverage Control Board Date: March 19, 1991

Approved by Commissioner: *[Signature]*  
 Agency: Department of Revenue Date: 3-22-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



# Alaska State Legislature



311 C STREET, SUITE 550  
ANCHORAGE, ALASKA 99503  
(907) 561-7615

While in Juneau  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3818


SENATOR  
ARLISS STURGULEWSKI

## Senate

MEMORANDUM

April 30, 1991

TO: Senator Fred Zharoff, Chairman  
Senate Rules Committee

FROM: Senator Arliss Sturgulewski   
Senate District F

RE: Hearing and Calendaring Request for SB 203 "An Act requiring that signs warning of possible danger from drinking alcohol during pregnancy also warn of possible danger from smoking cigarettes during pregnancy."

I respectfully request an early hearing and calendaring of SB 203 which was referred to the Rules Committee yesterday. This bill passed out of the Senate HESS committee with 3 "do pass" and 1 "no rec" and out of the Senate Finance Committee with 6 "do pass" and 1 "no rec."

I have enclosed a sponsor statement and packet of information on SB 203. If you have any questions regarding this legislation, please contact me or Betty Hargrave on my staff.

Thank you.

# Alaska State Legislature



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## Senate

### Sponsor Statement on:

**SB 203 "An Act requiring that signs warning of possible danger from drinking alcohol during pregnancy also warn of possible danger from smoking cigarettes during pregnancy."**

Senate Bill 203 was introduced at the suggestion of the American Lung Association of Alaska. This bill would amend state law to add "or smoking cigarettes" to the signs warning pregnant women that drinking alcoholic beverages during pregnancy can cause birth defects. A 1990 report from the Surgeon General states, "If all women quit smoking during pregnancy, about 5 percent of deaths among newborn infants could be prevented."

I have enclosed supportive testimony presented to the Senate HESS Committee from Dr. Anne Morris and Dr. Kenneth Kesler as well as statistical information provided by Alfred Zangri, Chief of the Bureau of Vital Statistics, Department of Health and Social Services.

Enclosed is a copy of Sec. 04.21.065(a) noting which license or permit holders are required to post the warning signs.

Patrick L. Sharrock, Director of the Alcoholic Beverage Control Board, has provided a letter stating the board has no objection to the legislation. Also enclosed is a Fiscal Note for SB 203 prepared by Mr. Sharrock.

Earlier this year, the Anchorage Municipal Assembly passed the enclosed Ordinance 91-23 pertaining to posting warning signs for pregnant women. These signs include a smoking warning. I have also enclosed a letter of support from Dr. Helen Beirne, Director of the Health & Human Services Department, Municipality of Anchorage.

Enclosures

# Alaska State Legislature



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ARLISS STURGULEWSKI

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SENATOR  
ARLISS STURGULEWSKI

## Senate

MEMORANDUM

May 3, 1991

TO: All Senators

FROM: Senator Arliss Sturgulewski   
Senate District F

RE: SB 203 "An Act requiring that signs warning of possible danger from drinking alcohol during pregnancy also warn of possible danger from smoking cigarettes during pregnancy."

I would appreciate your support for SB 203 which is before us today.

Senate Bill 203 was introduced at the suggestion of the American Lung Association of Alaska. This bill would amend state law to add "or smoking cigarettes" to the signs warning pregnant women that drinking alcoholic beverages during pregnancy can cause birth defects. A 1990 report from the Surgeon General states, "If all women quit smoking during pregnancy, about 5 percent of deaths among newborn infants could be prevented."

During the committee process, testimony was received from the medical field and the state chief of the Bureau of Vital Statistics confirming that smoking cigarettes during pregnancy can cause birth defects. The fiscal note attached to this bill is relatively small and I feel well worth it if one baby is spared either death or birth defects.

Again, I would appreciate your favorable vote on SB 203.

# Alaska State Legislature



SENATOR  
ARLISS STURGULEWSKI

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While in Juneau  
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JUNEAU, ALASKA 99811  
(907) 465-3818

Senate

MEMORANDUM

April 10, 1991

TO: Senator Pat Pourchot, Co-Chairman  
Senate Finance Committee

FROM: Senator Arliss Sturgulewski  
Senate District F

RE: SB 203 "An Act requiring that signs warning of possible danger from drinking alcohol during pregnancy also warn of possible danger from smoking cigarettes during pregnancy."

Senate Bill 203 is now in the Senate Finance Committee and I respectfully request an early hearing for the bill. Senate Bill 203 was heard and passed out of the Senate HESS Committee on April 9, 1991. It does have a Fiscal Note of 2.2 for FY 92.

I have enclosed a sponsor statement and packet of information for Senate Finance Committee members. If you have any questions on SB 203, please do not hesitate to contact me or Betty Hargrave on my staff.

Thank you for your consideration of this request.

Enclosures

*Al Zarznie - Health & SS  
Chief - Rends.*

*Anchorage  
King County*

TO: Melissa Fouse  
FROM: Eric F. Myers  
DATE: 4/20/91  
SUBJ: Tobacco Warning Signs and Federal Preemption

I spoke briefly to Senator Sturgulewski regarding the attached materials because I expect the same issue may arise with your legislation respecting alcohol/smoking signs. As I indicated to Senator Sturgulewski, the alcohol/smoking signs and the warning signs provided for by HB 34 are different and complimentary.

Please call me when you get a moment (4998). Thanks.

attachment

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

April 17, 1991

**SUBJECT:** Tobacco warning signs - (CSHB 84(L&C))

**TO:** Representative Kay Brown

**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

You have asked for our review of a memorandum that concludes that the tobacco warning sign required under sec. 10 of CSHB 84(L&C) is preempted by federal law. It is our conclusion that this legal analysis is misapplied to the warning sign required by CSHB 84(L&C).

The legal authority cited by the memorandum would preempt an attempt by the state to alter the package, labeling, or advertising warnings placed on tobacco products. However the warning sign contained in CSHB 84(L&C) is not attached to the cigarette package or label and is not associated with cigarette advertising. The memorandum cites no authority to support the conclusion that this specific form of cigarette warning sign has been preempted by federal law.

The memorandum also states that several other states have declined to require this type of warning sign. The fact that other states have declined to require this form of warning does not preclude this state from doing so.

Please contact me if you have further questions.

MFF:pl  
91-269.plm

PATTON, BOGGS & BLOW  
2550 M STREET, N.W.  
WASHINGTON, D.C. 20037  
202-457-6000

TELETYPE UNIT  
TELEPHONE 457-6225

March 28, 1991

MEMORANDUM

Re: Federal Preemption of Alaska House Bill 84

I. INTRODUCTION

The Alaska Legislature has pending before it House Bill No. 84, which would require merchants to post at the point of sale a sign with the following warning: "WARNING: Tobacco products are highly addictive, a cause of lung disease and cancer, and may cause complications during pregnancy. The sale of tobacco products to persons under age 19 is illegal." This memorandum outlines the factors a court is likely to consider in striking down the proposed bill as unconstitutional because it has been preempted by enactment of Public Law 99-252, the Comprehensive Smokeless Tobacco Health Education Act of 1986. (Because the warning covers cigarettes, it also has been preempted by enactment of the Comprehensive Smoking Education Act of 1984, which governs the sale, distribution, and advertising of cigarettes.)

## II. BACKGROUND

Under the supremacy clause of Article VI of the Constitution, when Congress passes legislation it may displace or preempt state law. As articulated by the Supreme Court, "[t]he scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for the State to supplement it. . . . Or the State policy may produce a result inconsistent with the objective of the federal statute." Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230 (1947).

The legislative history of Public Law 99-252 unmistakably evidences a Congressional desire to provide the public with consistent, uniform warnings about smokeless tobacco products. Section 7 of the Act provides in relevant part:

(b) State and Local Action.--No statement relating to the use of smokeless tobacco products and health, other than the statements required by section 3, shall be required by any State or local statute or regulation to be included on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

As made clear throughout the legislative history, Congress specifically intended to preclude states from imposing different warning or labeling requirements on smokeless tobacco product packages and in print advertising, in part to ensure that consumers received consistent health information about the use of smokeless products. As Representative Waxman emphasized in describing the preemption provision to his colleagues:

[T]he pending actions of several State legislatures to enact potentially conflicting labeling requirements requires swift, preemptive action by Congress.

\* \* \*

Swift enactment of Federal legislation at this time will assure a more timely and comprehensive dissemination of health information.

\* \* \*

The scope of the preemption includes the wording of the warnings as well as the format in which they are displayed.

Congressional Record, H 247-49 (daily ed. Feb. 3, 1986).

Representative Richardson succinctly made the same point: "The measure preempts any different warning labels that States may require on smokeless tobacco product packages." Id. at H 251.

### III. ANALYSIS

Based on the clear intent of Congress, a court undoubtedly would rule that the Alaska Legislature may not require an addiction point of sale warning. First, Congress appears to have made every effort to preempt the field entirely with respect to warning labels and health information provided to consumers. Like the warnings on packages and in the print media, the point of sale warning apparently is intended to provide health information to the public. Of particular significance, Congress specifically declined to require an addiction warning in enacting the federal legislation and has consistently refused to do so since then. Rather, in 1986 Congress decided to require all product packages and print advertisements to contain one of three warnings on a rotating basis: "WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER"; "WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS"; and "WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE

TO CIGARETTES". States have no authority to require anything else, either in advertisements or at the point of sale.

Second, to the extent that Congress did not preempt the entire field, it was explicit in identifying those areas that it did not intend to limit state action through enactment of the bill, such as billboard advertising. Thus, a state, for example, may restrict the use of billboards near schools even though it may not mandate the placement of a different health warning. (Of course, to be lawful any state-imposed restrictions must meet other constitutional tests, such as those established under the First Amendment.)

Third, the legislative history is bereft of any suggestion that Congress intended to permit states or local instrumentalities to require inconsistent or different warnings in any other form or format. As Representative Waxman emphasized, "[t]he scope of the preemption includes the wording of the warnings as well as the format in which they are displayed." Congressional Record, H 249 (daily ed. Feb. 3, 1986). The state of Texas specifically rejected such a point of sale warning in 1989. Similarly, the State of California effectively respected Congressional intent in declining to require the industry to print warnings under Proposition 65. It determined that a federal warning provides "clear warning" under Proposition 65, which provides that no person shall knowingly expose any individual to chemicals "known to the state to cause cancer" without first giving "clear and reasonable warning." All

other states as well have declined to require any form of addiction warning.

Finally, in addition to specifying the precise wording and format of warnings, Congress gave to the Federal Trade Commission--not states or local instrumentalities--the authority to implement the regulations governing the placement of warnings in advertisements. See 51 Fed. Reg. 40005, 40006 (Nov. 4, 1986). The regulations govern both the content and format of the warnings. Since the proposed warning would be inconsistent with the FTC regulations, the Legislature may not require merchants to post it.

The decision by the U.S. Court of Appeals for the Third Circuit in Cipollone v. Liggett Group, Inc., 789 F.2d 131 (3d Cir. 1986), cert. denied, 107 S. Ct. 907 (1987), supports the conclusion that such state legislation would be found to conflict with the provisions of Public Law 99-252. In Cipollone, the defendants argued that Congress had preempted the field entirely with respect to health warnings on cigarette packages and in advertisements. The court agreed with the plaintiffs that Congress had not explicitly preempted their state common law claims. As the court noted, however, that does not end the analysis: Congress often preempts state law by implication. In concurring with the defendants' position, the court stated that the federal legislation "represents a carefully drawn balance between the purposes of warning the public of the hazards of cigarette smoking and the interests of (a) national economy."

Id. at 187. In the court's view, this balance would be upset by either "a warning other than that prescribed in [the Act] or a requirement or prohibition based on smoking and health 'with respect to the advertising or promotion' of cigarettes." Id. Therefore, the court held that state law claims relating to smoking and health that result in liability or noncompliance with warning, advertisement, and promotion obligations other than those prescribed in the Act conflicted with, and thus had been preempted by, the federal law. (The Supreme Court recently agreed to address this issue and we expect it to uphold this decision and those by other courts of appeal that support it.) Given the similarity between the provisions of the federal smokeless tobacco labeling statute and the federal cigarette labeling statute, this decision of the court of appeals is likely to be of particular significance to a lower court in reviewing proposed state legislation.

#### IV. CONCLUSION

In the view of the Smokeless Tobacco Council, in enacting the Comprehensive Smokeless Tobacco Health Education Act of 1986 Congress sought to ensure that the public receives consistent warnings about the perceived dangers of using smokeless tobacco products. Enactment of inconsistent state legislation would conflict with and undermine the purposes of the federal legislation. A court undoubtedly would rule that, because Congress has preempted the field with respect to warning requirements, the Alaska Legislature may not require an additional

point of sale warning. As a result, the Legislature risks having  
a court throw out the good parts of the bill along with the bad.

PATTON, BOGGS & BLOW

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF REVENUE**

550 W. 7TH AVE  
ANCHORAGE, ALASKA 99501-6698

*ALCOHOLIC BEVERAGE CONTROL BOARD*

March 28, 1991

The Honorable Arlis Sturgulewski, Chair  
Health, Education and Social Services Committee  
Alaska State Senate  
P. O. Box V  
Juneau, Alaska 99811

RE: SB 203

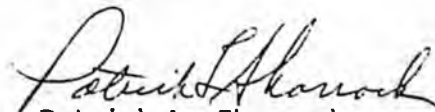
Dear Senator Sturgulewski:

Betty Hargrave, of your office, asked that I provide you with the Alcoholic Beverage Control Board's position concerning SB 203.

The board has no objection to the legislation and, upon enactment, will provide new signs to appropriate licensees.

Thank you for the opportunity to comment.

Sincerely,



Patrick L. Sharrock  
Director, ABC Board  
277-8638

PS/cl

91-49



Tom Fink,  
Mayor

# Municipality of Anchorage

Department of Health and Human Services

825 "L" Street  
P.O. Box 196650 Anchorage, Alaska 99519-6650



April 29, 1991

Senator Arliss Sturgulewski  
Room 427, Capitol  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator Sturgulewski:

SUBJECT: SB 203

I urge you to support SB 203. Section 1 (AS 4.21.065b) refers to a sign warning pregnant women that drinking alcoholic beverages and smoking cigarettes during pregnancy can cause birth defects. Information from numerous researchers and health professionals document this fact. C. Everett Koop, M.D., Surgeon General U.S.P.H.S., 1981-1989 stated "The benefits of smoking cessation are significant. Sensitive and supportive cessation and maintenance efforts can help pregnant smokers to quit. In addition to saving thousands of infants' lives, you will spare numerous children from having excessive respiratory and ear infections and from the burden, even pain, of having to compensate for a slower beginning in life, whether as a result of low birthweight or a birth defect. Researchers have also demonstrated that babies born to mothers and fathers who do not smoke are less likely to become smokers."

If there was any confusion on the Municipality of Anchorage, Department of Health and Human Services' stand on this issue I hope this clears it up.

Thank you for your support of this bill.

Sincerely,

Helen D. Beirne, Ph.D,  
Director, Health and Human Services  
Municipality of Anchorage



Tom Fink,  
Mayor

# Municipality of Anchorage



## Department of Health and Human Services

825 "L" Street  
P.O. Box 198650 Anchorage, Alaska 99511-6650

April 26, 1991

To: Senator Pat Pourchot, Co-Chair, Senate Finance Committee  
Senator Jay Kerttula, Co-Chair, Senate Finance Committee  
Senator Jim Duncan  
Senator Al Adams  
Senator Lyman Hoffman  
Senator Dick Schultz  
Senator Rick Uehling

From: Diana Weber, Substance Abuse Prevention Coordinator  
Municipality of Anchorage  
Department of Health and Human Services

Re: SB 203

I would like to draw your attention to an inaccurate statement in SB 203.

Section 1 (AS 4.21.065b) refers to a sign warning pregnant women that drinking alcoholic beverages and smoking cigarettes during pregnancy can cause birth defects. In fact, smoking cigarettes during pregnancy has been shown to cause low birth weight. There is no evidence that it also causes birth defects.

343-6718

# STATE OF ALASKA

**DEPT. OF HEALTH AND SOCIAL SERVICES**

**STEVE COWPER, GOVERNOR**

BUREAU OF VITAL STATISTICS  
P.O. BOX H  
JUNEAU, ALASKA 99811-0675  
PHONE: (907) 465-3392

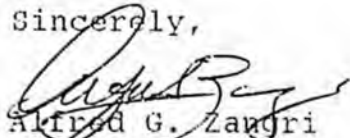
April 9, 1991

Honorable Arliss Sturgulewski  
Senator  
State of Alaska  
Room 127, Capitol

Dear Senator Sturgulewski;

As you requested I have enclosed a summary of the information I presented in testimony to the HESS committee this morning.

Sincerely,

  
Alfred G. Zangri  
Chief

## MATERNAL CONSEQUENCES

1980 - Surgeon General identified the following adverse affects on the fetus from smoking:

- nicotine, hydrogen cyanide, carbon monoxide and other poisonous cross the placenta
- oxygen deprivation
- deficits in behavior and cognitive development may occur

1988 study by National Committee to prevent Infant Mortality found that;

- a. annually 2,500 U.S. infant deaths are attributable to mothers' smoking
- b. the ones who don't die are at increased risk of:
  - retardation
  - birth defects
  - learning disorder
  - chronic lung disorder

### Alaska Data -- 1989 births

Overall, in Alaska, 6% of our births result in low birth weight babies; yet they account for 57% of our infant deaths

38.5% of Alaska low birth weight babies are born to the 24% of moms that report smoking on the birth certificate

Alaska mothers have the following low birth weight rates:

-smoking mothers	81/1000
-non-smoking mothers	31/1000
-mothers using smokeless tobacco	55/1000

# AMERICAN LUNG ASSOCIATION of ALASKA

April 25, 1991

VIA FAX

To: Members of the Senate Finance Committee: Senators Kerttula, Pourchot  
Dunoon, Adams, Hoffman, Shultz & Uehling

From: Walter L. Hays, Executive Director *WLF*  
American Lung Association of Alaska

RE: SB 203

SB 203 was introduced by Senators Sturgulewski and Menard at our request.

It is a simple and effective measure that would help extend the important message about the dangers of smoking and pregnancy.

According to the 1990 report of the Surgeon General (The Health Benefits of Smoking Cessation), "if all women quit smoking during pregnancy, about 5% of deaths among newborn infants could be prevented." Alaska data for the year 1989 indicates that a full third of the low birthweight outcomes of babies born during that year were directly related to maternal smoking.

I would call your attention to the materials in your packet that were presented to the Senate HESS committee when this bill was considered by Anne Morris MD and Kenneth Kesler MD. As a neonatologist, Dr. Kesler has done an excellent job in summarizing for you the considerable health risks that smoking places on the pregnant woman and her unborn child.

You will note that the Department of Health and Social Services has also testified in support of this legislation and that the Alcohol Beverage Control Board has indicated that the cost of providing new warning signs state-wide would be nominal indeed.

Similar warning signage has been in place in San Mateo County (CA) and in King County (WA) and the city of Seattle for the past two years. I checked recently with Tobacco-Free America, the legislative clearinghouse on tobacco and health issues sponsored by the American Heart Association, the American Cancer Society and the American Lung Association; they informed me that to the best of their knowledge no other state has yet enacted such comprehensive warning sign legislation. We in Alaska have the opportunity to pass model legislation in this important area of public health.

I urge your strong support for SB 203.



*Mr. H. H. H. H.  
Alaska Native  
Health Bd*

## SMOKING AND PREGNANCY

My name is Dr. Kenneth Kesler. Address 3340 Providence Dr. Ste 366, Anchorage, AK. I am a Neonatologist which is a Pediatrician trained to deal with sick or prematurely born infants. I have reviewed medical literature regarding the effects of cigarette smoking on both the mother and fetus during pregnancy and have lectured for the Alaska Lung Association on this topic.

The number of women in the reproductive ages who smoke has increased from 5% in 1920 to nearly 40% today. There is great interest in the effects of smoking on pregnancy and since 1966 over 2000 articles have been written on this subject, most of which have demonstrated adverse effects of smoking on the mother and fetus. I will try to briefly describe 12 of those effects to you.

1. Two major components of cigarette smoke are carbon monoxide and nicotine, both of which cross the placenta and invade the fetus when the mother smokes. Increased carbon monoxide levels in the fetus and mother decreases the amount of oxygen delivered to the fetus. If a woman is a moderate smoker the effect on the fetus is similar to decreasing 40% of the fetal blood flow.

Nicotine accumulates to high levels in the fetus and results in decreased blood flow to the fetus. This effect of nicotine on the placenta is very similar to effect of cocaine.

2. Increased number of cleft lips, heart defects and severe brain abnormalities have been reported among infants born to women who smoke.
3. Spontaneous abortions are more frequent among women who smoke.
4. There is an increase in the number of pregnancies complicated by placenta problems such as separation of the placenta from the uterine wall which may result in fetal distress or death.
5. The incidence of premature rupture of membranes is doubled in women who smoke.
6. There is a higher rate of stillbirths and neonatal deaths among women who smoke. Some have estimated that maternal smoking is strongly associated with 4600 infant deaths in the United States per year.
7. There are over 50 studies confirming the trend that women who smoke have babies of lower birth weight. Dr. Michael Kramer in association with the World Health Organization demonstrated that "In the developed country, the most important single factor, by far, is cigarette smoking" accounting for nearly one third of all low birth weight infants (meaning infants who weigh less than 5 1/2 pounds).

Limited information is available on smoking during pregnancy in Alaska. I reviewed the information for a recent 3 years period in the Newborn Intensive Care Unit at Providence Hospital. Of the nearly 900 admission 28 % of the mothers admitted to smoking during pregnancy. (These numbers are probably artificially low because they are based on self reporting.)

8. The risk of delivering a baby prematurely (more than 1 month) may be nearly 2 times higher among smoking mothers. The costs of caring for premature infants is extremely high. In 1983 it was estimated that over 3 billion dollars was spend on infants admitted to Intensive Care Nurseries in the United States per year. **Prematurely born infants may require intensive care for several weeks with a hospital bill in Alaska of \$500.00 to \$1,500.00 per day.**
9. Breast milk contains nicotine and may produce mild to severe symptoms in the newborn and some cases of nicotine poisoning have occurred in babies breast-fed by mothers who smoked heavily.
10. Some preliminary evidence suggest that children born to women who smoke are at higher risk for various cancers when they are adults. This effect of smoking during pregnancy will probably not be scientifically proven for many years because of problems related to designing an adequate study.
11. Some studies have demonstrated various deficiencies in school performance among children born to mothers who smoke which is independent of confounding variables.
12. Nicotine is transferred to growing children in households where smoking occurs. This results in a two fold increase in the rate of Sudden Infant Death Syndrome. Also the incidence of pneumonia and bronchitis are increased in children where the parents smoke.

I have not had time to site the references for the above information. I have made a list of some of these references from journals such as the New England Journal of Medicine, the American Journal of Obstetrics and Gynecology, Pediatrics, and The British Medical Journal which are attached.

No one should leave here with a misunderstanding of the impact of smoking on the fetus and newborn infant. The effects are not trivial. They are significant and may be severe even lethal to the fetus.

This Bill with the signage amendment should be considered carefully. If we are to have an impact on the well being of the unborn, society must address the human behaviors which can adversely affect the fetus and seek methods to alter those behaviors. Smoking and its effect on the fetus is perhaps one of the best documented and easily targeted of these behaviors. I urge you to give sericus consideration to Senate Bill 203.

## REFERENCE LIST - SMOKING AND PREGNANCY

1. McIntosh ID; Smoking and pregnancy: I Maternal and placental risks (and) Smoking and pregnancy:II. offspring risks, *Public Health Review* 12:1-63, 1984  
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Members of the Senate HESE Committee:

My name is Anne Morris. I am a pulmonary physician in private practice in Anchorage. I am Past President of the Alaska Thoracic Society, the medical arm of the American Lung Association of Alaska. In this capacity I have served on the board of the American Lung Association of Alaska for the past twelve years. I have also served on the board of the national organization.

I am here to speak in support of SB 203 as one who sees each day patients whose life, health and happiness have been ruined by smoking and the deadly toll of nicotine addiction.

I want to urge your support for this change of language in the required warning sign about the dangers of alcohol and pregnancy. Let me share with you the summary findings of the 1990 Report of the Surgeon General (The Health Benefits of Smoking Cessation). These are findings from the chapter on Smoking Cessation and Reproduction - the section on Benefits For the Fetus. I quote from the summary of the report.

"Smoking is probably the most important modifiable cause of poor pregnancy outcome among women in the United States... the elimination of smoking during pregnancy could prevent about 5% of perinatal deaths, about 20% of low birthweight births, and about 8% of preterm deliveries in the United States. In groups with high prevalence of smoking (e.g. women who have not completed high school), the elimination of smoking during pregnancy could prevent about 10% of perinatal deaths, about 35% of low birthweight births and about 14% of preterm deliveries." (I have appended a copy of this five paragraph summary from the report to these written remarks.)

Some of the most gratifying work we do at the American Lung Association is with our "Smoke Free Family" program when we are able to help pregnant women overcome nicotine addiction for their own health and the welfare of their unborn child.

Dr. Kenneth Kessler, an Anchorage Neonatologist, has prepared a superb statement on the impact of cigarette smoking on both the mother and the fetus. Dr. Kessler could not be here today but has asked that I share this information with you. A copy of his testimony is in your packets. I call your attention to item 1 -- the effect of nicotine on the placenta is very similar to the effect of cocaine; item 3 - spontaneous abortions are more frequent among women who smoke and item 8 - premature infants may require intensive care for several weeks with hospital bills in Alaska from \$500 to \$1500 per day. (Need I remind you as persons concerned with fiscal management - that someone is paying that bill. If 35% of our population is uninsured, then it is the state and public and private charity that is picking up the bill for these babies at risk.) You will note that Dr. Kessler has given you a reference to eighteen (18) current scientific studies on this subject.

This concern has led our Association to ask our legislative leaders to set forth new warning signage. It is modeled on action that was taken by King County (Washington) by rule in December of 1988 and the city of Seattle by ordinance in July of 1989. Their actions were based on similar action taken in San Mateo County (CA) some months before. Recent contact with leadership of the King County Health Department by our Association reports overwhelming acceptance of these pro-health decisions.

This proposed ordinance is quite simple but its effects can be quite profound. If it will help one pregnant woman break the disease of nicotine addiction that is poisoning both her and her unborn child, then we will have made positive progress. But it will not be one woman, it will be many. The end result will be healthier pregnancies and a reduction in premature deaths and critical care for nicotine addicted, low birthweight babies. It will strengthen our communities and save tax and charity dollars.

Yesterday, our Association contacted the executive director of Tobacco-Free America, the legislative clearing house on tobacco and health issues sponsored by the American Heart Association, the American Cancer Society and the American Lung Association; they informed us that to the best of their knowledge no other state has yet enacted such comprehensive warning sign legislation. We in Alaska have the opportunity to pass model legislation in this important area of public health.

As our elected officials, you are custodians of the public good; this includes the public health. I urge your passage of this bill that is a positive step forward -- simple, effective pro-health, pro-family legislation that will help conserve our most precious resource -- Alaska's children.

Anne Morris MD  
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smoking. Smoking cessation reduces the risk of respiratory infections such as pneumonia, which are often the immediate causes of death in patients with an underlying chronic disease.

The important role of health care providers in counseling patients to quit smoking is well recognized. Health care providers should give smoking cessation advice and assistance to all patients who smoke, including those with existing illness.

#### Benefits for the Fetus

Maternal smoking is associated with several complications of pregnancy including abruptio placentae, placenta previa, bleeding during pregnancy, premature and prolonged rupture of the membranes, and preterm delivery. Maternal smoking retards fetal growth, causes an average reduction in birthweight of 200 g, and doubles the risk of having a low birthweight baby. Studies have shown a 25- to 50-percent higher rate of fetal and infant deaths among women who smoke during pregnancy compared with those who do not.

Women who stop smoking before becoming pregnant have infants of the same birthweight as those born to women who have never smoked. The same benefit accrues to women who quit smoking in the first 3 to 4 months of pregnancy and who remain abstinent throughout the remainder of pregnancy. Women who quit smoking at later stages of pregnancy, up to the 30th week of gestation, have infants with higher birthweight than do women who smoke throughout pregnancy.

Smoking is probably the most important modifiable cause of poor pregnancy outcome among women in the United States. Recent estimates suggest that the elimination of smoking during pregnancy could prevent about 5 percent of perinatal deaths, about 20 percent of low birthweight births, and about 8 percent of preterm deliveries in the United States. In groups with a high prevalence of smoking (e.g., women who have not completed high school), the elimination of smoking during pregnancy could prevent about 10 percent of perinatal deaths, about 35 percent of low birthweight births, and about 15 percent of preterm deliveries.

The prevalence of smoking during pregnancy has declined over time but remains unacceptably high. Approximately 30 percent of U.S. women who are cigarette smokers quit after recognition of pregnancy, and others quit later in pregnancy. However, about 25 percent of pregnant women in the United States smoke throughout pregnancy. A shocking statistic is that half of pregnant women who have not completed high school smoke throughout pregnancy. Many women who do not quit smoking during pregnancy reduce their daily cigarette consumption; however, reduced consumption without quitting may have little or no benefit for birthweight. Of the women who quit smoking during pregnancy, 70 percent resume smoking within 1 year of delivery.

Initiatives have been launched in the public and private sectors to reduce smoking during pregnancy. These programs should be expanded, and less educated pregnant women should be a special target of these efforts. Strategies need to be developed to address the problem of relapse after delivery.

# The Health Benefits of SMOKING CESSATION

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*a report of the  
Surgeon General*

1990

Executive Summary



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Public Health Service  
Centers for Disease Control  
Center for Chronic Disease Prevention and Health Promotion  
Office on Smoking and Health  
Rockville, Maryland 20857



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## The Health Benefits of Smoking Cessation:

## A Report of The Surgeon General, 1990

## At A Glance

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*The Health Benefits of Smoking Cessation: A Report of the Surgeon General, 1990* systematically reviews the health benefits and consequences of smoking cessation.

For decades the Surgeon General has been reporting the bad news about smoking—that smoking causes lung cancer and other diseases. Now Surgeon General Antonia C. Novello, M.D., has some good news.

Quitting smoking carries major and immediate health benefits for men and women of all ages, even those in the older age groups. Benefits apply to healthy people and to those already suffering from smoking-related diseases.

According to Dr. Novello: "Smoking cessation represents the single most important step that smokers can take to enhance the length and quality of their lives."

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### Good News—Quit for Life!

People who quit smoking live longer than those who continue to smoke:

- After 15 years off cigarettes, the risk of death for ex-smokers returns to nearly the level of persons who have never smoked.
- Male smokers who quit between ages 35 to 39 add an average of 5 years to their lives. Female quitters in this age group add 3 years. Men and women who quit at ages 65 to 69, increase their life expectancy by 1 year.


### More Good News . . . Quit for Health!

Quitting smoking decreases the risk of lung cancer, many other cancers, heart disease, stroke, chronic lung diseases, and respiratory illnesses:

- The risk of lung cancer for ex-smokers drops to as much as one-half that of continuing smokers, after 10 years. The risk continues to decline with additional years of staying smoke-free.
- After 1 year off cigarettes, the excess risk of heart disease caused by smoking is reduced by half. After 15 years of abstinence, the risk is similar to that of persons who have never smoked.

- In 5 to 15 years, the risk of stroke for ex-smokers returns to the level of those who have never smoked.

- Ex-smokers who have been off cigarettes for many years are less likely to die of chronic lung diseases, such as emphysema, than those who continue to smoke.

- Ex-smokers have better health status than current smokers. Ex-smokers have fewer days of illness, fewer health complaints, better self-reported health status, and reduced rates of bronchitis and pneumonia.
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## Quitting Is Good Medicine.

Even for smokers who are sick, quitting can help.

### For people with . . .

Heart Disease

Peripheral Artery Disease  
(poor circulation to the legs)

Ulcers

### Quitting smoking . . .

Reduces the risk of repeat heart attacks and death from heart disease by 50 percent or more.

Improves ability to exercise and increases overall survival.

Reduces the risk of recurrence and improves short-term healing.

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## There Are Unique Benefits for Women who Quit.

- If all women quit smoking during pregnancy, about 5 percent of deaths among newborn infants could be prevented.
  - Women who stop smoking before becoming pregnant or during the first trimester of pregnancy reduce their risk of having a low birthweight baby to that of women who have never smoked.
  - It takes female smokers longer to get pregnant than nonsmokers. Women who quit smoking before trying to get pregnant are as likely to get pregnant as women who have never smoked.
- 

## Some Consequences of Quitting Are . . .

- Nearly 80 percent of those who quit smoking gain weight, compared to 56 percent of continuing smokers.
- Short-term consequences of nicotine withdrawal include: anxiety, irritability, frustration, anger, difficulty concentrating, and restlessness. Possible long-term consequences are urges to smoke and increased appetite.

## But at the Same Time . . .

- The average weight gain after quitting smoking is just 5 pounds, and only 3.5 percent of those who quit gain more than 20 pounds after quitting.
- Nicotine withdrawal symptoms peak in the first 1 to 2 days after quitting and subside rapidly during the following weeks. With long-term abstinence, ex-smokers are likely to enjoy favorable psychological changes such as enhanced self-esteem and increased sense of control.
- People who quit smoking are more likely than current smokers to exercise regularly. Exercise may help new quitters to stay off cigarettes and avoid or minimize weight gain.

## The Bottom Line:

**The health benefits of quitting far exceed any risks from the average 5-pound weight gain or any adverse psychological effects that may follow quitting.**

### Special Update: Pregnant Women

About 30 percent of women who are cigarette smokers quit after learning they are pregnant, with greater proportions quitting among married women and especially among women with higher levels of educational attainment. However, about 25 percent of pregnant women in the United States smoke throughout pregnancy.

## More than 38 Million Ex-smokers!

More than 38 million American adults have quit smoking, and nearly half of all living adults who ever smoked cigarettes have quit. Between 1966 and 1987 quitting increased among men and women, among blacks and whites, and among all educational subgroups.

## Quitting Isn't Always Easy.

Most ex-smokers cycle through the quitting process several times before becoming long-term quitters. At least one-third of smokers who stay off cigarettes for 1 or more years may eventually relapse. However, relapse becomes less likely as ex-smokers stay off cigarettes for longer periods of time.

## Who Are Today's Quitters?

Various groups are quitting at different rates. Here is the breakdown:

- Women are more likely than men to try to quit smoking. However, an equal proportion of men and women have been off cigarettes for 1 to 4 years. Men are more likely than women to have been off cigarettes for 5 or more years.
- Blacks are more likely than whites to try to quit smoking. However, whites are more likely than blacks to have been off cigarettes for 1 or more years.
- Younger smokers (ages 20 to 44) are more likely than older smokers to try to quit smoking.

- People with any college education are more likely than those without any college education to both try to quit smoking and to stay off cigarettes for 1 or more years.

## Helpful Hint . . .

To help limit weight gain after quitting: eat a well-balanced diet and avoid the excess calories in sugary and fatty foods; satisfy cravings for sweets by eating small pieces of fruit; have low-calorie foods on hand for nibbling; drink 6 to 8 glasses of water per day; and build exercise into your life by walking 30 minutes a day or doing the physical activity of your choice, such as running, cycling, swimming, or gardening.

If you cannot walk outside, walk at your local mall. Talk with your physician about an exercise program that is right for you.

## Facts at a Glance . . .

From the *1990 Surgeon General's Report (1990 SGR)* and Other Sources:

- More than 38 million Americans have quit smoking cigarettes (*1990 SGR*).
- More than 50 million Americans continue to smoke (*1990 SGR*).
- A recent poll showed that almost two-thirds of smokers say they would like to quit (*Gallup Poll, May 31, 1990*).
- Only 19% of people who have ever smoked have **never** tried to quit (*1990 SGR*).
- Each year about one-third of adult smokers—19 million people—quit for at least 1 day (*Journal of the National Cancer Institute, In Press*).
- Each year about 1.3 million smokers quit successfully, representing less than 10% of those who try to quit (*JAMA May 23/30, 1990*).
- Smokers often try to quit more than once before they succeed. 70% of ex-smokers made 1 or 2 quit attempts; 22% made 3, 4 or 5 quit attempts, and 9% quit 6 or more times before succeeding (*1986 Adult Use of Tobacco Survey*).
- One study shows that Hispanics are quitting at lower rates than the general population (*JAMA January 6, 1989*).
- About 90% of successful quitters do so on their own (*JAMA May 23/30, 1990*).
- With good smoking cessation programs, 20% to 40% of participants are able to quit smoking and stay off cigarettes for at least one year (*1988 SGR*).
- 30% to 40% of smokers either do not believe that cigarette smoking increases the risks of various diseases or do not believe that quitting smoking reduces the risks (*1990 SGR*).

Both full copies and summaries of *The Health Benefits of Smoking Cessation: A Report of the Surgeon General, 1990* are available. For more information about the Report or to order a free summary, write to:

Office on Smoking and Health  
Centers for Disease Control  
5600 Fishers Lane  
Park Building, Room 1-16  
Rockville, Maryland 20857  
(301) 443-5287

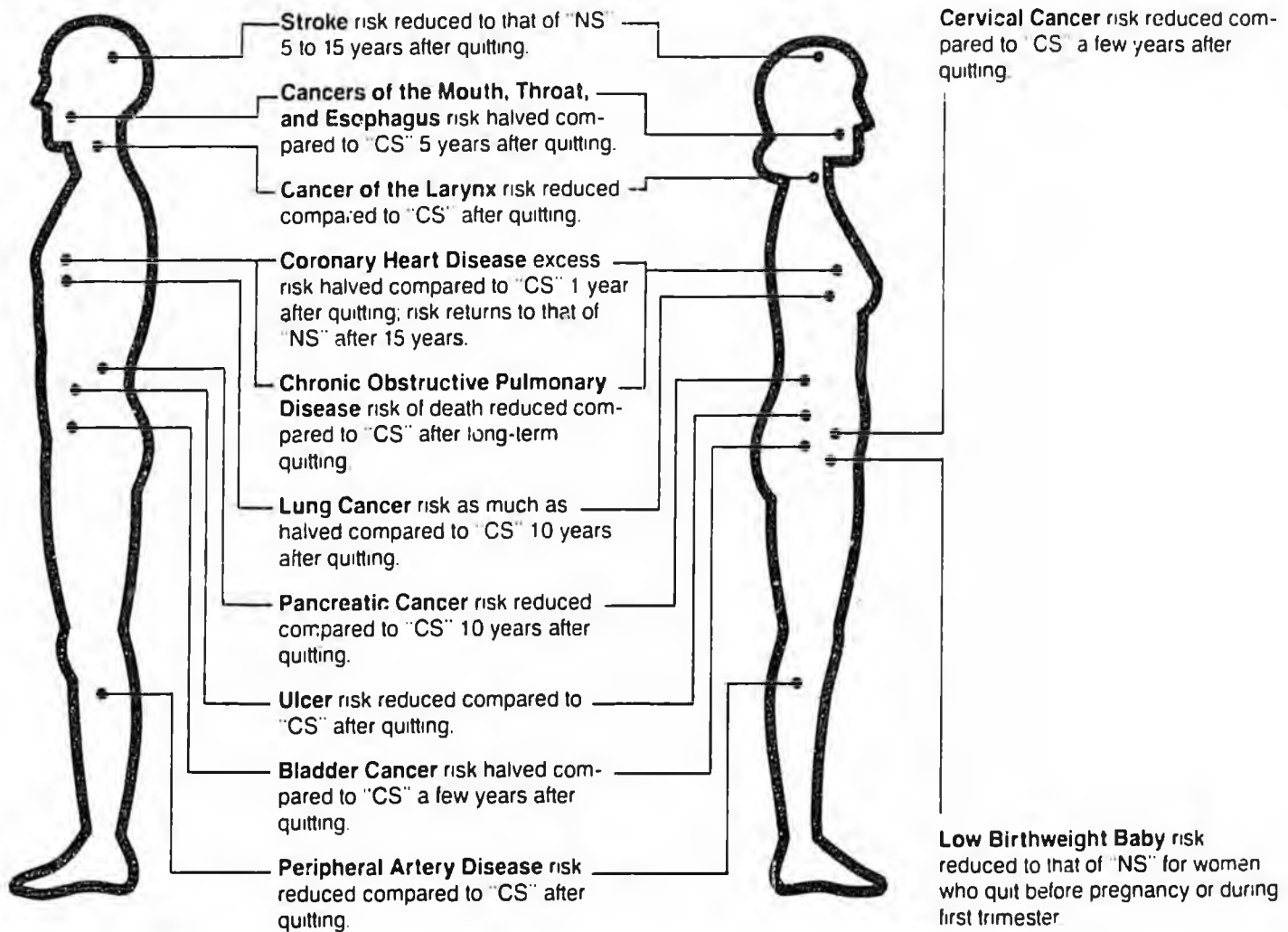


## Benefits of Smoking Cessation

### Key

"CS" refers to continuing smokers,

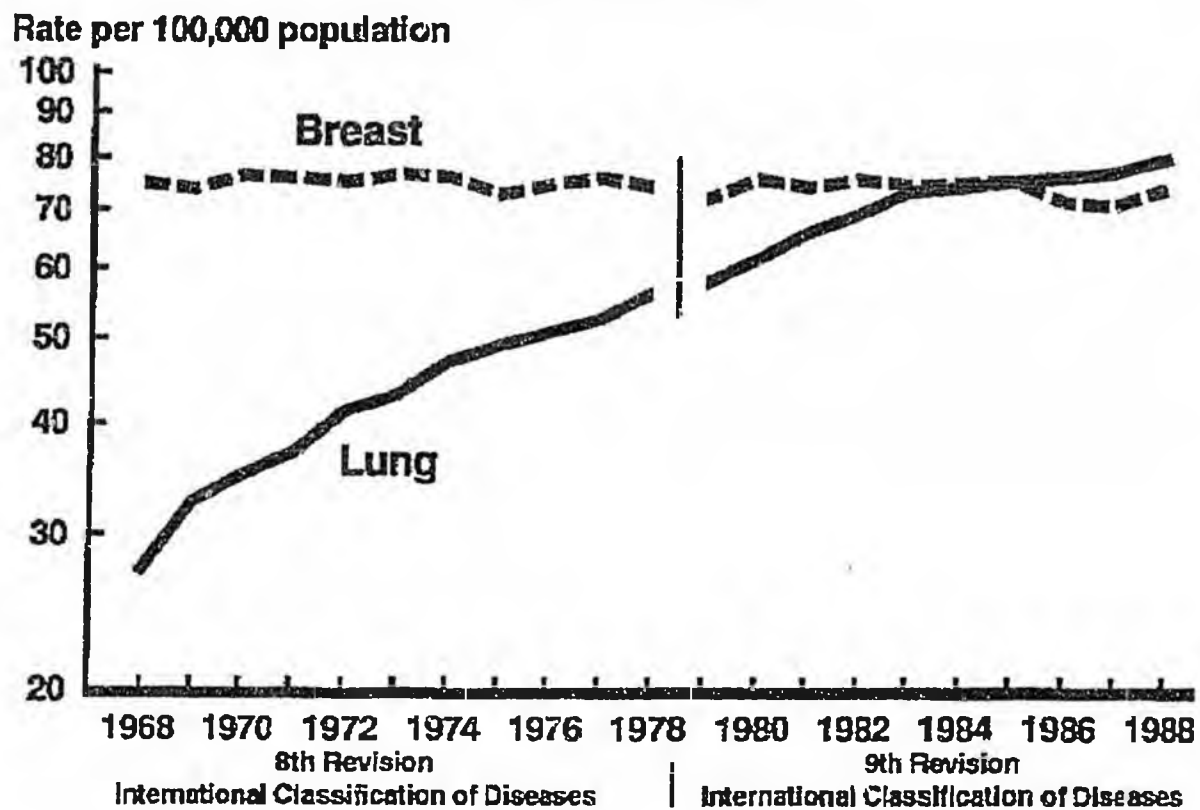
"NS" refers to never smokers.



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 Public Health Service  
 Centers for Disease Control  
 Center for Chronic Disease Prevention and Health Promotion  
 Office on Smoking and Health  
 Rockville, Maryland 20857



## Death rates for women 55-59 years of age: U.S. 1968-88



SOURCE: NCHS, National Vital Statistics System, 1968-88

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