

Appeals court backs FDA move for graphic images on cigarette packs

March 19 2012, By Steven Reinberg, HealthDay Reporter



Photo: Food & Drug Administration

Ohio decision runs counter to ruling by Washington, D.C.-based judge in February.

(HealthDay) -- In the latest salvo in the battle over U.S. government plans to put graphic anti-smoking images on cigarette packs, a federal appeals court has upheld the proposed changes.

According to the *Associated Press*, the lawsuit against the label changes was filed in Kentucky, but on Monday a [federal appeals court](#) in Ohio that was reviewing the case voted 2 to 1 to uphold the new law, part of the Family Smoking Prevention and [Tobacco Control Act](#).

A separate lawsuit aimed at blocking the labeling changes had a different outcome: last month, a federal judge in Washington, D.C. blocked the move, claiming it violated free speech. At the time, Obama Administration officials said they were determined to fight back and

keep the rule in place.

"This Administration is determined to do everything we can to warn young people about the dangers of smoking, which remains the leading cause of preventable death in America," the U.S. Department of Health and Human Services said at the time.

The proposed requirement from the U.S. [Food and Drug Administration](#), which is set to take effect this September, would emblazon cigarette packaging with images of people dying from smoking-related disease, mouth and gum damage linked to smoking and other gruesome portrayals of the harms of smoking.

But on Feb. 29 U.S. District Judge Richard Leon, of the U.S. District Court in the District of Columbia, ruled that the FDA mandate violated the U.S. Constitution's free speech amendment.

Anti-smoking advocates strongly back the FDA proposal, however.

"We're pleased that the U.S. Department of Justice has already appealed the earlier [Washington, D.C.] ruling and is working to preserve this critical requirement of the landmark 2009 law giving the Food and Drug Administration the authority to regulate tobacco products," Matthew Myers, president for the Campaign for Tobacco-Free Kids, said in a statement.

Oral arguments on the appeal have been scheduled for April, according to a spokesman for the Campaign for Tobacco-Free Kids.

The FDA has contended that the benefits to the public of highlighting the dangers of smoking outweigh the tobacco industry's free-speech rights.

The nine proposed images, designed to fill the top half of all [cigarette packs](#), have stirred controversy since the concept first emerged in 2009.

One image shows a man's face and a lighted cigarette in his hand, with smoke escaping from a hole in his neck -- the result of a tracheotomy. The caption reads "Cigarettes are addictive." Another image shows a mother holding a baby as smoke swirls about them, with the warning: "Tobacco smoke can harm your children."

A third image depicts a distraught woman with the caption: "Warning: Smoking causes fatal lung disease in nonsmokers."

The labels are a part of the requirements of the Family [Smoking Prevention](#) and Tobacco Control Act, signed into law in 2009 by President Barack Obama. For the first time, the law gave the FDA significant control over tobacco products.

Smoking is the leading cause of early and preventable death in the United States, resulting in some 443,000 fatalities each year, according to the U.S. Centers for Disease Control and Prevention, and costs almost \$200 billion every year in medical expenses and lost productivity.

Over the last decade, countries as varied as Canada, Australia, Chile, Brazil, Iran and Singapore, among others, have adopted graphic warnings on tobacco products.

More information: For more on the warning labels and to see the images, visit this [FDA website](#)

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