



# Philip Morris v. Reilly, 312 F.3d 24 (1st Cir. 2002)

Topics Covered: Anti-tobacco

**Outcome: Very Unfavorable**

## Issue

The issue in this case was whether a Massachusetts statute requiring tobacco companies to disclose “additives” in their cigarettes was valid under the United States Constitution.

## AMA Interest

The AMA, in keeping with its objective of protecting public health, supports a smoke-free America.

## Case Summary

The Commonwealth of Massachusetts passed a “Disclosure Act” that requires cigarette companies to disclose the “additives” in their cigarettes. These additives are the ingredients other than tobacco, water, and reconstituted tobacco sheet that give the tobacco products their distinctive taste and aroma. The additives were to be disclosed to the Massachusetts Department of Public Health, which would then disclose the information generally, unless such disclosure would reveal a trade secret.

The major cigarette companies sued the Massachusetts Attorney General, Thomas F. Reilly, for an injunction against enforcement of the Disclosure Act. The cigarette companies claimed that the required disclosure would violate the United States Constitution in three ways: (1) it would effect an uncompensated taking of property by the state in violation of the Fifth and Fourteenth Amendments; (2) it would deprive the tobacco companies of valuable property without procedural due process in violation of the Fourteenth Amendment; and (3) it would constitute an improper encroachment by the Commonwealth into the domain of interstate commercial regulation that the Commerce Clause reserves to the national government.

The trial court granted summary judgment for the tobacco companies. The Massachusetts Attorney General appealed this decision. The United States Court of Appeals for the First Circuit, sitting en banc, affirmed the district court and held the Massachusetts statute unconstitutional.

## Litigation Center Involvement

The Litigation Center joined the Massachusetts Medical Society and several other public interest organizations in an amicus brief to support the Disclosure Act. The brief argued that

forcing a company to disclose noxious ingredients in its products should not be considered an unconstitutional “taking” of that company’s property.

United States Court of Appeals for the First Circuit brief