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Feb. 19

Paul,

- o In 21 states, the use or possession of tobacco products by minors is prohibited.
- o In 4 of these states, minors smoking or in possession of cigarettes are required to give the source of the cigarettes.
- o In 17, other penalties -- such as fines -- apply to minors. See examples from New Hampshire and Hawaii which follow. Fine for first offense is \$25 in NH and \$10 in HI.

On the NAMA/minors' smoking behavior question, the fullest citation NAMA has are those indicated by arrows on the pages from the "Operation Alert 1986" material which follows.

Since a couple of the citations say "based on studies" it is not clear whether the data are taken directly or have been extrapolated or calculated by NAMA from those studies.

If you have any questions, give me a call.

*Paula*

cc: Max Coyner  
2/27/88  
Airborne

TOBACCO SALES TO AND USE BY MINORS: STATE RESTRICTIONS

	Sales to minors		Use or Possession	
	Prohibited	Age	Prohibited	Age
Alabama (a)	Yes	Under 18	No provision	--
Alaska	Yes	Under 16	No provision	--
Arizona	Yes	Under 18	Yes (1)	Under 18
Arkansas	Yes (2)	Under 18	No provision	--
California	Yes (3)	Under 18	Yes	(4)
Colorado	<del>No provision</del>	<i>Under 18 (1987)</i>	No provision	--
Connecticut	Yes	<i>Under 18 (1987)</i>	No provision	--
Delaware	Yes	Under 17	No provision	--
District of Columbia	Yes	Under 16	No provision	--
Florida	Yes	Under 18	No provision	--
Georgia	<del>No provision</del>	<i>Under 17 7/1/87</i>	(6)	Under 18
Hawaii	Yes	<i>Under 18 1/1/88</i>	<del>Yes</del> No provision	--
Idaho	Yes	Under 18	<del>Yes</del> Yes (1)	Under 18
Illinois	Yes (5)	Under 18	Yes (1)	Under 18
Indiana	Yes	<i>Under 18 1987</i>	No provision	--
Iowa	Yes (5)	Under 18	(6) (7)	Under 18
Kansas(a)	Yes	Under 18	Yes	Under 18
Kentucky	No provision	--	No provision	--
Louisiana	No provision	--	No provision	--
Maine	Yes	Under 18	No provision	--
Maryland	Yes (5)	Under 16	No provision	--
Massachusetts	Yes (2)	Under 18	No provision	--
Michigan	Yes	Under 18	Yes	Under 18
Minnesota	Yes	Under 18	Yes	Under 18
Mississippi	Yes (5)	Under 18	No provision	--
Missouri	No provision	--	No provision	--
Montana	No provision	--	No provision	--
Nebraska	Yes	Under 18	Yes	Under 18
Nevada	Yes (5)(3)	Under 18	No provision	--
<i>87-8</i> New Hampshire (d)	No provision	<i>Under 18</i>	<del>Yes</del> No provision	--
New Jersey	Yes	<i>Under 18 1/1/88</i>	<del>No provision</del>	<i>Under 18</i>
New Mexico	Yes (5)(8)	Under 18	No provision	--
New York	Yes	Under 18	No provision	--
North Carolina(a)	Yes	Under 17	No provision	--
North Dakota	Yes	Under 18	Yes	Under 18
Ohio	Yes	Under 18	No provision	--
Oklahoma	Yes	Under 18	(6)	Under 18
Oregon	Yes	Under 18	Yes	Under 18
Pennsylvania	Yes	Under 16	No provision	--
Rhode Island <i>48-87</i>	Yes	Under 16	Yes	Under 16
South Carolina	Yes	Under 18	(6)	Under 18
South Dakota (b)(c)	Yes	Under 18	Yes	Under 18
Tennessee	Yes	Under 18	<del>Yes</del> No provision	--
Texas	Yes (5)	Under 16	No provision	--
Utah	Yes	Under 19	No provision	--
Vermont	Yes (5)	Under 17	No provision	--
Virginia	No provision	<i>Under 16 '87</i>	No provision	--
Washington	Yes	Under 18	No provision	--
West Virginia	Yes	Under 18	Yes	Under 18
Wisconsin	No provision	--	No provision	--
Wyoming	Yes	Under 18	No provision	--

- (a) Restriction limited to cigarettes and cigarette papers or wrappers only.
- (b) Municipalities authorized to prohibit the sale or gift of cigarettes and their use by minors.
- (c) Restriction limited to smokeless tobacco products.
- (d) Sale and distribution to, and purchase by, persons less than 18 prohibited; effective 1/1/87.
- (1) Includes a prohibition against the purchase of cigarettes by minors (in Illinois without written order of parent or guardian), as well as use or possession.
- (2) If other than by parent or guardian.
- (3) However, inmates in State correction institutions 16 or over, with consent of parent or guardian, may be furnished tobacco and tobacco products.
- (4) 18 and over, in junior college, if not permitted by Governing Board.
- (5) Except by consent (generally written) of parent or guardian.
- (6) Minors smoking or in possession of cigarettes are required to give source of cigarettes; use or possession not otherwise regulated.
- (7) In addition, high school students may not smoke.
- (8) And any pupil of any school in State.

HB 125-FN

- 2 -

II. No person shall sell tobacco products or distribute promotional samples of any tobacco product to a person under 18 years of age. No person under 18 years of age shall purchase tobacco products.

III. The commissioner of revenue administration shall furnish, upon issuing or renewing a retailer's license under RSA 78:2, a sign reading "State law prohibits the sale of tobacco products to persons under age 18. Warning: Violators of this provision may be subject to fine." The sign shall be posted at any location where tobacco products are sold or distributed. The commissioner of revenue administration shall adopt rules under RSA 541-A relative to placement of these warning signs in areas where tobacco products are sold or distributed.

IV. Any person who violates paragraph II of this section shall be guilty of a violation and shall be punished by a fine of not more than \$25 for the first offense, and not more than \$50 for the second and subsequent offenses. No person 12 years of age or younger shall be prosecuted under this section.

V. The commissioner of revenue administration shall adopt rules under RSA 541-A relative to the enforcement and administration of this section.

78:12-c Person Misrepresenting Age. A person who falsely represents his age for the purpose of procuring tobacco products and who procures such tobacco products shall be guilty of a violation and subject to the fines set forth in RSA 78:12-b, IV.

162:3 Effective Date. This act shall take effect January 1, 1987.

*Approved May 28, 1986*  
*Effective January 1, 1987*

H.B. NO.  
HAWAII

46  
H.D. 2  
S.D. 1

1 years. It shall likewise be unlawful for persons under  
2 the age of eighteen years to purchase such tobacco  
3 products."

4 SECTION 4. Section 445-213, Hawaii Revised Statutes,  
5 is amended to read as follows:

6 "§445-213 Penalty. Any person violating section  
7 445-212 shall be fined not more than \$100[, and if the  
8 offense is committed by any dealer licensed to sell  
9 tobacco the dealer after the second offense shall forfeit  
10 the dealer's license.] for the first offense. Any  
11 subsequent offenses shall subject the person to a fine not  
12 less than \$100 nor more than \$1,000. Any person under the  
13 age of eighteen violating section 445-212 shall be fined  
14 \$10 for the first offense. Any subsequent offense shall  
15 subject the violator to a fine of \$50, no part of which  
16 shall be suspended, or the person shall be required to  
17 perform not less than forty-eight hours nor more than  
18 seventy-two hours of community service during hours when  
19 the person is not employed and is not attending school."

20 SECTION 5. Statutory material to be repealed is  
21 bracketed. New statutory material is underscored.

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23  
24 E8079  
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## Available Studies And Information

The most comprehensive research on teen-age smoking habits and behavior are the 1968, 1970, 1972 and 1974 Teen-Age Smoking studies undertaken by the National Clearinghouse for Smoking and Health and the 1963 Gilbert Youth Research Study. In addition, the Technical Information Office of the Clearinghouse maintains an extensive computerized file for the years 1970 through 1975 on teen-age smoking literature. A study of all these sources shows that

*smoking by teen-agers has declined since 1963 and that the main factors which influence teen-age smoking continue to be "whether a teen-ager's parents smoke," "peer group examples and pressures," and "the desire to be adult."* Results of the only known research on sources where teen-agers obtain their cigarettes, the Gilbert Study and the 1972-74 National Clearinghouse study, differ in some respects but they demonstrate conclusively that *vending machines play virtually no role in teen-age smoking or purchase of cigarettes by teen-agers.*

## Where Teen-Agers Obtain Their Cigarettes

*Only 1 in 10 teen-age smokers purchases his cigarettes (10.4 per cent of those "who currently smoke cigarettes").*

Only 1.9 per cent of *all* teen-agers (ages 12-18) purchase their cigarettes. Of those who "smoke currently," 89.2 per cent obtain their cigarettes *from friends*, 94.1 per cent *from relatives*, and 98.4 per cent from "*other sources*" (which do *not* include "purchases").\*

(The reason for the overlap in sources is that teen-agers said they obtain cigarettes from several of the above sources).

→ [ \_\_\_\_\_  
\*According to Chilton Research Services, which conducted the comprehensive 1972-74 "Teen-Age Smoking" study for the National Institutes of Health of the U.S. Department of HEW.

The Gilbert Youth Research Study, conducted in 1963, dealt specifically with "purchasing habits."<sup>\*</sup> It showed that *72.2 per cent of teen-agers who smoked obtained their cigarettes most frequently by purchasing them.* This is significantly higher than the U.S. government-sponsored research of 11 years later (cited above).

The Gilbert Study also showed that of those who "most frequently obtained their cigarettes through purchase, *73.1 per cent bought them most frequently over the counter*" primarily in drug stores, supermarkets and small food stores.

## Vending Machines As A Source For Teen-Age Smokers

Only 10.4 per cent of teen-age smokers purchase their cigarettes.<sup>\*\*</sup> Only a fraction of this "one-tenth of teen smokers segment" could possibly be using vending machines as a source.

If one applies the Gilbert findings<sup>\*\*\*</sup> to the U.S. Government study results of 1974, 21.4 per cent of the 10.4 per cent who purchase cigarettes would be *less than 2.5 per cent.*

*Therefore fewer than 2.5 per cent of teen-agers who currently smoke purchase their cigarettes from vending machines. Conversely, 97.5 per cent of teen-agers who smoke obtain their cigarettes from sources other than vending machines (friends, relatives, other sources such as drug stores, supermarkets, etc.).*

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<sup>\*</sup>Interviews with 1,988 teen-agers 13 through 18 years old.

<sup>\*\*</sup>1974 U.S. Government Teen-Age Smoking Study.

<sup>\*\*\*</sup>Gilbert showed that only 21.4 per cent of the teen-age cigarette purchasers most frequently buy from vending machines.



## SMOKING HABITS OF MINORS

- Slightly less than 2 out of 10 high school seniors smoke cigarettes regularly. 13.8% smoke a half-a-pack-a-day or more and 7.3% a pack-a-day or more.
- 61.2% of high school seniors believe smoking one or more packs of cigarettes per day is a great risk and 71% disapprove of people 18 years of age and older who smoke one or more packs of cigarettes a day.
- Only 22% of seniors report that most or all of their friends smoke.
- Studies conducted over the past twenty-five years demonstrate conclusively that vending machines play virtually no role in teenage smoking or purchase of cigarettes by teenagers. 97% of all teenagers never purchase cigarettes from vending machines.

(based on studies: Drugs and American High School students: 1975 - 1983, U. S. Department of Health and Human Services, Public Health Service; Teenage Smoking, U. S. Department of Health, Education and Welfare, Public Health Service Pub. No. (NIH) 76-931; Teen-Age Cigarette Purchasing and Smoking Habits in the U. S. A. 1963, Gilbert Marketing Group, Inc.)

### 8 OUT OF 10 CIGARETTE VENDING MACHINES LOCATED WHERE MINORS ARE NOT ALLOWED

	31%	OTHER LOCATIONS	
Bars, Cocktail Lounges	31%	Restaurants	13%
Industrial Plants	27%	Service Stations, Gov- ernment-Military, Re- tail Stores, Transpor- tation Terminals, Rec- Bowling Centers, Misc.	<u>9.5%</u>
Offices	12%		
Hotels/Motels	4%		
Universities/Colleges	<u>3.5%</u>		
<b>TOTAL</b>	<b>77.5%</b>		<b>22.5%</b>

Source: N A M A nationwide cigarette vending machines placement study representing 590 vending companies operating in virtually every state. Conducted, March 1986.

### VENDING'S SHARE OF CIGARETTE MARKET

- Approximately 7% of the total annual domestic cigarette sales of 28.8 billion packs is transacted through vending machines. (Sources: N A M A Operating Ratio Report; TI Tobacco Industry Profile 1986)

Compiled by: National Automatic Merchandising Association  
20 N. Wacker Drive, Chicago, IL 60606  
(312) 346-0370

Whether parents smoke is the most important influence on teenagers' smoking. In 1974 U.S. Government research by the Department of Health, Education and Welfare and subsequent studies found that *when both parents smoke, teenagers are twice as likely to smoke as when neither parent smokes*. The extensive literature of behavioral research on file at the Centers for Disease control in Atlanta, Georgia reveals that parental and sibling smoking habits, teenage peers' influence and the desire to appear adult are the most important factors in creating the smoking habit in teenagers. These findings are confirmed by the National Institute on Drug Abuse study *Drugs and American High School Students 1975-1983*, U. S. Department of Health and Human Services, Public Health Service. ] ←

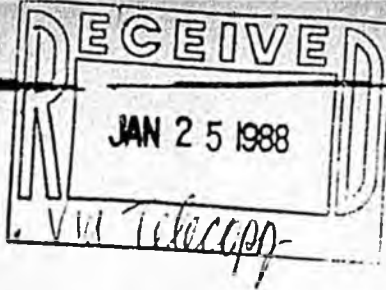
The majority of cigarette vending machines are located in cocktail lounges and bars, where minors are not admitted, and in places of employment (factories and offices) where teenagers usually do not have access. This is not by accident. These locations happen to be the most profitable for vending machines and this has been the case for many years. Most of the typical places patronized by teenagers, such as fast food chains, do not sell cigarettes.

### The Six Step Self-Regulation Program for Vending

The vending industry has long recognized its responsibility to prevent minors' purchasing cigarettes from vending machines. Vending companies, aware of the laws which prohibit sales of cigarettes to minors, have long conducted their business under an industry Code of Self-Regulation designed to make sure cigarette vending machines are *not* a source of cigarettes for minors.

Here is a brief statement of the six-step Self-Regulation Program used by vending companies (since 1962):

1. Survey the entire cigarette operation to determine the location of those machines to which minors are likely to have access. As part of this survey maintain a permanent file record for each machine location.
2. Post "Minors are Forbidden" decals conspicuously on all machines.
3. Post on each machine the name, address, and phone number of the operator.
4. Solicit the location owner's cooperation to prevent minors from purchasing from machines to which minors have access. Reposition machines, where necessary, to assure adequate supervision.
5. Remove machines from locations where the sales of cigarettes to minors cannot be prevented.



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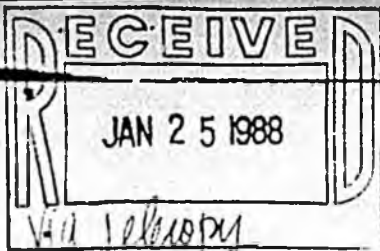
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The 6-Step Self-Regulation Program  
For Cigarette Machine Operators

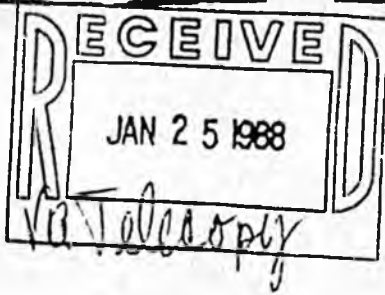
The sale of cigarettes to minors is prohibited by State law in all but a few of the States. Complete observance of the law is a "must".

Each operator should:

1. Survey his entire cigarette operation to determine the location of those machines to which minors are likely to have access.

As part of this survey maintain a permanent file record for each machine on location.

2. Post "Minors Are Forbidden" decals conspicuously on all machines.
3. Post on each machine the name, address, and phone number of the operator.
4. Solicit the location owner's cooperation to prevent minors from purchasing from machines to which minors have access. Re-position machines, where necessary, to assure adequate supervision.
5. Remove machines from locations where the sale of cigarettes to minors cannot be prevented.
6. Cooperate with competitors to achieve area-wide compliance of preventing the purchase of cigarettes by minors from vending machines. (As part of this step, establish local group liaison with police officials and offer cooperation in the enforcement of "sales to minors" laws.)



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### SALES RESTRICTIONS

- (a) Should unsupervised vending machine sales of cigarettes be banned or restricted?

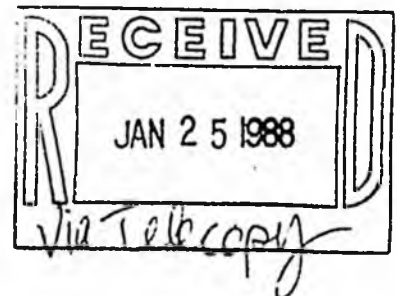
- 
- Legislation or policies prohibiting access by adult smokers to vending machines or to other retail sources are flagrant encroachment on the public's freedom to choose and the right of merchants to vend a lawful product. Some 10 percent of all cigarettes are sold through vending machines. Those sales account for approximately 23 percent of total sales of the average vending operation.
  - Proponents of vending machine bans and cigarette minimum-age purchase laws often link the two. Advocates of vending restrictions -- including The American Medical Association -- claim the machines are a major source of cigarettes for minors. Machines cannot distinguish between adults and minors and therefore circumvent state laws banning sale of tobacco products to minors, they argue. The contention that vending machines are a major source of cigarettes for minors is demonstrably incorrect.
  - A National Automatic Merchandising Association (NAMA) nationwide survey in early 1986 found virtually all cigarette vending machines are in locations not frequented by minors. The majority of cigarette vending machines are located in cocktail lounges and bars, where minors are not admitted, and in places of employment (e.g., factories and offices) where teenagers usually do not have access. This is not by accident. These locations happen to be the most profitable for vending machines. Most of the typical places patronized by teenagers, such as fast food chains, do not sell

### Sales Restrictions (cont'd.)

- The vending industry has long recognized its responsibility to prevent minors' purchasing cigarettes from vending machines. Vending companies, aware of the laws which prohibit sales of cigarettes to minors, have long conducted their business under an industry Code of Self-Regulation designed to make sure cigarette vending machines are not a source of cigarettes for minors.
- Banning or restricting vending sales would have little effect on teenage smoking. NAMA surveys have found few teenage smokers obtain cigarettes from vending machines. Fewer than 2.5 percent of cigarette vending machines sales are to teenagers, according to NAMA.
- Cigarette manufacturers have long opposed smoking by young people, believing smoking is a choice to be made freely by mature and informed individuals.
- Cigarette manufacturers oppose as unfair restraint of trade legislation that would limit or ban sale to adult customers of a legal product through vending machines or retail outlets.

# VENDING MACHINES AND CIGARETTE PURCHASES BY MINORS

Less Than 2 Out of 10 Teenagers Smoke  
97 Percent of Teenagers  
Never Buy From Vending Machines  
Most Cigarette Vending Machines  
Are Located in Establishments  
Where Minors Are Not Admitted



Compiled From Major Research Studies And Published By  
National Automatic Merchandising Association  
20 North Wacker Drive, Chicago, IL 60606

## VENDING MACHINES AND CIGARETTE PURCHASES BY MINORS

The discussion on smoking and health has intensified in recent months, augmented by the proposals of the American Medical Association in December, 1985 that cigarette advertising and the sale of cigarettes from vending machines be banned. Those who contend that smoking is dangerous to health have tried to convince cigarette smokers to stop smoking through various means, including multiple warning labels on cigarette packs, ever increasing cigarette excise taxes, and restrictions on smoking in public places and at work. The net result of these efforts has, on the whole, been disappointing to those who oppose smoking.

Consequently, special attention is being aimed at teenagers to discourage them from starting to smoke. In the past there were only a few attempts to restrict the placement and use of cigarette vending machines, but now the American Medical Association House of Delegates has adopted a resolution to draft model legislation designed to ban cigarette sales through vending machines throughout the country.

### Vending Machines Falsely Accused

The American Medical Association and others who have advocated legislative restrictions on cigarette vending machines falsely claim that vending machines are a major source of cigarettes for minors. They allege that since the machines cannot distinguish between adults and teenagers, cigarette vending machines must be a major source of cigarettes for teenagers, and that they circumvent state laws which prohibit the sale of tobacco products to minors.

This allegation ignores the facts. The fallacy will be recognized by anyone who understands how vending machines retail cigarettes. Here are the facts!

### Facts About Teenage Smoking and Sources of Cigarettes

Current and past studies published by the U.S. Government and other show that:

- less than 2 out of 10 teenagers smoke
- 97% of teenagers never buy from vending machines
- only 7% of high school seniors smoke a pack or more a day

Whether parents smoke is the most important influence on teenagers' smoking. In 1974 U.S. Government research by the Department of Health, Education and Welfare and subsequent studies found that *when both parents smoke, teenagers are twice as likely to smoke as when neither parent smokes.* The extensive literature of behavioral research on file at the Centers for Disease control in Atlanta, Georgia reveals that parental and sibling smoking habits, teenage peers' influence and the desire to appear adult are the most important factors in creating the smoking habit in teenagers. These findings are confirmed by the National Institute on Drug Abuse study *Drugs and American High School Students 1975-1983*, U. S. Department of Health and Human Services, Public Health Service.

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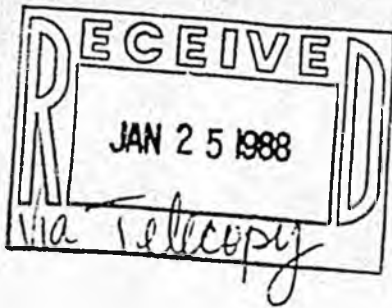
Here is a brief statement of the six-step Self-Regulation Program used by vending companies (since 1962):

1. Survey the entire cigarette operation to determine the location of those machines to which minors are likely to have access. As part of this survey maintain a permanent file record for each machine location.
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4. Solicit the location owner's cooperation to prevent minors from purchasing from machines to which minors have access. Reposition machines, where necessary, to assure adequate supervision.
5. Remove machines from locations where the sales of cigarettes to minors cannot be prevented.

6. Cooperate with competitors to achieve area-wide compliance of preventing the purchase of cigarettes by minors from vending machines. (As part of this step, establish local group liaison with police officials and offer cooperation in the enforcement of "sales to minors" laws).

### Conclusion:

Accusations against cigarette vending machines related to teenage smoking have no basis in fact. The vending industry continues to recognize its responsibilities through self-regulation (even though few teenagers actually purchase cigarettes from vending machines). It stands ready to cooperate with all groups to make sure that its record of responsible conduct and compliance with established laws is maintained in fact and in spirit.



New York

May 18, 1987

STATEMENT ON AB 5546 -- A BILL  
CONCERNING VENDING MACHINE SALES OF TOBACCO PRODUCTS

BEFORE THE COMMITTEE ON COMMERCE,  
INDUSTRY AND ECONOMIC DEVELOPMENT

On March 3, 1987, Assemblyman Grannis introduced a bill (AB 5546) that would ban vending machine sales of cigarettes and other tobacco products except "where the admittance of persons under the age of eighteen is expressly prohibited." A first violation would be punishable by a fine of up to \$250. Subsequent violations would be punishable by fines of up to \$500.

SUMMARY

AB 5546 is unwarranted and unwise. Existing law forbids sales of tobacco to minors, and enforcement of this prohibition should be attempted before more drastic measures are tried. The proposed legislation effectively would eliminate vending machine sales of tobacco in the State. Such sales account for a substantial share of all vending machine revenues. There is no basis for dealing such a severe blow to the vending machine industry in the State.

DISCUSSION

Under New York law, it is a class B misdemeanor to sell or cause to be sold tobacco in any form to a child less

subject to fines of up to \$500. Id. § 80.05(2). Vending machine operators are specifically required to affix to tobacco-product vending machines in a prominent place the following notice:

"SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW." Gen. Bus. Law § 399-a(1), (2).

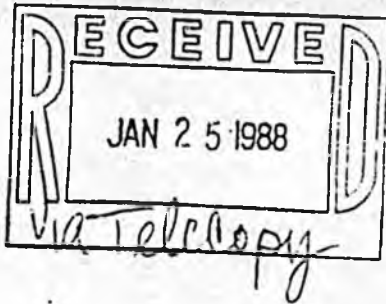
Prohibitions such as Section 260.20(5) apply regardless of whether the seller knows that the child is under 18. See People v. Lida, 42 Misc.2d 56, 247 N.Y.S.2d 421 (N.Y. Crim. Ct.), aff'd mem., 43 Misc.2d 692, 252 N.Y.2d 142 (S. Ct. App. T. 1964). Moreover, the applicable legal standard is one of negligence. See In re Lewis, 193 Misc. 676, 84 N.Y.S.2d 790 (1948). If a seller knows that persons under 18 have access to a vending machine subject to his control, Section 260.20(5) -- as currently written -- requires the seller to take reasonable steps to ensure that sales to minors do not occur.

Under these circumstances, there is no justification for banning vending machine sales of tobacco everywhere except where the presence of persons under 18 is "expressly prohibited." To assure that minors not buy tobacco from vending machines, what is required is enforcement of existing law. As far as we are aware, Section 260.20(5) has not been enforced in many years. See State v. Juliano, 279 App. Div. 590 (1951)

violation of predecessor of Section 260.20(5)). It would take only a handful of prosecutions to stem any problems that actually exist.

Before considering more drastic steps, the State should use the tools already at its disposal. Caution is especially important because the ban proposed by AB 5546 would have severe economic consequences for an industry already beset by high taxes and burdensome regulation. A substantial portion of all revenue from vending machine sales is derived from the sale of tobacco. It is questionable whether the industry could survive legislation that effectively deprived it of so substantial a portion of its income.

In short, existing law should not be changed until it has been shown to be incapable of serving its purpose. The prohibition already embodied in Section 260.20(5) is fully capable of accomplishing the objectives of AB 5546.



MORINGO

**MEMORANDUM**

TO: Goss  
Halicki  
Moran  
Stapf

FROM: Bill Klopfer

RE: Tobacco purchase/possession age limits

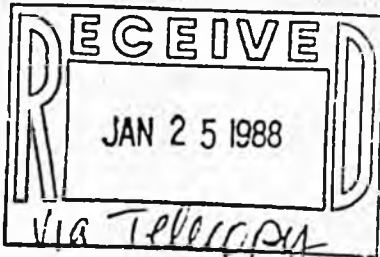
The Institute's position on minimum age statutes for purchase or possession of tobacco products is that such statutes should be decided by state and local authorities. We neither oppose nor support them, and we do not suggest, endorse or oppose any specific minimum age. Regardless of state and local decisions or the absence thereof, we regard tobacco use as an adult custom.

Last May 19, a UPI dispatch indicated that The Institute and the Smokeless Tobacco Council both support a proposal from Secretary Bowen for a national minimum age. That story was repeated in a newsletter published by the Tobacco Merchants Association.

The Smokeless Tobacco Council has supported minimum age proposals in certain instances. Otherwise, the UPI and TMA reports are not correct.

cc: E. Chilcote  
R. Lewis  
K. Moringo  
P. Spahr

June 29, 1987



STATE MAR 28 1986

CIGARETTE AND TOBACCO TAX - PHASE II RECODIFICATION

1986

GENERAL SESSION

Enrolled Copy

H. B. No. 138

By Franklin W. Knowlton

Molan E. Karras

Ted D. Lewis

AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING PHASE II CHANGES IN THE CIGARETTE AND TOBACCO LICENSING AND TAX LAWS; INCLUDING THOSE NEEDED CHANGES WHICH INVOLVE MINOR POLICY ALTERATIONS IN ORDER TO CLARIFY INTENT, DEFINE TERMS, OR RESOLVE CONFLICTS WITHIN AND AMONG STATUTES, AND TO IMPROVE THE ORGANIZATION AND CLARIFY THE CODE; AND PROVIDING AN EFFECTIVE DATE.

THIS ACT AFFECTS SECTIONS OF UTAH CODE ANNOTATED 1953 AS FOLLOWS:

ENACTS:

CHAPTER 18a, TITLE 59, UTAH CODE ANNOTATED 1953

76-10-105.5, UTAH CODE ANNOTATED 1953

REPEALS:

CHAPTER 18, TITLE 59, UTAH CODE ANNOTATED 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Chapter 18a, Title 59, Utah Code Annotated 1953, is enacted to read:

59-18a-1. This act is known as the Cigarette and Tobacco Tax and Licensing Act.

59-18a-2. As used in this chapter:

Skip to

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(1) enter upon the premises of any taxpayer and examine or cause to be examined by any agent or representative designated by it for that purpose, any books, papers, records, or memoranda bearing upon the taxes;

(2) secure any other information directly or indirectly concerned in the enforcement of this chapter; and

(3) waive, reduce, abate, or compromise any of the penalties provided for in this chapter upon making a record of its reasons therefor.

59-18a-19. If the taxes or penalties imposed by this chapter are not paid when due, collection shall be made in the manner provided in Sections 59-13-53 and 59-13-54, except as otherwise provided by this chapter.

59-18a-20. The State Tax Commission may call to its aid the attorney general, any city or county attorney, or any peace officer to enforce any tax laws which it administers.

Section 2. Section 76-10-105.5, Utah Code Annotated 1953, is enacted to read:

76-10-105.5. (1) Any person who (a) maintains in the person's place of business a tobacco vending machine accessible to persons under 19 years old, or (b) provides any method of self-help for the disposition to persons under 19 years old by gift, sale, or otherwise of any cigarette or cigarette paper or wrapper, or any paper made or prepared for the purpose of making cigarettes or tobacco in any form whatsoever, is guilty of a class B misdemeanor.

(2) Cigarette vending machines are deemed accessible to persons under 19 years old except where they are in locations where:

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(a) persons under 19 years old are prohibited;

(b) the machine can be operated only by the owner or his employes, either directly or through a remote control device which is inaccessible to the customer and operated for each sale;

(c) in private industrial locations where only adult employes are customarily allowed, if the locations are inaccessible to persons under 19 years old; and

(d) in adult private clubs, if the locations are inaccessible to persons under 19 years old.

(3) Every person, firm, or corporation which sells, gives, or in any way furnishes to another person who is in fact under 19 years old, any tobacco, cigarette, or cigarette papers or any other preparation of tobacco in violation of this section shall, upon conviction be punished:

(a) for the first offense by a fine of not less than \$25 nor more than \$100 or by imprisonment for not more than 60 days;

(b) for the second offense by a fine of not less than \$50 nor more than \$200, or by imprisonment for not more than 90 days; and

(c) for each subsequent offense by a fine of not less than \$100 nor more than the maximum fine for a class B misdemeanor under Section 76-3-301 or by imprisonment for not less than 90 days, or both.

(4) Every person, firm, or corporation which owns a tobacco products machine operating within the state of Utah shall, within 90 days after this act becomes affective, post and maintain on each machine a decal of not less than six inches by three inches, which contains the following:

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WARNING: PURCHASE BY, or POSSESSION BY, or SALE TO a person UNDER 19 YEARS OF AGE, of tobacco products is a violation of:

Penal Code, 76-10-104, Utah Code Annotated 1953;

Penal Code, 76-10-105, Utah Code Annotated 1953; and

Penal Code, 76-10-105.5, Utah Code Annotated 1953.

(5) Any person violating Subsection (1), (2), or (4) is guilty of keeping and maintaining a nuisance, and that person may be enjoined from maintaining the nuisance.

Section 3. Chapter 18, Title 59, Utah Code Annotated 1953, is repealed.

Section 4. This act takes effect on July 1, 1986.

# VENDING MACHINES AND CIGARETTE PURCHASES BY MINORS

Only 2 Out Of 10 Teenagers Smoke  
Only 1 out Of 10 Teenage Smokers  
Purchase Cigarettes  
Over 97 Per Cent Of Teenage Smokers  
Do Not Buy From Vending Machines  
Most Cigarette Vending Machines  
Are Located In Establishments  
Where Minors Are Not Admitted

Compiled From Major Research Studies And Published By  
National Automatic Merchandising Association  
20 North Wacker Drive, Chicago, Illinois 60606

# VENDING MACHINES AND CIGARETTE PURCHASES BY MINORS

The discussion on smoking and health has intensified in recent months, augmented by the proposals of the American Medical Association in December, 1985 that cigarette advertising and the sale of cigarettes from vending machines be banned. Those who contend that smoking is dangerous to health have tried to convince cigarette smokers to stop smoking through various means, including multiple warning labels on cigarette packs, ever increasing cigarette excise taxes, and restrictions on smoking in public places and at work. The net result of these efforts has, on the whole, been disappointing to those who oppose smoking.

Consequently, special attention is being aimed at teenagers to discourage them from starting to smoke. In the past there were only a few attempts to restrict the placement and use of cigarette vending machines, but now the American Medical Association House of Delegates has adopted a resolution to draft model legislation designed to ban cigarette sales through vending machines throughout the country.

## Vending Machines Falsely Accused

The American Medical Association and others who have advocated legislative restrictions on cigarette vending machines falsely claim that vending machines are a major source of cigarettes for minors. They allege that since the machines cannot distinguish between adults and teenagers, cigarette vending machines must be a major source of cigarettes for teenagers, and that they circumvent state laws which prohibit the sale of tobacco products to minors.

This allegation ignores the facts. The fallacy will be recognized by anyone who understands how vending machines retail cigarettes. Here are the facts!

## Facts About Teenage Smoking and Sources of Cigarettes

Current and past studies published by the U.S. Government and others show that:

- \* only 2 out of 10 teenagers smoke
- \* only 1 out of 10 teenage smokers *purchase* cigarettes
- \* over 97% of teenage smokers do *not* buy from vending machines
- \* only 7% of high school seniors smoke a pack or more a day

Whether parents smoke is the most important influence on teenagers' smoking. In 1974 U.S. Government research by the Department of Health, Education and Welfare and subsequent studies found that *when both parents smoke, teenagers are twice as likely to smoke as when neither parent smokes*. The extensive literature of behavioral research on file at the Centers for Disease Control in Atlanta, Georgia reveals that parental and sibling smoking habits, teenage peers' influence and the desire to appear adult are the most important factors in creating the smoking habit in teenagers. These findings are confirmed by the National Institute on Drug Abuse study *Drugs and American High School Students 1975-1983*, U.S. Department of Health and Human Services, Public Health Service.

The majority of cigarette vending machines are located in cocktail lounges and bars, where minors are not admitted, and in places of employment (factories and offices) where teenagers usually do not have access. This is not by accident. These locations happen to be the most profitable for vending machines and this has been the case for many years. Most of the typical places patronized by teenagers, such as fast food chains, do not sell cigarettes.

# The Six Step Self-Regulation Program For Vending

The vending industry has long recognized its responsibility to prevent minors' purchasing cigarettes from vending machines. Vending companies, aware of the laws which prohibit sales of cigarettes to minors, have long conducted their business under an industry Code of Self-Regulation designed to make sure cigarette vending machines are *not* a source of cigarettes for minors.

Here is a brief statement of the six-step Self-Regulation Program used by vending companies (since 1962):

1. Survey the entire cigarette operation to determine the location of those machines to which minors are likely to have access. As part of this survey maintain a permanent file record for each machine location.
2. Post "Minors Are Forbidden" decals conspicuously on all machines.
3. Post on each machine the name, address, and phone number of the operator.
4. Solicit the location owner's cooperation to prevent minors from purchasing from machines to which minors have access. Reposition machines, where necessary, to assure adequate supervision.
5. Remove machines from locations where the sale of cigarettes to minors cannot be prevented.
6. Cooperate with competitors to achieve area-wide compliance of preventing the purchase of cigarettes by minors from vending machines. (As part of this step, establish local group liaison with police officials and offer cooperation in the enforcement of "sales to minors" laws).

## Conclusion:

Accusations against cigarette vending machines related to teenage smoking have no basis in fact. The vending industry continues to recognize its responsibilities through self-regulation (even though few teenagers actually purchase cigarettes from vending machines). It stands ready to cooperate with all groups to make sure that its record of responsible conduct and compliance with established laws is maintained in fact and in spirit.

BILL NO: SB 399

DATE: March 1, 1988

TITLE: An Act Relating to the  
Inclusion of Fingerprint  
Information in the Criminal  
Justice Information System

CONTACT: Ken Bischoff  
465-4336

DEPARTMENT OF  
PUBLIC SAFETY

Passage of this legislation would allow fingerprints of persons, including minors to be maintained in a "Criminal Justice Identification System."

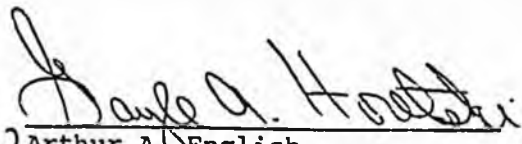
This legislation discusses a "Criminal Justice Information System" but apparently refers to the Alaska Automated Fingerprint Identification System (AAFIS) which is not a criminal justice information system, but a data base of fingerprint minutia. Federal definitions of "Criminal History Record Information" exclude fingerprint information "to the extent that such information does not indicate involvement of the individual in the criminal justice system." While AAFIS contains fingerprints from criminals, it does not contain any information related to that person's offense, arrest, or disposition. Therefore, the legislation should be amended to substitute the term "Fingerprint Identification System" instead of "Criminal Justice Information System."

Since the AAFIS is not a criminal justice information system, it would be more appropriate to place the proposed new statute in another portion of the Alaska Statutes such as Title 44, which already contains a provision discussing "Fees for Fingerprint Information", AS 44.41.025. Therefore, the Commissioner of Public Safety would be the appropriate authority to establish regulations for this subject.

Section 1(d) of the legislation provides specific details which are more appropriate to program administration of the AAFIS rather than to be embodied in a statute. For example, if fingerprints submitted for any purpose are not of sufficient quality or clarity to be read into the machine, they are rejected and the originating agency is advised of the poor print quality. While subparagraph 2 is appropriate, it should be part of program administration rather than embodied in statute.

Section 2 of the bill also should be amended to eliminate the "Commission" and substitute "the Department of Public Safety" as well as to eliminate the term "Criminal Justice Information System" and substitute the term "Fingerprint Identification System," as well as other rewording required by placement of this legislation in Title 44.

The Department supports this bill. It is difficult for us to determine the number who would take advantage of the opportunity to submit fingerprints. No fiscal impact is estimated presently; but if volumes were to reach high levels, additional resources would be needed.

*for*   
Arthur A. English  
Commissioner

FISCAL NOTE

REQUEST

Revision Date: 2/12/88 Agency Affected: Public Safety  
 Title: "An Act relating to the inclusion ... information system" BRU: DPS Administration  
 Sponsor: Sen. Szymanski, Zharoff, etc. Components: Administrative Services  
 Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: M. J. Clemens Phone: 465-4336  
 Division: Administrative Services Date: \_\_\_\_\_

Approved by Commissioner: Arthur English Date: 3-1-88  
 Agency: Public Safety

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

1 IN THE SENATE

BY SZYMANSKI, ZHAROFF, ELIASON,  
FISCHER, STURGULEWSKI AND RODEY

2

SENATE BILL NO. 399

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the inclusion of fingerprint  
information in the criminal justice information  
system."

7

8

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10

\* Section 1. AS 12.62.020 is amended by adding new subsections to read:

11

(c) The commission's regulations adopted under AS 12.62.010(b)

12

must provide that each of the following may submit a complete set of

13

fingerprints of the person designated for addition to the criminal

14

justice information system:

15

(1) a person may submit the person's own fingerprints;

16

(2) the parent or guardian of a minor may submit the mi-

17

nor's fingerprints; and

18

(3) the guardian or conservator of a person under AS 13.26

19

may submit the fingerprints of the person protected by the guardian or

20

conservator.

21

(d) The commission's regulations may provide that the commission

22

may not accept for addition to the criminal justice information system

23

(1) a fingerprint set submitted under (c) of this section

24

that is not of sufficient quality or clarity;

25

(2) a fingerprint set submitted under (c)(2) of this sec-

26

tion for a minor who is under two years of age.

27

(e) The commission may maintain the fingerprint sets of minors

28

who are under 14 years of age submitted under (c)(2) of this section

29

in a file separate from the general file for all other fingerprints

1 received under AS 12.62.

2 (f) The commission may by regulation, establish and charge a  
3 reasonable fee for filing of fingerprint sets under (c) of this sec-  
4 tion. The commissioner of administration shall separately account for  
5 all fees that are collected and deposited in the general fund under  
6 this subsection. The annual estimated balance in the account may be  
7 used by the legislature to make appropriations to the commission to  
8 carry out the purpose of (c) of this section.

9 \* Sec. 2. AS 12.62.040 is amended by adding a new subsection to read:

10 (c) Upon request by a person who is 18 years of age or older,  
11 the commission shall remove from the records of the criminal justice  
12 information system the complete set of the person's fingerprints  
13 submitted by the parent or guardian of the person under AS 12.62.-  
14 020(c)(2). The commission's regulations adopted under AS 12.62.010(b)  
15 must establish a procedure for the submission of a request under this  
16 subsection and for notification that the fingerprint set has been  
17 removed from the records in response to the request.



# Alaska State Legislature

Senator Mike Szymanski

While in Session:  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4978/4979

## MEMORANDUM

MAR 7 1988

To: All Senators  
Alaska State Legislators

From: *Mike Szymanski*  
Senator Mike Szymanski

Date: February 4, 1988

Subject: Bill Allowing Additions of Fingerprint information in the criminal justice information system.

Interim  
3111 C Street  
Suite 150  
Anchorage, AK 99503  
(907) 276-6739

165 E. Parks Hwy.  
Suite 104  
Wasilla, AK 99687  
(907) 376-MIKE

Attached is a bill I will be introducing on Monday, February 8. Currently, there are no statutory means by which the people of Alaska who wish to can have their fingerprints added to the state's criminal justice computerized fingerprint system.

There are people who want this information to be on file for a variety of personal reasons: for identification purposes in case of accidents or kidnappings or abductions, to identify runaways, amnesia cases, people suffering from Alzheimer's disease, etc. There are private groups in Alaska that currently keep fingerprint information on their own for identification purposes, but none of this information is allowed in the present system, and much of it is not of good quality.

The Alaska Automatic Fingerprint Identification System is governed under regulations by the Governor's Commission on the Administration of Justice. The bill would allow the Commission to set up regulations governing things like the quality of the prints being submitted (under the age of 2 the quality is too poor), procedures for taking prints, the age of the person whose prints are submitted, method of removing prints from the system and what fees (if any) would be charged to users. The Department of Public Safety fiscal note should be zero.

Because the AAFIS is a system based on absolute measurements, it cannot automatically allow for increased print size of children due to growth up to about 14 years of age. Hence, children's prints would be kept in a special file to be retrieved in case of need and enlarged manually to be searched against any current prints. Children from approximately the age of 14-18 would be in the regular system files with the prints of offenders. However, because the automatic print matcher works only through file numbers and not names, and all court records are kept separate, there would be no pejorative connotation of criminality just because someone's prints were in the system.

Anyone wishing to co-sponsor this legislation please contact Roger Poppe in my office at 465-4978 before 10:00 am February 8.

Senate District E

Mat-Su • Su Anchorage • Bird/Indian • Girdwood • Whittier • Nikiski • Cooper Landing • Hope • Seward • Cordova • Valdez

5-1746A  
Chenoweth  
2/3/88

1 IN THE SENATE

BY SZYMANSKI

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the inclusion of fingerprint  
7 information in the criminal justice information  
8 system."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 12.62.020 is amended by adding new subsection to read:

11 (c) The commission's regulations adopted under AS 12.62.010(b)  
12 must provide that each of the following may submit a complete set of  
13 fingerprints of the person designated for addition to the criminal  
14 justice information system:

15 (1) a person may submit the person's own fingerprints;

16 (2) the parent or guardian of a minor may submit the mi-  
17 nor's fingerprints; and

18 (3) the guardian or conservator of a person under AS 13.26  
19 may submit the fingerprints of the person protected by the guardian or  
20 conservator.

21 (d) The commission's regulations may provide that the commission  
22 may not accept for addition to the criminal justice information system

23 (1) a fingerprint set submitted under (c) of this section  
24 that is not of sufficient quality or clarity;

25 (2) a fingerprint set submitted under (c)(2) of this sec-  
26 tion for a minor who is under two years of age.

27 (e) The commission may maintain the fingerprint sets of minors  
28 who are under 14 years of age submitted under (c)(2) of this section  
29 in a file separate from the general file for all other fingerprints

1 received under AS 12.62.

2 (f) The commission may by regulation, establish and charge a  
3 reasonable fee for filing of fingerprint sets under (c) of this sec-  
4 tion. The commissioner of administration shall separately account for  
5 all fees that are collected and deposited in the general fund under  
6 this subsection. The annual estimated balance in the account may be  
7 used by the legislature to make appropriations to the commission to  
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15 must establish a procedure for the submission of a request under this  
16 subsection and for notification that the fingerprint set has been  
17 removed from the records in response to the request.

FISCAL NOTE

REQUEST:

FEB 22 1988

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
 Title: "An act relating to the obstruction  
 or hindrance of lawful hunting, fishing, ..."  
 BRU: Fish & Wildlife Protection  
 Sponsor: Fanning, Faiks, et al  
 Requestor: House Transportation Components: Enforcement

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact is anticipated.

JKS  
2/2/88

Prepared by: Captain Conrad G. Seibel Phone: 269-5509  
 Division: Fish & Wildlife Protection Date: 2/10/88

Approved by Commissioner: Harold A. H. ... Date: 2-18-88  
 Agency: Department of Public Safety

Distribution (by preparer):

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