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SENATE COMMITTEE REPORT

FURTHER

4/28/89

DATE TURNED INTO OFFICE 5/6/90

Mr. President:

Finance Committee considered CSHB 141 (Finance)

tobacco and products containing tobacco

and recommended

replace with \$ CS CSHB 141 (Fin)) same title
 or adopt _____) new title
 attached amendment(s) and technical title change (HB only)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

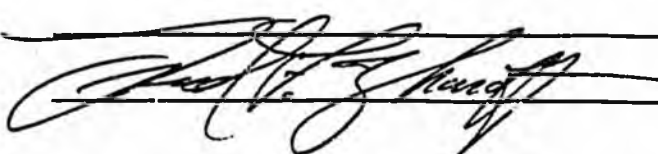
individual recommendations

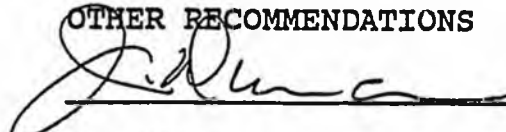
further referral to _____

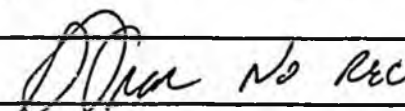
FISCAL NOTE(S) zero ^{DC&ED 32.5 revenue} fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

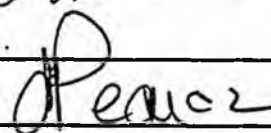
MEMBERS SIGNING DO PASS

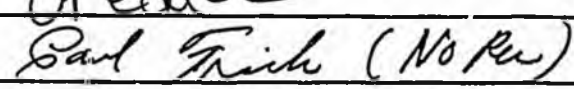
OTHER RECOMMENDATIONS

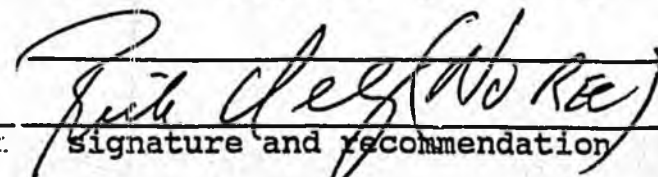


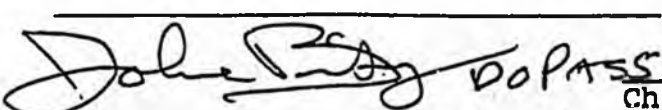












Chair: _____ signature and recommendation

Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to tobacco and products containing tobacco
Sponsor: Brown
Requestor: Senate Finance Committee

Agency Affected: Commerce & Economic Dev.
BRIJ: Occupational Licensing
Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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	0	32.5	0	32.5	0	32.5

FUNDING: (Thousands of Dollars)

GENERAL FUND						
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) The bill creates an endorsement requirement to be placed on business licenses of retailers who sell tobacco or products containing tobacco. No additional costs are anticipated to apply the endorsement to a business license. Revenues are based on approximately 1,300 licensees paying a \$25 endorsement fee.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 2/27/90

Approved by Commissioner: Larry Merculieff Date: 2/27/90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
LW/dg16395D/22890a

Changes in SCS CSHB 141 (Fin) have no fiscal impact. This fiscal note is appropriate. 5/6/90

Adopted

Original sponsor(s): REP. BROWN, Menard, Hudson, Koponen, Gruenberg,
Ellis, M.Davis

IN THE HOUSE

BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 141 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to tobacco and products containing
tobacco."

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

* Section 1. AS 11.76.100(a) is amended to read:

(a) Except as provided in (f) of this section, a [A] person
commits the offense of selling or giving tobacco to a minor if the
person is 19 years of age or older and

(1) knowingly sells, exchanges, or gives a cigarette, a
cigar, tobacco, or a product containing tobacco to a person under 19
years of age; or

(2) maintains a vending machine that dispenses cigarettes,
cigars, tobacco, or products containing tobacco and that is accessible
to persons under 19 years of age.

* Sec. 2. AS 11.76.100 is amended by adding new subsections to read:

(e) The court shall forward a record of each person convicted
under this section who holds a business license endorsement under
AS 43.70.075, or who is an employee or agent of a person who holds a
license endorsement under AS 43.70.075 to the Department of Commerce
and Economic Development.

(f) The provisions of (a) of this section do not apply to a
person who sells or gives tobacco to a minor, if the minor is a
prisoner at an adult correctional facility.

* Sec. 3. AS 11.76.105 is amended to read:

Sec. 11.76.105. POSSESSION [PURCHASE] OF TOBACCO BY A MINOR.

(a) A person under 19 years of age may not knowingly possess [PURCHASE] a cigarette, a cigar, tobacco, or a product containing tobacco in this state. This subsection does not apply to a person who is a prisoner at an adult correctional facility.

(b) Possession [PURCHASE] of tobacco by a minor is a violation.

* Sec. 4. AS 43.50.070 is amended to read:

Sec. 43.50.070. REVOCATION OF LICENSES. The department may suspend or revoke a license issued under AS 43.50.010 - 43.50.180 (1) for violation of AS 11.76.100, AS 43.50.010 - 43.50.180, or a regulation of the department adopted under AS 43.50.010 - 43.50.180; [, OR] (2) if a licensee ceases to act in the capacity for which the license was issued; or (3) if a manufacturer, distributor, or wholesale distributor negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a retailer whose license endorsement under AS 43.70.075 has been suspended. A [. NO] person whose license is suspended or revoked may not [SHALL] sell cigarettes or permit cigarettes to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person. A [NO] disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender, renewal, or extension of a license issued under AS 43.50.010 - 43.50.180. The department shall comply with the provisions of the Administrative Procedure Act (AS 44.62).

* Sec. 5. AS 43.70 is amended by adding a new section to read:

Sec. 43.70.075. LICENSE ENDORSEMENT. (a) Unless a person has a business license endorsement issued under this section, a person may not sell cigarettes, cigars, tobacco, or products containing tobacco as a retailer. An endorsement required under this section is in addition to any other license or endorsement required by law.

(b) The department, upon payment of a fee of \$25, shall issue a

business license endorsement to a person who applies for a business license under this chapter, and may renew the endorsement issued under this subsection for a fee of \$25. The endorsement expires at the same time as the license to which it attaches.

(c) The department may refuse to issue an endorsement under this section if there is reasonable cause to believe that the information submitted in the application is false or misleading and is not made in good faith.

(d) If a person who holds an endorsement issued under this section, or an agent or an employee of a person who holds an endorsement issued under this section acting within the scope of the agency or employment, has been convicted of violating AS 11.76.100, or violates a provision of this section or a regulation implementing this section adopted under AS 43.70.090, the department shall suspend the endorsement for a period of

(1) 45 days; or

(2) 90 days, if within the past 24 months the person has been previously convicted of violating AS 11.76.100, or a provision of this section or a regulation implementing this section adopted under AS 43.70.090.

(e) If a person who receives an endorsement under this section has multiple retail outlets, a suspension imposed under (d) of this section applies only to the retail outlet in which the violation occurs.

* Sec. 6. AS 47.10.010(b) is amended to read:

(b) When a minor is accused of violating a traffic statute or regulation, a traffic ordinance or regulation of an incorporated municipality, AS 11.76.105 relating to the possession [PURCHASE] of tobacco by a minor, a fish and game statute or regulation under AS 16,

or a parks and recreational facilities statute or regulation under AS 41.21, excepting a statute the violation of which is a felony, the procedure prescribed in AS 47.10.020 - 47.10.090 may not be followed, except that a parent, guardian, or legal custodian shall be present at all proceedings. The minor accused of an offense specified in this subsection shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult.

* Sec. 7. APPLICABILITY. The business license endorsement requirement imposed under AS 43.70.075(a), added by sec. 5 of this Act, applies only upon issuance or renewal of a business license required under AS 43.70.020.

CSHB 141 (HESS): An Act relating to tobacco and products containing tobacco.

CSHB 141 (HESS) requires any retail business in Alaska interested in selling cigarettes, cigars, tobacco, or products containing tobacco to first possess an endorsement on its business license authorizing the sale of these products. A retail business without such an endorsement is prohibited from the sale of tobacco and tobacco-containing products. To reinforce this requirement, the bill provides that the Department of Revenue may suspend or revoke the license of a manufacturer, distributor, or wholesaler who sells tobacco or tobacco-containing products to retail businesses who do not have the requisite endorsement on their business licenses.

The endorsement may be issued or renewed after payment of a \$25.00 fee that is in addition to the (biennial) business license fee of \$50.00.

The bill also provides, following a conviction under AS 43.70.090 of selling tobacco or tobacco products to minors, that the Department of Commerce and Economic Development shall suspend the endorsement for a period of one year. This would prohibit the retailer who violated the law to sell tobacco products for one year.

The department does not oppose HB 141 in its present form and, as a matter of public policy, supports the intent of the bill.



Larry Mercurieff, Commissioner

Date: 3/16/89

LM/RPB/dgl3576D
031589a



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
Juneau, Alaska 99811
(907) 455-4978

Interim:
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617
or
165 E. Parks Highway
Wasilla, Alaska 99687
(907) 376-6453

February 24, 1990

MEMORANDUM

TO: Senator Rick Uehling, Co-Chair Senate Finance Committee
FROM: Senator Mike Szymanski *Mike*
RE: Proposed Amendment to HB 141

The purpose of the attached amendment is to address a problem which was identified last year in the Senate C&RA hearing of HB 141 but not amended due to time constraints. Rather than returning the bill to C&RA for consideration of the amendment, I would hope that the Finance Committee would consider adopting it during their 2-28 hearing of HB 141.

This amendment would protect multiple store owners such as the Alaska Commercial Company, Carr's Foodcenters, and Safeway from losing their endorsement due to one of their retail outlets being found guilty of a violation.

Senate District E

Mat-Su Borough • Sitka Anchorage • Barrow/Indian • Girdwood • Nikiski • Cooper Landing • Hope • Seward • Prince William Sound

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 141 (Finance)

Page 2, after line 26:

Insert a new subsection to read:

"(e) If a person who receives an endorsement under this section has multiple retail outlets, a suspension imposed under (d) of this section applies only to the retail outlet in which the violation occurs."

✓

2/27/90
Rep. Kay Brown

Sectional Analysis

CS HB 141 (Finance) - Tobacco Product Sales

Section 1

Requires the court to notify the Department of Commerce and Economic Development of convictions under AS 11.76.100 (selling tobacco to a minor) by persons holding a business license endorsement.

Section 2

Provides that the Department of Revenue may suspend or revoke a wholesaler-distributor license issued under AS 43.50.010 - 43.50.180 for a violation of AS 11.76.100 (tobacco sales to minors) or negligent sales to a retailer whose license endorsement has been suspended;

Section 3

Establishes a license "endorsement" requirement for the retail sale of tobacco products. Establishes a fee of \$25 for a license endorsement or renewal; endorsements would expire at the same time the business license expires.

Provides the Department of Commerce and Economic Development the authority to suspend a license endorsement for a period of:

- 45 days for a conviction of a violation of AS 11.76.100 (selling tobacco to a minor); or
- 90 days, if, within the past 24 months, the person has been convicted of violating AS 11.76.100 (selling tobacco to a minor).

Section 4

Clarifies that the license endorsement requirement established by Section 3 applies only upon the issuance or renewal of a business license required under AS 43.70.020.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

TO: Senator Johne Binkley, Co-Chair
 Senator Rick Uehling, Co-Chair
 Senate Finance Committee

FROM: Representative Kay Brown

DATE: February 27, 1990

SUBJ: CS HB 141 (Fin) - Licensing of Tobacco Product Sales

Thank you for scheduling of CS HB 141 (Fin), legislation that would establish a license endorsement for the sale of tobacco products.

With all the attention being devoted to the "war on drugs" it is important not to overlook the fact that smoking is responsible for the largest preventable cause of premature death and disability in the United States.

In 1988, the National Institute on Drug Abuse published a research monograph that included figures on annual deaths in the United States from various kinds of substance abuse. With 346,000 deaths per year, tobacco clearly led the way with nearly three times as many attributable deaths compared to the next closest substance (alcohol).

Tobacco	346,000
Alcohol	125,000
Alcohol & Drugs	4,000
Heroin/Morphine	4,000
Cocaine	2,000
Marijuana	75

(Statistics are estimates from Surgeon General's Office; the National Institute on Alcohol and Alcohol Abuse; and the Drug Abuse Warning Network.)

A recent study released by the federal Department of Health and Social Services indicates that smoking costs the nation about \$52 billion each year (about \$221 per capita). Because the cancers and respiratory illness associated

with smoking are among the costliest of diseases to treat, there are additional costs -- not easily quantified -- attributable to the fact that the health care professionals who devote their time and talent to dealing with the treatment of smoking related illness can not direct themselves to other pressing health problems.

In Alaska, the State Office of Epidemiology has published an analysis of the health costs associated with smoking that is also quite sobering.

For just one year -- 1985:

- there were 261 smoking-attributable deaths in Alaskans over age 20;
- for all deaths of Alaskans over age 20 during 1985, 14% were attributable to smoking;

This represents:

- 1,363 person-years of potential life lost...
- direct costs of \$52.8 million (hospital care, physician services, medication, etc.)...
- indirect morbidity and mortality costs of \$47.7 million due to lost income and productivity of individuals who died or were disabled from smoking related illness...
- for just one year, total costs in excess of \$100 million.

Moreover, this is a conservative estimate of costs because perinatal (occurring during the time close to birth) complications due to smoking, childhood diseases related to parental smoking, and diseases due to passive smoke are not reflected in these figures.

CS HB 141 (Fin)

Preventing young children -- the youth most susceptible to subtle and sophisticated advertising campaigns -- from becoming addicted to tobacco products at an early age is the fundamental purpose of CS HB 141 (Fin).

Briefly, CS HB 141 (Fin) would:

- provide the Department of Revenue authority to suspend or revoke a wholesaler-distributor license for a violation of AS 11.76.100 (selling tobacco to a minor) or negligent sales to a retailer whose license endorsement has been suspended;

- establish a license "endorsement" requirement for the retail sales of cigarettes, cigars, tobacco, or products containing tobacco;
- provide the Department of Commerce and Economic Development the authority to suspend a license endorsement upon a violation of AS 11.76.100 (selling tobacco to a minor) and prohibit the retail sale of tobacco products during a period of license endorsement suspension; and
- require retailers to make application and pay a fee of \$25 to the Department of Commerce and Economic Development for a license endorsement.

There is a clear need for an enforcement mechanism to reduce the flow of tobacco product sales to minors. CS HB 141 (Fin) will provide such a mechanism and help to curb the needless illness and premature death attributable to addictive tobacco products.

* * * * *

I appreciate your interest in CS HB 141 (Fin). If you have any questions concerning this legislation, please let me know or contact Mary Core of my staff at 465-4998.

attachments

Kay Brown

Alaska State Legislature House of Representatives

February 5, 1990

To: Senator John Binkley
Senator Rick Uehling
Co-Chairmen, Senate Finance Committee

From: Representative Kay Brown

Re: CS HB 141 (Finance) *Kay*

I would appreciate a hearing on CS HB 141 (Finance) in the Senate Finance Committee as soon as your schedule permits.

Tobacco use by Alaskan youth is a major, statewide problem. We need to take action to reduce the flow of tobacco products to minors. During the 1988 session the Alaska Legislature took an important step toward addressing this serious health and addiction issue by passing SB 339. This session, we need to target one additional aspect of the problem -- the absence of a tobacco retail licensing requirement.

Briefly, CS HB 141 (Finance) would:

- o require a business license endorsement for retail sales of cigarettes, cigars, tobacco or products containing tobacco, and designate the Department of Commerce and Economic Development as the licensing authority for tobacco retailers;
 - o require a separate fee of \$25 to be issued a license endorsement or to renew the endorsement, which expires at the same time the business license expires;
 - o require the Court to notify the Department of Commerce and Economic Development of all convictions of violations of AS 11.76.100, selling tobacco to a minor, by persons holding a business license endorsement;
 - o provide the Department of Commerce and Economic Development authority to suspend or revoke license endorsements if distributors, wholesalers or manufacturers negligently sell tobacco or tobacco products to non-licensed or suspended retailers;
 - o prohibit the sale of tobacco products during the period of the suspension or revocation of the license endorsement;
- and

P. O. Box 20-2661
Anchorage, AK 99520-2661
(907) 272-0207

During Session:
P. O. Box V
Juneau, AK 99811
(907) 465-4998

- SPONSOR'S BACKGROUND INFO -

o provide the Department of Commerce and Economic Development authority to suspend the license endorsement of a period of:

o 45 days for a first conviction of a violation;
or

o 90 days, if within the past 24 months the person has been previously convicted of a violation.

I would appreciate the scheduling of CS HB 141 (Finance) at the earliest opportunity. Please call me or Mary Core of my staff if you have any questions about the Legislation.

Thank you.

Local Address: P.O. Box 1285, Kotzebue, Alaska 99752

AMERICAN  LUNG ASSOCIATION of ALASKA

Dedicated to the prevention and control of lung disease

27 February 1990

Senator Rick Uehling, Co-Chair
Senate Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

MAR 6 1990

Dear Senator Uehling:

We have a serious drug problem in Kotzebue that your committee can help us fix. As you may know, tobacco products kill more Americans than all the other recreational drugs combined—nearly 400,000 people die a year from tobacco-related illnesses.

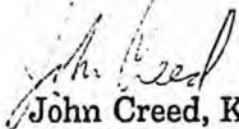
Most Alaskans addicted to nicotine get hooked at an early age, and that is how you can help with your support of HB 141, which would license the sale of tobacco products.

We have a problem in Kotzebue with one store in particular that routinely sells tobacco products to children. While most local store owners are responsible people who do not sell tobacco to children, this one store may be helping to addict a whole new generation of children to nicotine. If that store needed a license to sell tobacco products, the police would have a license to revoke if it broke the law.

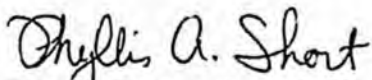
We also support HB 466, which deals with the distribution of tobacco products, as well as SB 222 (and its counterpoint in the House), which would further restrict smoking in public places.

Attitudes have changed dramatically about tobacco use in our society in the past few years. Alaska has always been on the forefront of this movement, and your support of this legislation would demonstrate your commitment to the anti-drug campaign in America. Thank you.

Sincerely yours,



John Creed, Kotzebue Facilitator
American Lung Association of Alaska



Phyllis Short, Board Member, Kotzebue
American Lung Association of Alaska

cc: Walter Hays
Senator Al Adams
Representative Eileen MacLean



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Centers for Disease Control**Memorandum**

Date September 14, 1989

From Director, Office on Smoking and Health

Subject Congressional Testimony by Dr. Koop

To Interested Parties

On September 13, Dr. Koop made his last appearance before Congress as Surgeon General. He presented the attached statement on tobacco to the Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives. The cigarette advertisements attached to the original statement were reproduced in color, although your copy is likely to be a black-and-white photocopy.

I want to draw your attention to Dr. Koop's comments on pages 3-5 where he responded to statements made by the advertising industry taking excerpts from the 1989 Surgeon General's report out of context. Because the advertising and tobacco industries are making these statements repeatedly, both in the U.S. and abroad, it is important that people in the smoking-and-health community be aware of, and use, Dr. Koop's rebuttal.

To help disseminate this statement widely, I have submitted it for publication to a major medical journal. I would appreciate it if you could help disseminate it through your channels. If you would like to publish this in a journal or newsletter to which you have access, please call me beforehand to discuss this, so that we might avoid jeopardizing publication in the journal to which I have already submitted the statement.

Thank you for your assistance.

Ronald M. Davis, M.D.

Attachment



The Surgeon General of the
Public Health Service
Washington DC 20201

STATEMENT OF

C. EVERETT KOOP, M.D., Sc.D.

SURGEON GENERAL

PUBLIC HEALTH SERVICE

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCOMMITTEE ON TRANSPORTATION, AND HAZARDOUS SUBSTANCES

COMMITTEE ON ENERGY AND COMMERCE

U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 1989

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear at today's hearing to discuss issues related to tobacco use. The views presented in this testimony are my own and do not represent those of the Administration. I will focus my remarks on two topics which this Subcommittee has considered in current legislative proposals and in previous hearings: tobacco advertising and children's access to tobacco products.

Tobacco Advertising

The bill that you have introduced, Mr. Chairman, H.R. 1250, would eliminate all image-based tobacco advertising (allowing only so-called "tombstone advertising"). On several occasions during my tenure as Surgeon General, I endorsed proposals that would ban all tobacco advertising and promotion. I certainly support your proposal to restrict tobacco advertising as a reasonable compromise, although I would continue to endorse a total advertising ban as a long-term goal.

It is a curious public policy that we, as a society, allow the most important preventable cause of death to be one of the most heavily advertised consumer products. I know that First Amendment concerns have been expressed about tobacco advertising restrictions. Opponents of these restrictions argue that if a

product is legal to sell, it should be legal to advertise. That argument, expressed in a different way, says that if Congress wants to ban the advertising of a product, it first has to ban the sale of that product.

I don't believe our Founding Fathers would have endorsed such a narrow and inflexible range of options for Congress to consider. An advertising ban seems to me to be a reasonable middle ground between the status quo and a total prohibition of tobacco use, which no one seriously proposes.

While I am not a legal scholar, I understand that Congress has the clear authority to prohibit deceptive advertising. In my opinion, much of today's advertising for tobacco products is deceptive. Many ads portray smoking as a safe, if not healthful, activity, and no ads disclose many of the serious and extensive health effects of smoking, such as stroke and nicotine addiction.

One of the more outrageous cigarette ads has used, for at least a decade, the slogan "Alive with Pleasure." This is clearly a message designed to undermine the Surgeon General's warning. If you consider smokers who suffer from lung cancer, emphysema, or stroke caused by smoking, truth in advertising would demand use of the slogan, "Dying in Agony" instead of "Alive with Pleasure."

-3-

Two examples of ads which I find highly objectionable are the Kool ads that clearly target young people, and the recent Camel ad that suggests violence against women (see attached ads). It is interesting that Philip Morris associates Virginia Slims with women's liberation ("You've Come a Long Way, Baby"), whereas R.J. Reynolds, in the Camel ad, treats women as if it were still the Age of Dinosaurs.

I also object to the promotional placement of cigarettes in movies, to which, Mr. Chairman, you have appropriately drawn attention. As you have pointed out, cigarette promotions placed in movies such as Superman II expose large numbers of children and adolescents to these messages. When these movies are shown on television, the ban on broadcast cigarette advertising is circumvented.

At this point, Mr. Chairman, I would like to comment on the misleading statements made by the advertising industry on this issue to this Subcommittee and elsewhere concerning the 1989 Surgeon General's report, Reducing the Health Consequences of Smoking: 25 Years of Progress. Repeatedly, advertising industry trade associations and publications have taken quotes from the report grossly out of context. Mr. Chairman, I would like to give you three examples and then set the record straight.

In a written statement to the Subcommittee for its July 25, 1989 hearing, the president of the Point-of-Purchase Advertising Institute (POPAI) argued against tobacco advertising restrictions by quoting from the report:

"In the Surgeon General's 1989 Report, it states that 'THE MOST DIRECT APPROACH TO ASSESSING THE RELATIONSHIP BETWEEN ADVERTISING AND CIGARETTE CONSUMPTION HAS BEEN TO ASK CHILDREN OR ADULTS ABOUT FACTORS THAT INFLUENCED THEM TO SMOKE. THESE STUDIES TYPICALLY FIND THAT ADVERTISING IS RANKED QUITE LOW ON THE LIST OF RELEVANT FACTORS.'" (capitalization added by POPAI)

The witness conveniently omitted the next three sentences, which are as follows:

"Marketing experts have questioned the validity of this approach because conscious response to advertising is deemed to be a poor index of actual response (Bergler 1981; Chapman 1986). As such, studies with a similar method and opposite findings also offer little insight into the actual effects of advertising. An example is a study by Fisher and Magnus (1981), which found that most children believe that cigarette ads encourage children to smoke."

Also in written testimony submitted to the Subcommittee for the July hearing, the American Advertising Federation stated:

"Even the Surgeon General's 1989 report, 'Reducing the Health Consequences of Smoking' admits, 'There is no scientifically rigorous study available to the public that provides a definitive answer to the basic question of whether advertising and promotion increase the level of tobacco consumption.'"

Similarly, an article in Advertising Age (January 16, 1989) quoted the report as follows:

"The extent of influence of advertising and promotion on the level of consumption is unknown and possibly unknowable," the report said."

The entire excerpt, including these statements taken out of context, is as follows (omitted portions underlined):

"There is no scientifically rigorous study available to the public that provides a definitive answer to the basic question of whether advertising and promotion increase the level of tobacco consumption. Given the complexity of the issue, none is likely to be forthcoming in the foreseeable future. The most comprehensive review of both the direct and indirect mechanisms [whereby advertising may affect consumption] concluded that the collective empirical, experiential, and logical evidence makes it more likely than not that advertising and promotional activities do stimulate cigarette consumption. However, that analysis also concluded that the extent of influence of advertising and promotion on the level of consumption is unknown and possibly unknowable (Warner 1986b)."

The major point being made in this paragraph of the report is that a perfectly designed study to prove that cigarette advertising increases cigarette consumption will probably never be performed because of the complexity of this issue. I must emphasize that absolute scientific proof is rarely available when studying human behavior. Humans do not behave like the laws of physics. In medicine and in public health, we rarely await, and we would be foolish to await, definitive proof before taking appropriate action.

In the 1850s, John Snow ended an epidemic of cholera in London by removing the handle of the Broad Street pump, 30 years before the bacterium that causes cholera was first identified. Fortunately, there was no Cholera Institute that lobbied against removal of the pump handle until it could be proved that the water from that pump was causing cholera.

In my opinion, the burden of proof should be on the tobacco and advertising industries to show that advertising does not increase cigarette consumption. In the absence of such evidence, advertising should not be allowed. This shifting of the burden of proof would represent prudent public health policy for a product that kills 390,000 Americans each year, when used exactly as intended.

Children's Access to Tobacco Products

Let me now turn to the topic of children's access to tobacco products. In May 1988, I released the Surgeon General's report, The Health Consequences of Smoking: Nicotine Addiction. In the preface to that report, I raised a number of important policy

questions concerning the sale and distribution of tobacco products:

"We as citizens, in concert with our elected officials, civic leaders, and public health officers, should establish appropriate public policies for how tobacco products are sold and distributed in our society. With the evidence that tobacco is addicting, is it appropriate for tobacco products to be sold through vending machines, which are easily accessible to children? Is it appropriate for free samples of tobacco products to be sent through the mail or distributed on public property, where verification of age is difficult if not impossible? Should the sale of tobacco be treated less seriously than the sale of alcoholic beverages, for which a specific license is required (and revoked for repeated sales to minors)?"

My answer to each of these three questions is "no." There is no logical reason why we should have a double standard for controlling the sale of tobacco and alcohol, the two major legal addicting drugs used in our society. Would we tolerate the sale of alcoholic beverages through vending machines? Would we allow free samples of alcoholic beverages to be sent through the mail or passed out on public property? Of course not. Why, then, should we be so permissive with the sale of tobacco, when 43 States have laws that prohibit the sale of tobacco to minors?

The issue of whether it is appropriate to sell tobacco products through vending machines is important for two reasons.

First, vending machines are a powerful symbol that we don't take seriously the problem of cigarette sales to minors. Second, they

allow children to have easy access to cigarettes. At the Subcommittee's July 1989 hearing, a representative of the National Automatic Merchandising Association (NAMA) testified that "About 8 out of 10 cigarette vending machines are located where teenagers are not allowed or rarely frequent." Even if true -- and I'm not convinced it is -- it's a poor argument against banning vending machine sales of cigarettes. Even 20 percent of the 374,000 vending machines in the United States (NAMA estimate) represents a huge number of sites (75,000) from which teenagers can readily obtain cigarettes ... illegally.

I agree with past statements by the Department of Health and Human Services that controlling the sale of tobacco to minors is a potentially effective strategy to prevent the initiation of tobacco use among young people. It is disappointing that States have made so little effort to enforce existing laws banning the sale of tobacco to minors. As long as States take no action to enforce these laws, I support Federal efforts to prevent the sale of tobacco to minors.

Mr. Chairman, I would be happy to answer any questions that you or other members of the Subcommittee might have.

3/2/90
Kay Brown

AMERICAN LUNG ASSOCIATION of ALASKA

Dedicated to the prevention and control of lung disease

DATE: FEBRUARY 27, 1990

TO: MEMBERS OF THE SENATE FINANCE COMMITTEE
ALASKA STATE LEGISLATUREFROM: WALTER L. HAYS, EXECUTIVE DIRECTOR
AMERICAN LUNG ASSOCIATION OF ALASKA 

RE: HB141

I am writing in support of the amended version CS HB141 that is currently under review.

Licensing of retail outlets that sell tobacco products is definitely in the public interest. Our society has finally recognized the significant health hazards represented by tobacco as witnessed by the recent Federal ban on smoking on 99% of all domestic airline flights and the numerous statements on the addictive properties of nicotine by the Office of the Surgeon General and the Secretary of Health and Welfare.

Currently twenty-six (26) states and the District of Columbia have laws that require that vendors be licensed to sell tobacco. Many have provisions to revoke such licenses as a penalty for selling to minors.

The simple fact is that access does impact consumption. The recent Adolescent Health Survey conducted throughout the State would indicate that regular use of tobacco products among High School Upper Classmen in rural Alaska is twice the National average--22% in Alaska as contrasted to 11% Nationally. In some rural communities usage rates are as high as 60-70%.

Our office has received numerous reports regarding the flagrant violation of tobacco sales to minors in several rural communities.

Alaska needs to join the ranks of the progressive states requiring licenses for the sale of tobacco products. Proper licensing and enforcement of such regulations will be another positive step forward for the general welfare of our people and the protection of our children.

3/2/90
Kay Brown



ALASKA DIVISION, INC.

February 28, 1990

Members of the Senate Finance Committee
Alaska State Legislature

RE: HB141

Tobacco is the nation's leading preventable cause of death and disease, responsible for roughly 30% of all cancer deaths, including 90% of lung cancers, 75% of cancers of the mouth, larynx and esophagus, and 50% of bladder and pancreas cancer.

Smoking is only superficially a matter of individual choice; it is more fundamentally, the product of social and economic forces, especially the advertising, marketing, and public relations practices of the tobacco industry.

There are appropriate, achievable, and effective public health policies that can significantly reduce the toll taken by tobacco. The primary obstacle to implementing these policies is the propaganda and political opposition of the tobacco industry.

Tobacco use is not a simple matter of free individual choice. Tobacco use is drug addiction comparable to cocaine and heroin addiction. Tobacco use is a major health issue that must be addressed by appropriate public health policies.

Last year tobacco killed more Americans than heroin, cocaine, alcohol, AIDS, fires, homicide, suicide and automobile accidents combined. Alaskans have the opportunity to lead the way in tobacco control legislation. Unfortunately, we already lead the U.S. in male lung cancer death.

This is not the time for the tobacco industry to be telling us that we're discriminating against smokers. Nor is it time to let up in our efforts to control a substance that, if it were an artificial sweetener, would never have made it to market.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. H. Koenig".

A. H. Koenig
Director of Public Issues
Alaska Division, American Cancer Society

Reducing the Illegal Sale of Cigarettes to Minors

David G. Altman, PhD; Valodi Foster, MPH; Lolly Resenick-Douss; Joe B. Tye, MBA

This study reports on an effort to stop the illegal sale of cigarettes to minors. In Santa Clara County, Calif, 412 stores and 30 vending machines were visited by 18 minors aged 14 through 16 years with the intent to purchase cigarettes; they were successful at 74% of the stores and 100% of the vending machines. After an aggressive six-month campaign using communitywide media, direct merchant education, contact with the chief executive officers of chain stores and franchise operations owned by major companies, and grassroots work with community organizations, the percentage of stores with illegal over-the-counter sale of cigarettes to minors was reduced to 38%. Sales from vending machines were not reduced. While much remains to be accomplished in stopping the illegal sale of tobacco to minors, data from this study illustrate that a well-designed community and merchant education campaign can significantly reduce such sales.

(JAMA 1989;261:90-93)

THE SALE of tobacco products to minors is a major public health problem. Although most states have laws regulating the access of minors to tobacco, they are rarely enforced.^{1,2} In California it is against the law to sell tobacco products to anyone under age 18 years. By all accounts, tobacco is readily accessible to minors. In field trials, minors

For editorial comment see p 99.

have successfully purchased tobacco from stores and vending machines 70% to 100% of the time.^{3,4} It is alarming that minors have little difficulty obtaining tobacco, since most smokers begin smoking regularly as teenagers. National survey data indicate that 67% of high school seniors who report daily smoking began by the age of 14 years (ie, the ninth grade).⁵ Stopping the sale

of tobacco to minors is, therefore, a critical step in any effort to prevent tobacco use.⁶

Easy access to tobacco is obviously a prerequisite to maintaining a tobacco addiction. The earlier a young person begins using tobacco, the less likely it is that he or she will be able to quit later. Over half of high school seniors (53%) who smoke at least half a pack per day have made at least one serious but unsuccessful attempt to quit smoking, 47% say they would like to quit at the current time, and almost three fourths of daily smokers in high school still smoke seven to nine years later, even though in high school only 5% thought they would be daily smokers five years later.⁶

Peer pressure to smoke coupled with societal influences such as tobacco company advertising that glamorizes smoking⁷ influence young people to perceive smoking in a positive light. Unfortunately, our society has done very little to counteract this by decreasing the availability of tobacco through enforcement of existing laws and the enactment of meaningful penalties for violation of these laws. If minors have a difficult time obtaining tobacco, they may be prevented from experimenting with and later becoming addicted to it.

There have been a few attempts to

stop the illegal sale of tobacco to minors. In Avon, England, four minors under the age of 16 years were able to purchase tobacco from 91 of 100 tobacco-nists. One year later, after a press conference was held and a letter was sent to merchants clarifying the law, minors returned to 50 of the stores and were able to purchase tobacco in only 44% of them.⁸ Similarly, the Decatur, Ill, chapter of Doctors Ought to Care found that a 14-year-old girl and an 11-year-old boy were able to purchase cigarettes in 78% and 68% of stores, respectively. Letters were then written to all of the store managers giving them feedback about their performance, a copy of the state law, and a letter from the chamber of commerce urging them to adhere to the law. This intervention reduced the sale of illegal cigarettes by 18%.⁹ An unpublished Canadian project called "Business for Kids" has also been conducted to stop the sale of tobacco to minors (Bill Howard, written communication, June 22, 1988).

The purpose of the current study was to determine whether a voluntary merchant education program combined with a media campaign and grassroots community organization would be effective in reducing the sale of cigarettes to minors in a wide range of stores and communities.

METHODS

In January 1988, 412 stores in Santa Clara County, Calif, that sold cigarettes over the counter and 30 outlets that had cigarette vending machines were visited by 18 minors aged 14 (N=9), 15 (N=6), and 16 (N=4) years. Half of the minors were girls. No attempt was made to recruit minors who looked older than their chronological age. Stores were located in the socioeconomically diverse towns of Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara, and Sunnyvale.

The stores visited included grocery stores (N=89), liquor stores (N=108),

From the Center for Research in Disease Prevention, Stanford University School of Medicine (Dr Altman), and the Center for the Study of Families, Children and Youth, Stanford University (Ms Resenick-Douss), Palo Alto, Calif; HealthWorks Associates, Pleasant Hill, Calif (Ms Foster); and the Baystate Medical Center, Springfield, Mass (Mr Tye).

Reprint requests to Center for Research in Disease Prevention, Stanford University School of Medicine, 1000 Welch Rd, Palo Alto, CA 94304-1883 (Dr Altman).

Table 1.—Variables Measured During Interaction With Store Merchants

Variable	Response
Sale made	Yes or no
Merchant asks age of minor	Yes or no
Merchant asks who the cigarettes are for	Yes or no
Warning sign posted about tobacco sales to minors as required by state law	Yes or no
Sex of merchant	M or F
Age of merchant as estimated by the minor	<30 y or >30 y

convenience stores (N=103), pharmacies (N=67), gas stations (N=50), and businesses that had vending machines (N=80). Stores that sold cigarettes over the counter included company-owned chain operations (48%), franchise operations (27%), and independent stores (80%). Chain and franchise operations were preselected from local phone books, while independent stores were selected by the minor and an adult escort when the chain and franchise operations were visited (with the exception of 24 chain stores and one franchise store that was selected by the minor and adult). Most of the independent stores selected were in proximity to the chain and franchise operations (eg, in a shopping center). Industry data (1985) on cigarette sales by retail outlets show the following distribution: supermarkets (80%), convenience stores (18%), grocery stores (13%), gas stations (10%), drug stores (9%), vending machines (8%), discount stores (7%), and other (5%).³

Procedures and Measures

Minors attempted to purchase cigarettes from stores in January 1988 (before intervention) and six months later in July 1988 (after intervention). A period of six months between tests was selected to allow businesses sufficient time to implement new tobacco sales policies and to ensure that the community education campaign had been fully implemented. At the second test, an effort was made to send minors back to the same stores they visited at the first test, recognizing that the store merchant at the second visit might be different from the store merchant at the first visit. Four of 18 minors were unable to participate in the second test; two were out of town, one was unavailable, and one parent did not want her daughter to participate. Four stores went out of business between tests.

Minors were driven to the stores by adults who remained in the cars and out of view of merchants. The minor walked into the store, determined whether there was a visible warning sign about

Table 2.—Cigarette Sales to Minors by Type of Store

Store Type	No. of Stores	% of Stores Where Minors Bought Cigarettes*		P [†]	% Change [‡]
		First Test	Second Test		
Vending machine	30	100	100	NS	0
Gas station	50	84	53	.001	-38
Liquor store	103	83	46	<.0001	-46
Convenience store	103	81	48	<.0001	-41
Pharmacy	67	80	28	.001	-53
Grocery store	80	80	22	<.0001	-63
Total (excluding vending machines)	412	74	36	<.0001	-47

*NS indicates not significant.
[†]P (% in first test - % in second test) / % in first test; the percentage changes between the first and second tests did not differ significantly among store types.

tobacco sales posted on the front door or window or at the cash register, and asked for a package of Marlboro cigarettes. The minors were instructed to be honest if the merchant asked them any questions. For example, if the merchant asked the minor's age, the minor was instructed to respond truthfully (eg, 14, 15, or 16 years old). If the merchant asked who the cigarettes were for the minor was told to respond "For me." If a sale was made, the minor left the store with the package of cigarettes and returned to the car. Data were collected on six characteristics of the interaction with merchants (Table 1).

Intervention Components

From January through July 1988, combinations of three interventions were implemented: (1) community education, (2) direct education with merchants who sold tobacco, and (3) contact with the chief executive officers of the companies that owned the major chain and franchise operations visited.

Community Education.—Santa Clara County communities were made aware of the problem of tobacco availability through mass media, small media, and presentations to community groups. A press conference announcing the results of the test before intervention initiated the community education campaign. A 60 s television public service announcement was taped for the project by US Surgeon General C. Everett Koop, MD, and distributed to 18 television stations. Two 60 s radio advertisements produced by media expert Tony Schwartz (New York) were distributed to 28 radio stations. The project was covered by five television stations on local news segments, by five special segment news-life-style television programs, by four local newspapers, and by numerous radio stations, including a one-hour feature story by a local affiliate of the Public Broadcasting System. The project was also covered

by small media, such as service club and chamber of commerce newsletters.

The community education campaign included distribution of materials describing the project as well as numerous presentations to local community groups. As a result of these contacts, many community leaders wrote letters of support, and the Kiwanis club, parent-teacher association, and county board of supervisors passed formal resolutions in support of the project. Community organizations seemed to be attracted to the project because of its focus on youth, on the enforcement of existing laws, and on the use of educational approaches to merchant contact.

Direct Merchant Education.—Using a table of random numbers, all stores were allocated randomly to one of three interventions: (1) no personal contact (eg, only community education), (2) mailed information, or (3) personal visit from project staff. The personal visit (five to ten minutes) consisted of project staff telling store managers about the project and giving feedback as to whether they had sold cigarettes to minors. They were given a merchant education kit that included background facts and figures on tobacco and youth, tips for training employees not to sell tobacco to minors, a copy of the state law that was required to be posted, warning labels for cash registers and store windows (the labels stated "State Law. It is illegal to sell cigarettes or chewing tobacco to anyone under the age of 18."), a list of 84 project supporters, and a copy of the resolution of commendation given to the project by the county board of supervisors. Stores in the mailed information group received the same merchant education kit but did not receive a personal visit. Stores in the no personal contact group received only community education.

Contact With Chief Executive Officers.—Certified letters were sent to the chief executive officers of 24 compa-

Table 3.—Cigarette Sales to Minors by Chain, Franchise, and Independent Stores

Store Category	No. of Stores	% of Stores Where Minors Bought Cigarettes		P*	% Change†
		First Test	Second Test		
Chain	174	62	27	<.0001	-66
Franchise	110	81	50	<.0001	-38
Independent	121	66	47	<.0001	-45

*Chain stores also had significantly lower percentages of sales to minors than franchise and independent stores in both the first and second tests ($P < .001$).

†(% in first test - % in second test)/% in first test; the percentage changes between the first and second tests did not differ significantly among store categories.

Table 4.—Changes in Merchant Behavior

Variable	% (No. of Stores)		P*	% Change†
	First Test	Second Test		
Was warning sign posted as required by law?	3 (13)	23 (92)	<.0001	+667
Was minor asked age?	24 (100)	48 (196)	<.0001	+100
Was minor asked who cigarettes were for?	8 (22)	8 (23)	NS	+20
Sex of merchant who sold tobacco to minors				
M	78 (188)	48 (88)	<.0001	-41
F	87 (115)	33 (64)	<.0001	-81

*NS indicates not significant.

†(% in first test - % in second test)/% in first test.

‡Male merchants were more likely to sell tobacco to minors than female merchants at both the first ($P < .02$) and second ($P < .01$) tests.

Table 5.—Cigarette Sales to Minors by Age and Sex of Minor

Characteristic of Minor	% (No. of Stores Where Minors Bought Cigarettes)		P	% Change*
	First Test	Second Test		
Age, yr				
14	69 (134)	32 (62)	<.0001	-64
15	80 (92)	47 (63)	<.0001	-41
16	75 (78)	45 (45)	<.0001	-40
Sex‡				
M	71 (180)	36 (87)	<.0001	-81
F	77 (122)	47 (73)	<.0001	-39

*% in first test - % in second test/% in first test; the percentage changes between the first and second tests did not differ significantly among the three age groups or between boys and girls.

†Significantly fewer 14-year-olds than 15-year-olds ($P = .01$) and 16-year-olds ($P = .06$) were able to purchase cigarettes at the second test.

‡Significantly more girls than boys were able to purchase cigarettes at the second test ($P = .02$).

Table 6.—Changes in Warning Signs Posted by Type of Contact With Merchants

Type of Merchant Contact	% of Stores With Warning Signs Posted		P*	% Change†
	First Test	Second Test‡		
No personal contact	8	7	NS	+40
Mail	2	33	<.0001	+1558
Personal visit	3	24	<.0001	+730

*At the second test, significantly fewer merchants with whom we made no personal contact posted warning signs than merchants contacted by mail ($P < .0001$) or by personal visit ($P = .0002$).

†NS indicates not significant.

‡(% in first test - % in second test)/% in first test.

ny-owned chain and franchise operations with stores in Santa Clara County. The letter requested that the company take four actions to address the problem of illegal tobacco sales: (1) issue a companywide directive alerting store managers and employees that the company will not tolerate illegal tobacco sales to minors; (2) require all company outlets

to post notices informing the public of this policy, as required by state law; (3) implement employee training programs to ensure that employees have the knowledge and skills to comply with the law; and (4) develop a monitoring mechanism to ensure compliance with corporate policy and state law. Chief executive officers who did not respond to this

letter within a month were phoned. By July 1988, 23 of 24 chief executive officers or their designees had responded to the letter, and all promised to take action.

Statistical Analysis

The McNemar nonparametric test for the significance of changes was used to analyze nominal data for two related samples (eg, differences from first test to second test in same type of store). Analysis of variance was used to examine differences across variables (eg, differences from first test to second test between store types).

RESULTS

Cigarette sales to minors by type of store before and after intervention are shown in Table 2. Sales to minors dropped in all categories except for vending machines. The overall rate for over-the-counter tobacco sales dropped from 74% at baseline to 89% at the second test. Vending machine sales were not reduced from the preintervention level of 100%.

Stores were also categorized as company-owned chains, franchises, or independent stores. As noted in Table 3, all showed decreases in sales to minors. Although chain stores had significantly lower sales than either franchises or independent stores at baseline and at the second test ($P < .001$), the percentage differences between store categories were not significant. Franchises and independent stores did not differ from each other in the percentage of sales at baseline or at the second test.

There was an increase in the posting of warning signs, as required by California state law, and an increase in the frequency minors were asked their age (Table 4). Compared with stores that did not post warning signs, stores that did were less likely to sell cigarettes to minors at both the first (1% vs 89%, $P < .0001$) and second (15% vs 85%, $P < .005$) tests. Although both male and female merchants decreased their sales of cigarettes to minors, male merchants were more likely to sell to minors than female merchants (Table 4).

As noted in Table 5, 14-, 15-, and 16-year-olds were all less successful in purchasing cigarettes after the intervention. Furthermore, at the second test, 14-year-olds were less successful in purchasing cigarettes than either 15- or 16-year-olds, although the percentage differences between age groups were not statistically significant. Table 5 also illustrates that female minors had a significantly higher percentage of purchases than male minors at the second test, but the percentage differences be-

tween male and female minors were not significant.

Stores that received an education kit in the mail or a personal visit from project staff increased the posting of warning signs significantly more than did stores that did not receive a kit (Table 6). There was no differential effect on sales as a function of the type of contact project staff had with merchants (ie, no personal contact, mail contact, personal visit).

COMMENT

Data from this study corroborate data from other trials showing that minors around the country can readily purchase cigarettes over the counter and from vending machines. The present study illustrates that an aggressive merchant education program combined with community organizations applying pressure on merchants to change their practices and a broad-based media campaign can reduce illegal over-the-counter cigarette sales to minors in all types of stores. Indeed, our data showed that, overall, over-the-counter sales were reduced by almost 50%. The fact that minors were six months older at the second visit strengthens our findings. These encouraging findings must be balanced by what remains to be accomplished.

The best methods for working with merchants remain unclear. We expected but did not find that mail or personal visits to merchants combined with community education would be more effective in reducing sales than community education alone. One explanation for why we did not realize effects of our direct contact with merchants is that we may not have given stores, especially large chains and franchises, enough time to implement the wide-ranging changes we were promoting. In the case of personal visits, it may also be that five to ten minutes with store managers is not sufficient. Alternatively, our contact with chief executive officers of chains and franchises and the actions they subsequently took may have washed out the effects of our direct contact with store managers.

Our inability to reduce vending machine sales suggests that elimination is the only effective way to prevent minors from purchasing cigarettes through this medium. As noted in this and other studies, however, vending machines are not the only source of tobacco for minors, since cigarettes can be purchased illegally over the counter in all types of stores.

Even after a massive community and merchant education program, almost four of ten stores continued to sell ciga-

rettes illegally to minors. Clearly, the norms in our communities about minors' access to and use of tobacco must change. Society appears to accept early tobacco use more easily than it accepts early alcohol use. To decrease youth smoking rates, people need to better understand that tobacco use among minors is illegal, existing laws regulating tobacco sales must be strengthened, laws must be enforced, and, in states without laws regulating access, laws must be passed. These measures combined with effective community and merchant education will do much to reduce the availability of tobacco to youth.

No single strategy will be completely effective in stopping tobacco sales to minors. As described below, several complementary actions could be taken. The model law proposed by DiFranza et al¹ would do much to reduce sales to minors. A law in unincorporated King County, Wash (effective February 1989), should also serve as a model for other communities (Michael Lippman, MD, oral communication, Oct 28, 1988). This law will have the following provisions: (1) Vending machines must be electronically disabled until a store clerk is certain the purchaser is of age. (2) All tobacco merchants must have a license (at a cost of \$210), and the license fee will be used to pay for four blind inspections every year in which a supervised minor will attempt to buy tobacco. (3) The sale of individual cigarettes will be banned. (4) The penalties for selling tobacco to minors will be \$100 for the first offense, \$500 and a 90-day suspension of the tobacco license for the second offense, and \$1000 and suspension of the license for nine to 18 months for the third offense. (5) Minors caught buying cigarettes can be subjected to community service and participation in a smoking cessation program.

Other steps that could be taken to stop the sale of tobacco to minors are as follows: (1) We could encourage federal legislation giving states strong incentives to establish a single minimum age of 21 years for the sale of both alcohol and tobacco. This would allow for a uniform enforcement mechanism to regulate the sale of these products to minors. (2) Businesses that sell tobacco, like businesses that sell alcohol, should be licensed, as will soon be required in unincorporated King County, Wash. (3) Fines for selling tobacco to minors must be increased substantially. (4) Stronger enforcement of tobacco access laws is critical. Income generated from the licensing process and from fines for illegal tobacco sales could pay for the costs of enforcement. (5) Merchants should be required to post visible warn-

ing signs alerting customers (and store employees) that tobacco sales will not be made to minors. (6) Cigarette vending machines should be eliminated. If this is not politically feasible, alternatives such as that recently adopted by King County should be implemented. (7) A national campaign should be mounted to inform parents, health professionals, community organizations, and the business community about the problem and to provide them with resources to reduce it.

If we are ever to achieve a tobacco-free generation we must eliminate the sale of tobacco to minors. While much remains to be accomplished in achieving this goal, the findings of this study illustrate that an aggressive community and merchant education program can be effective.

This project was cosponsored by Stop Teenage Addiction to Tobacco (STAT) and by the Santa Clara County Chapters of the American Cancer Society, American Heart Association, and American Lung Association. It was supported by grants to STAT from the Henry J. Kaiser Family Foundation, Menlo Park, Calif; from the Cancer Research Foundation of America, Alexandria, Va; from El Camino Hospital, Mountain View, Calif; from the Kiwanis and Rotary clubs of Northern California; and from members of STAT.

We thank the 18 minors and their parents, Thomas J. Curran, MBA, and the numerous community organizations that provided volunteers and support for their contributions to the project. We also thank Irwin Altman, PhD, Nathan Maceoby, PhD, and Todd Rogers, PhD, for their comments on the manuscript.

Stop Teenage Addiction to Tobacco is developing a nationwide campaign to eliminate the illegal sale of tobacco to minors. For further information about this campaign and to receive the *Tobacco and Youth Reporter*, contact: STAT, PO Box 60658, Longmeadow, MA 01116.

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N E W S

Warnings Don't Deter Merchants From Selling Smokes to Minors

"It's TERRIBLE THAT YOU ARE BUYING cigarettes! It is wrong—but I guess you could be doing worse things!"

This is what a Buffalo, NY, store clerk told a 14-year-old teenage girl as he sold her a pack of Marlboro Light Cigarettes, in violation of the New York State Law that plainly says:

"Sale of cigarettes or other tobacco products to persons under 18 years of age is prohibited by law."

The sales clerk's comment is quoted in a new report by epidemiologist K. Michael Cummings, Ph.D., of the Roswell Park Cancer Institute, in Buffalo, in the most recent of his several studies on whether state laws banning sales to minors are being observed or enforced to reduce teenagers' access to cigarettes. In Buffalo, at least, they are neither being observed nor enforced, he and his associates have found:

They conducted a preliminary study, two years ago, and discovered that 40% of owners or managers of convenience, chain or drugstores whom they contacted either were unaware of the law banning cigarette sales to minors, or did not know the cut-off age of 18. Only three of every 10 stores had posted the legally-required notice of the ban.

"Educating tobacco vendors about the law prohibiting the sale of tobacco products to minors is an obvious first step needed in gaining

their compliance with the law," epidemiologist Cummings said then.

His more-recent study shows that this education does not suffice:

In it, he and his associates mailed an informational packet to 62 Buffalo-area stores, requesting their help in stopping illegal sale of cigarettes to minors. The letter, on letterhead of the Roswell Park Institute—which identifies it explicitly as an agency of the New York State Department of Public Health—cited the law and included a supply of warning signs and tip-sheets that managers could use in telling their employees how to enforce it.

Two weeks later, Cummings or an associate drove a teenager to each of the stores, and sent him or her inside to buy a pack of cigarettes. If challenged, the teens were told, they should tell their age, and tell the clerk the cigarettes were for their own use. These teen decoys ranged in age from 14 to 16.

The decoy teams also visited 60 control stores that had not received the informational packet.

The managers of 25 of the 62 informed stores, or 40%, had posted the warnings. None of the control stores had similar warnings, albeit they are mandated by law.

But, Cummings says, the informational packets and warnings were of no practical value—the decoys were able to purchase cigarettes in 82% of the stores that had received the

packets. By comparison they successfully purchased cigarettes in 86% of the control stores, whose owners/managers had not received the packet. The two responses did not differ significantly between the two types of stores ($p = 0.55$).

"Sales did not differ by type of store, the sex of the merchant, or by the age and sex of the prospective purchaser," Cummings and his co-authors add: "Merely informing merchants about the law is not effective in reducing such sales." What might be more effective, they add, is to license tobacco dealers, like alcohol dealers, and revoke their licenses if they are caught selling to minors. This threat would put teeth into the law.

Higher Taxes Are Healthy
THE NEW YORK STATE tax on cigarettes has been raised from 21 cents to 33 cents a pack, Roswell Park epidemiologist Cummings writes, in a study prepared for the *New York State Medical Journal*. Using standard tables, he and his colleagues calculate that 118,000 New Yorkers either will quit or not start smoking as the result of the hike in cost. This, in turn, will prevent 29,000 premature smoking-induced deaths. [X]

RESOURCES

K. Michael Cummings, Ph.D.,
Roswell Park Memorial Cancer Institute
(716) 845-8458.

Special Communications

Legislative Efforts to Protect Children From Tobacco

Joseph R. DiFranza, MD; Billy D. Norwood; Donald W. Garner, JD; Joe B. Tye, MBA

Public health laws intended to prevent children from smoking have been enacted in many states. We surveyed the relevant laws in all states and the District of Columbia. The efficacy of one such law prohibiting the sale of tobacco to individuals under the age of 18 years was assessed with the cooperation of an 11-year-old girl. She was successful in 75 of 100 attempts to purchase cigarettes. On the basis of this experience and a review of existing laws, we have made recommendations for a model law. These include a prohibition of the possession of tobacco by minors, a prohibition of the sale of tobacco to minors, a requirement for a warning sign at the point of sale, a ban on cigarette vending machines, and a reward for individuals reporting violators of vending laws.

(JAMA 1987;257:3387-3389)

THE USE of tobacco is the most common form of drug addiction and is responsible for one of every four deaths in the United States.^{1,2} Nicotine is the psychoactive and addictive pharmacologic component of tobacco. When measured by the percentage of users who lose control of their substance intake, nicotine is six to eight times more addictive than alcohol.³ The addictive power of nicotine is further manifest in the fact that 90% of current smokers want to quit and have failed to do so.³

Nicotine addiction typically begins during childhood, when the average age for the first use of cigarettes is 13 years, and for snuff, 10 years.⁴ In a survey of 15-year-old children smoking five or more cigarettes per day, 51% had failed to stop smoking when they tried, and 27% thought they could not stop no matter how hard they tried.⁴ Nicotine addiction is resistant to treatment. Long-term abstinence rates achieved by smoking cessation programs rarely exceed 25%, similar to abstinence rates for the treatment of alcoholism.^{4,5}

Many individuals become hooked on tobacco as children and, despite repeated attempts to stop, continue to smoke throughout their lifetime. Among those unwilling or unable to

quit, more than half die of the sequelae of smoking.⁶ Since approximately 4000 American children become smokers daily, nicotine addiction is the most common lethal condition of childhood.⁷

Preventing children from becoming addicted to nicotine is such a logical step in combating the epidemic of tobacco-induced disease that it seems surprising that there has never been a coordinated national effort to prevent children from obtaining tobacco.

Most states have enacted laws intended to prevent children from using tobacco. As these interventions are intended to reduce the incidence of a particular disease, ie, nicotine addiction in the pediatric population, it is appropriate for the medical community to monitor the results, compare the efficacy of various methods, and make recommendations as to how more effective prevention might be achieved.

In 1985, Massachusetts enacted Gen Law chap 270, §§ 6 and 7, under the title "Crimes Against the Public Health." This law increased the minimum age of persons to whom tobacco may be legally sold to 18 years, required a copy of the law to be posted conspicuously on the premises, and deleted a previous requirement that the Department of Public Health distribute copies of the law to towns. Violation of the law is punishable by fines of \$100, \$200, and \$300 for first, second, and third offenses, respectively.

The purpose of this study was to test the efficacy of this law in preventing children from purchasing cigarettes, to review relevant laws in all 50 states and the District of Columbia, and, on this basis, to suggest model law provisions that could focus a national effort to

enact legislation that could effectively prevent children from using tobacco.

METHODS

Testing the Efficacy of Massachusetts Gen Law Chap 270, §§ 6 and 7

One hundred business establishments in nine communities in central Massachusetts were identified where cigarettes were sold. These included variety stores, pharmacies, gas stations, restaurants, and supermarkets. In some locations, cigarettes were sold over the counter, and at others, they were available from a vending machine.

The study was conducted with the assistance of an 11-year-old girl who was told to enter each establishment unaccompanied, look for a posting of the law, and either request cigarettes from the cashier or attempt to purchase cigarettes from a vending machine. If asked whom the cigarettes were for, she was instructed to say they were for an older relative. The child looked her age, and no attempt was made to make her look older. Before this study, she had never attempted to purchase cigarettes.

We recorded the name and address of each establishment and whether the tobacco law was posted, cigarettes were available over the counter or from a machine, our subject was asked for proof of her age, and whether she was able to purchase cigarettes.

All 100 establishments were studied during a one-week period in July 1986. During the next two weeks, an attempt was made to contact a representative of each establishment by telephone. The caller identified herself as a representative of the American Lung Association doing a survey. The person answering the telephone was asked the following: (1) Do you have a policy about how old someone has to be to buy cigarettes in your store? (2) Are you aware of any laws about selling cigarettes to children? (3) Do you have a sign about this law in your store? Those who claimed to be aware of the law were asked to identify the legal age for purchasing cigarettes. Only individuals who could correctly identify the legal age were considered to be informed about the law.

We did not conduct the interview in person because many of the stores sam-

From the Department of Family and Community Medicine, University of Massachusetts Medical School, Worcester (Dr DiFranza); Less Tobacco for Children in Maryland, Greenbelt (Mr Norwood); the College of Law, Southern Illinois University (Mr Garner); and Stop "Teenage Addiction to Tobacco, Palo Alto, Calif (Mr Tye).

The opinions expressed herein are those of the authors and do not necessarily represent the positions of the American Lung Association.

Reprint requests to Family Practice Residency Program, University of Massachusetts Coordinated Program 2, 47 Ashby State Rd, Fitchburg, MA 01420 (Dr DiFranza).

Table 1.—Results of 100 Attempts to Illegally Purchase Cigarettes

	Total No. of Attempts	No. (%) of Successful Attempts	P*
Overall	100	75 (75)	...
Sign posted	36	21 (58)	<.005
No sign posted	41	38 (92)	
Informed of law	49	36 (73)	NS
Not informed of law	28	24 (86)	
Available from a clerk	93	59 (63)	NS
Available from a machine	7	8 (86)	

*Computed by χ^2 .

pled were part of convenience store chains and we were concerned that managers of other area stores might be warned of our activities, thus biasing the results.

National Survey of Laws Concerning the Access of Minors to Tobacco

From November 1986 through February 1986, questionnaires requesting information on laws concerning tobacco and minors were sent to legislative libraries, departments of education, and law enforcement agencies in each state and the District of Columbia.

RESULTS

Efficacy of Chap 270

Of the 100 establishments sampled, 76 sold cigarettes to an 11-year-old girl (Table 1). She purchased cigarettes from a clerk in 69 (68%) of 93 attempts and bought from a machine in six (86%) of seven attempts. Whenever she was refused cigarettes, she was told she was too young. She was never asked her age. Only four of the 100 stores had a copy of the law posted where it was visible to customers.

We contacted 80 representatives of the establishments by telephone; 77 agreed to answer the three questions. Many businesses had unlisted telephone numbers. Forty-nine (64%) knew of the law, while 28 (36%) either were unaware of the law or could not correctly identify the legal age for purchasing cigarettes. Of the 49 establishments where the respondent was informed about the law, 36 (73%) had sold cigarettes to the child. Of the 28 who did not know the law, 24 (86%) had sold cigarettes.

In addition to the four establishments where copies of the law were visible, another 32 representatives of the stores contacted by telephone claimed to have a copy of the law posted where it was visible to employees. (The law states the sign must be posted in a conspicuous location, but does not specify to whom it should be conspicuous.) Of these 36 establishments with posted signs, 21 (58%) sold cigarettes to the child. Of the 41 representatives of establishments in-

terviewed where no signs were posted, 38 (93%) sold the child cigarettes ($P < .005$). Of the 36 stores with posted signs, only one respondent was unfamiliar with the law.

National Survey Results

All 50 states and the District of Columbia responded to the survey. A summary of the laws restricting the access of children to tobacco as of January 1986 is presented in Table 2. Since then, at least three changes have occurred. New Hampshire has outlawed the sale of tobacco to children under the age of 18 years; Virginia has enacted a law that prohibits sales to children under the age of 16 years; and South Dakota has outlawed the sale of smokeless tobacco to children under the age of 18 years.

COMMENT

In a state where the law prohibits the sale of tobacco to persons under the age of 18 years, it was shockingly easy for an 11-year-old child to purchase cigarettes. More effective laws are clearly needed.

Several reasons for the failure of this particular law can be identified. One third of the individuals selling cigarettes did not know about the law.

Educating vendors about tobacco laws is crucial to obtaining their coopera-

tion and compliance. A posting of the law is an effective method of informing vendors of the law, serving as a reminder for employees and demonstrating that management is concerned about complying with the law. In this study, compliance was greatest among those establishments where the law was posted.

Even among those who were informed about the law, compliance was poor. This suggests that either there was little fear of prosecution, or, if prosecution was a likely possibility, the penalties provided by the law were not stringent enough to act as a deterrent. Enforcement of this law has been almost nonexistent, and this lack of enforcement is likely responsible, in large part, for the failure of this law to achieve its purpose.

Comparisons of the efficacy of various laws and enforcement procedures would be facilitated by the availability of up-to-date data on smoking prevalence among children of various ages on a state-by-state basis. However, as the availability of tobacco is only one of many factors contributing to such prevalence rates, a more direct measure of the efficacy of these laws would be preferable. An effort to collect such data is under way through two nonprofit health organizations, Stop Teenage Addiction to Tobacco and Doctors Ought to Care.

Table 2.—Summary of State Laws on Tobacco Access by Minors as of January 1986

	No. of States	States
Age (y) below which distribution of tobacco to minors is illegal		
15	1	Hawaii
16	9	Alabama, Connecticut, District of Columbia, Indiana, Maryland, New Jersey, Pennsylvania, Rhode Island, Texas
17	3	Delaware, North Carolina, Vermont
18	24	Arizona, Arkansas, California, Florida, Idaho, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New York, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Washington, West Virginia
19	2	Alabama, Utah
Legal to sell at any age	12	Colorado, Georgia, Kentucky, Louisiana, Missouri, Montana, New Hampshire, New Mexico, South Dakota, Virginia, Wisconsin, Wyoming
Use, purchase, or possession of tobacco by a minor is illegal	12	Arizona, Idaho, Illinois, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Rhode Island, Tennessee, Utah, West Virginia
Warning required at point of sale		
Copy of law	2	California, Vermont
Warning sign	6	Illinois, Indiana, Massachusetts, New York, Ohio, Tennessee
On vending machine	6	Indiana, Maryland, Minnesota, New York, Tennessee, Utah
Penalties		
Loss of license	4	Hawaii, Nebraska, Nevada, Tennessee (loss of license to do any business)
Monetary fine	26	Alabama, Connecticut, District of Columbia, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nevada, New Jersey, North Carolina, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, West Virginia
Imprisonment	15	Alabama, District of Columbia, Florida, Idaho, Kansas, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nevada, New Jersey, North Carolina, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, West Virginia
Not specified	9	Arkansas, Alaska, California, Delaware, Iowa, Minnesota, Nebraska, Oregon, Washington
Vending machines must be inaccessible to minors	2	Idaho, Utah
Portion of fine goes to informer	2	Oklahoma, South Carolina

Unfortunately, from a public health viewpoint, these laws must be enacted on a state-by-state basis. However, this does not prevent a coordinated national effort by the medical community to promote effective legislation.

Proposed Model Law Characteristics

1. Possession of tobacco by children should be prohibited. This is now the case in only 12 states. When teaching about smoking in grade schools, one of us (J.R.D.) has been asked repeatedly: "If smoking is so bad for you, why aren't cigarettes illegal?" The fact that children can legally smoke reinforces the message of tobacco advertisements: "Smoking can't be as bad as they say."

Children violating this law might be required to attend a smoking cessation program for children and their parents.

2. Possession or use of tobacco by students should be specifically prohibited on school property. Such bans are in effect in five states. Smoking by school personnel should also be banned because they serve as role models.

3. The sale of all tobacco products to individuals under the age of 21 years should be prohibited. Nine states now allow the sale of tobacco to children of any age. Standard identification should be required for proof of age, and laws should not provide that a child may buy tobacco with a parental note, as notes are easily forged.

With the threat of withholding highway funds, the federal government is encouraging establishment of a uniform legal drinking age of 21 years. The morbidity and mortality due to tobacco dwarfs that due to alcohol. It seems reasonable to apply a similar standard to tobacco.

4. Signs warning that it is illegal for minors to buy tobacco, or for stores to sell it to them, should be conspicuously visible to both employees and customers wherever tobacco products are sold, including vending machines. Ten states now require signs stating that it is illegal to sell tobacco to minors. This study demonstrates the effectiveness of such signs in increasing compliance with the law.

5. State law should require public schools to provide education about the health effects of tobacco use. Such a requirement is already in effect in 11 states. Public health departments or other appropriate governmental agencies should be required to make significant efforts to educate the public and business community about the law and its underlying rationale.

6. Cigarette vending machines should be prohibited as are alcohol vending machines. Poorly supervised

vending machines provide easy access for minors. The logic for the elimination of cigarette vending machines was described by the Seventh Circuit Court of Appeals in 1937 in upholding such a ban enacted by the City of Chicago:

The evil sought to be reached by forbidding the sale of cigarettes in automatic vending machines was the purchase of cigarettes by immature minors. Automatic vending machines in order to achieve their purpose, namely, dispensing with salesman and making facile the purchase of goods without the intervention of human service, are placed in localities easily accessible to the public, are inanimate and automatic, and respond equally efficiently to coins placed therein by a boy or a girl as to coins inserted by an adult.⁸

Our experience confirms the wisdom of this statement.

7. All free distributions of tobacco should be prohibited. Tobacco company employees distributing free samples to children recalls the image of the drug pusher giving out samples in the schoolyard to get the children hooked and generate future business. Of the 39 states banning the sale of cigarettes to minors (as of January 1986), all but three (Indiana, New York, and Oregon) also prohibit providing free tobacco to minors. However, children frequently obtain free samples in violation of such laws and the tobacco industry's voluntary code. Legislation was introduced in 1986 in Maine, Michigan, Minnesota, Ohio, and Pennsylvania to ban all free sampling or to ban sampling where children might be present.

8. All vendors of tobacco products should be licensed annually. Annual licensing will provide an opportunity to educate vendors about current laws regarding tobacco sales, and allow public officials to prevent repeated offenders from selling tobacco.

9. Penalties for the sale of tobacco to minors must be stringent enough to deter would-be offenders in light of the profit that can be made by selling tobacco to children.

Pressed to decide between condoning smoking by children and enacting laws considered by some to be unenforceable, state legislatures have decided in 40 states and the District of Columbia to outlaw tobacco sales to minors. Effective enforcement of these laws is critical, however, if they are to achieve their purpose. Enforcement is occurring in some communities, but in the absence of community concern, law enforcement officials are unlikely to expend significant resources on the enforcement of these laws.

Several tactics can be used to improve enforcement. Oklahoma and South Carolina provide a bounty; a portion of any

fine against a merchant caught selling tobacco to a minor will go to the informer who notified authorities. Tennessee provides that it is not entrapment for law enforcement authorities to use a minor to purchase tobacco for purposes of monitoring compliance with the law. A hybrid of these two approaches would allow civic organizations to monitor compliance with the law by utilizing our study technique. Volunteer health organizations, parent teacher associations, and youth groups (eg, the Boy Scouts and Girl Scouts of America) could earn money while helping to enforce the law. This money could be used to support other community health projects such as smoking cessation programs or school health education.

There is no excuse, given all we know today about the addictive and dangerous properties of tobacco, for states to fail to enforce their laws against the sale of tobacco to children, and for nine states to have no law whatsoever that prohibits the sale of tobacco to minors.

The wisdom of enforcing these laws is also compelling. If the decision about smoking can be delayed until adulthood, choosing to become a smoker is unusual. Given that only 10% of current smokers began as an adult, enforcement of minors' tobacco access laws presents a unique opportunity to deal a mortal blow to this fatal addiction. Efforts to enact comprehensive and enforceable laws, such as those outlined herein, should receive the full and enthusiastic support of the health care community.

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We thank our 11-year-old assistant, Rachel Dussault, who is in the sixth grade at St Patrick School, Jeffrey, NH.

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BACK PAGE

WAR ON DRUGS

Now who is the enemy?

In 1988 the National Institute on Drug Abuse published a research monograph entitled *Learning Factors in Substance Abuse*. On page 105 of this work are found the following figures on annual deaths in the United States from substance abuse:

Tobacco—346,000

Alcohol—125,000

Alcohol & Drugs—4,000

Heroin/Morphine—4,000

Cocaine—2,000

Marijuana—75



Excerpted from the article "Learning and Unlearning Drug Abuse in the Real World" in Research 84 (1988), a monograph from the National Institute on Drug Abuse (Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857). Statistics are estimates from Surgeon General's office, the National Institute on Alcoholism and Alcohol Abuse, and the Drug Abuse Warning Network.

PHOTO BY SCOTT WILSON/ET MAGAZINE



EPIDEMIOLOGY BULLETIN

SECTION OF EPIDEMIOLOGY
DIVISION OF PUBLIC HEALTH
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
STATE OF ALASKA
3601 C Street, Suite 340
P. O. Box 240249
Anchorage, Alaska 99524-0249

Mvra M. Munson, Commissioner
Department of Health
and Social Services

Editor: John Middaugh, M.D.

Elizabeth Ward, M.N., Director
Division of Public Health

Bulletin Number 13

Week Ending June 17, 1988

TOBACCO TAKES HEAVY TOLL ON ALASKANS

Cigarette smoking is the single largest preventable cause of premature death and disability in the U. S.. The Surgeon General has estimated that over 350,000 Americans die annually as a consequence of cigarette smoking. These deaths (representing approximately 15% of the nation's mortality) and the untold suffering of people with tobacco caused diseases are preventable.

In 1986 the Minnesota Department of Health developed a computer software package to assist other states in estimating smoking attributable mortality and economic cost. The Section of Epidemiology used the Minnesota software to enter Alaska specific data for 1985 on the total number of deaths by age and sex, smoking prevalence by age and sex, and estimates of total personal health care expenditures for Alaskans. The computer program takes the Alaska data and applies advanced epidemiologic and health economics methodologies to estimate smoking attributable mortality, years of potential life lost, direct health care cost, direct mortality cost, and indirect morbidity costs.

Smoking Attributable Mortality—In 1985, there were estimated to be 261 smoking attributable deaths in Alaskans over age 20 (Figure 1). The leading smoking attributable causes of death were: Lung cancer (73 deaths), ischemic heart disease (68), respiratory diseases (52), other cardiovascular diseases (40), other neoplasms (24), and ulcers (4). For these diagnostic categories, smoking attributable deaths comprised 36% of the total 721 deaths in Alaskans over age 20 (40% for male deaths; 29% for females). For all deaths in Alaskans over age 20 during 1985, 14% were attributed to cigarette smoking.

Smoking Attributable Years of Potential Life Lost (YPLL)—Smoking attributable YPLL was calculated by adding the years of life remaining until the age of 65 for each person dying of a smoking attributable death. For 1985, smoking deaths lead to 1,363 person years of potential life lost. This represents an average of 10.9 years of life lost for each person who dies prematurely from a smoking related death (11.5 years for males; 8.8 years for females).

Smoking Attributable Direct Costs—Direct cost are the expenses for health care due to smoking in Alaska. These include the cost of hospital care, physician services, medications, and nursing home care. The estimated total for direct costs in 1985 was \$52.8 million (Figure 2). This is equivalent to \$149 per Alaskan over age 20 or approximately \$408 per current smoker in Alaska over age 20.

Figure 1: Smoking-Attributable Mortality
Mortality by Gender

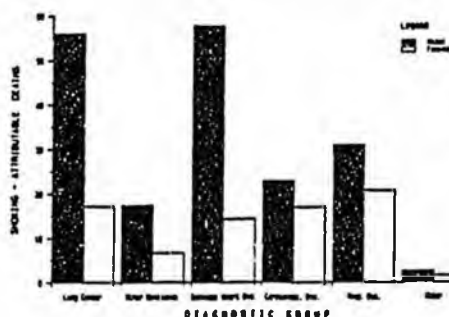
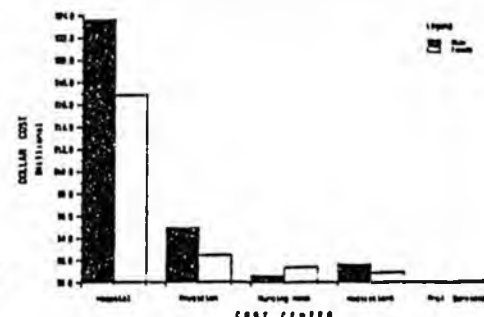


Figure 2: Smoking-Attributable Direct Costs
Health Care Costs by Gender



Smoking Attributable Indirect Mortality Costs—These costs include the value of earnings and productivity lost by persons dying due to smoking. An estimated \$28.8 million was lost due to the indirect costs caused by smoking deaths.

Smoking Attributable Indirect Morbidity Costs—These costs include the lost income and productivity of the individuals disabled by smoking related diseases. It is estimated that \$18.9 million was the cost for indirect morbidity due to smoking.

The total estimated smoking attributable cost for Alaska in 1985 was \$100.5 million. This is a conservative estimate since perinatal complications of smoking, childhood diseases related to parental smoking, and diseases caused by passive smoking have not been included.

In summary, cigarette smoking continues to exact a heavy toll of death and suffering in Alaskans. We have estimated that 261 Alaskans died of smoking related diseases during 1985 and that 1,363 years of productive life were lost. The economic impact was enormous. The need for all health care providers to encourage and assist their patients to stop smoking is obvious. The Surgeon General has called for a smoke-free society by year 2000—Our report highlights the deleterious effects of cigarette smoking in Alaska and reinforces the importance of vigorous efforts to reduce this destructive addiction.

Anchorage Daily News

Gerald E. Grilly
Publisher



Howard Weaver
Managing Editor

Michael Carey, Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1944 by Norman C. Brown

Smoking's ills

Tobacco is taking a huge financial toll

There's more to the cost of smoking than the price of a pack of cigarettes. A new government study reports that while less than one-third of the American population is still smoking, smokers cost the nation more than \$52 billion a year.



Predictably, most of the costs are for health care. The cancers and respiratory ills linked to smoking are among the costliest diseases known. On top of the price tag documented in the Department of Health and Human Services study, treating smoking's victims also has a more subtle effect: It monopolizes health-care professionals' time and equipment.

One of the worst aspects of the cost of smoking is that non-smokers bear such a huge part of it. Smokers' illnesses boost health-care costs and insurance for everybody, smoker and non-smoker. And illnesses resulting from second-hand smoke have been well-documented.

The Health and Human Services study noted that the \$52 billion averages out to \$221 per capita, every dime of which, when borne by a non-smoker, is unfair and unjustified. Ideally, the new study — added to the weight of dozens of others on the societal damage of tobacco — will help forge a change in cigarette advertising. Regretably, it probably won't. Cigarette manufacturers, in fact, have initiated a series of new ad campaigns, which try to lure specific groups — women, minorities and young people — into the smoking fold.

Anti-smoking efforts have picked up in recent years. And the new study demonstrates that these campaigns are justified. The cost of smoking has reached intolerable levels and must be curbed.

(\$1,000,000.00). Approximately one-sixth of those sales were of cigarettes. (Deposition, 45-49.) Thus, a typical Store 24 sells roughly three thousand dollars (\$3,000.00) worth of cigarettes weekly. At \$1.50 per pack, approximately two thousand packs of cigarettes are sold at each Store 24 outlet weekly at each Store 24.

Since about 5% of smokers are minors,¹ this would mean that -- assuming that Store 24 customers are statistically representative of the general population -- that about 100 packs are sold to minors weekly. But since part of these sales are by cartons, a conservative estimate is therefore that between 50 and 100 teenagers are sold cigarettes weekly.

B. Philip Morris, Inc.

Mariboros constitute 23.9% of all cigarette sales,² which are concentrated among youth. About 56% of minors who smoke cigarettes choose Mariboros.³

Since about five percent of all smokers are minors,⁴ this means that approximately 12% (or one-eighth) of all

¹Advertising of Tobacco Products: Hearings before the Subcommittee on Health and the Environment of the House of Representatives Committee on Energy and Commerce, 99th Cong., 2d Sess., 510 (1986).

²115 Tobacco Reporter 37 (January, 1988).

³Hearings, supra, 169.

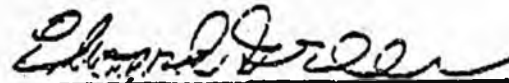
⁴Id., 510.

000176

Marlboros are illegally sold to minors.

And "Marlboros last year netted a nice round \$2 billion in operating profits,"⁵ so an eighth of its profits -- or a quarter billion dollars (\$250,000,000.00) -- comes from illegal Marlboros sold to teenagers.

DATED: February 27, 1988



EDWARD GREER
Attorney for Plaintiffs
133 Mt. Auburn St.
Box 263
Cambridge, MA 02238

(617) 876-3735

⁵Forbes (February 9, 1987), 108.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 141 (HESS)
PUBLISH DATE: HOUSE 3/3/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to tobacco
and products containing tobacco
Sponsor: Brown
Requestor: H. E & S

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: February 27, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: February 27, 1989

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

**STATE OF ALASKA 1989 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: Bill Version: CS HB 141 (HESS)
Publish Date: 3/3/89

Revision Date: Agency Affected: Alaska Court System
Title: An act relating to tobacco and BRU: Trial Courts
products containing tobacco
Sponsor: Brown, Menard, Hudson... Components:
Requestor: Judiciary

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	
Personal Services	
Travel	
Contractual	
Supplies	
Equipment	
Land & Structures	
Grants & Claims	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	

CAPITAL

REVENUE

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228
Division: Alaska Court System Date: 03/16/89

Approved by: *Arthur H. Snowden, II* Arthur H. Snowden, II, Administrative Director Date: 03/16/89
Agency: Alaska Court System

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