

HB884

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 27, 1991

FURTHER REFERRALS:

Date of Committee Action: 4/30/91

The FINANCE Committee considered:

HB 84

HOUSE BILL NO. 84

BAN SALE OF TOBACCO IN VENDING MACHINES

"An Act relating to the sale, exchange, or giving of tobacco and tobacco products."

RECOMMENDATIONS:

be replaced with CSHB 84 (FIN) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact DCED

fiscal note(s) _____

zero fiscal note Dot Rev

zero fiscal note(s) AK Court System 3/1/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Fay Brown</i> <small>Brown</small>	✓	<i>Mark Boyer</i> <small>Boyer</small>		X	
<i>Al Koponen</i> <small>Koponen</small>	✓	<i>Mike Navarre</i> <small>Navarre</small>		X	
<i>George J. Jalko</i> <small>Jalko</small>	X	<i>Bob Sharp</i> <small>Sharp</small>	X		
<i>Ronald L. Hanson</i> <small>Hanson</small>	X	<i>Robert Phillips</i> <small>Phillips</small>	X		
<i>J. W. Wimer</i> <small>Wimer</small>	X	<i>Eden P. McLean</i> <small>McLean</small>		X	
		<i>Danica Barnes</i> <small>Barnes</small>	X		

Mike Navarre Navarre *Eden P. McLean*
 CHAIRMAN'S SIGNATURE *McLean*

FISCAL NOTE

No. 3

Bill Version: CSHB 84(JVD)

(H) Publish Date: 3/1/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the sale, exchange, BRU: Trial Courts
or giving of tobacco and tobacco products Components: _____
 Sponsor: Brown
 Requestor: Labor & Commerce COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *C. S. Christensen III* Phone: 264-8228
 Division: Alaska Court System Date: 02/28/91

Approved by: Arthur H. Snowden, II, Administrative Director *Arthur H. Snowden, II* Date: 02/28/91
 Agency: Alaska Court System

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

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 84 (Jud)

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: An Act relating to the offense BRU: Occupational Licensing
of selling or giving tobacco to a minor; Component: Administration
 Sponsor: Reps. Brown, Ellis, B. Davis
 Requestor: House Finance COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.0	2.0	2.0	2.0	2.0	2.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.0	2.0	2.0	2.0	2.0	2.0

CAPITAL						
---------	--	--	--	--	--	--

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	2.0	2.0	2.0	2.0	2.0	2.0
TOTAL	2.0	2.0	2.0	2.0	2.0	2.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

The expenditure identified in this fiscal note results from Section 10 of the bill which requires making a consumer warning sign available to businesses that obtain the tobacco endorsement on their business license. An authorization from program receipts collected in the business licensing program is requested.

Prepared By: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: April 26, 1991
 Approved by Commissioner: Glenn A. Olds
 Agency: Commerce and Economic Development Date: 4-26-91

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

FISCAL NOTE

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

BILL NO. CSHB84

Revision Date: March 5, 1991
 Title: Prohibiting sale of tobacco products by vending machine
 Sponsor: Rep. Brown and Rep. Ellis
 Requestor: _____

Department Affected: Department of Revenue
 BRU: Revenue Operations
 Component: Income and Excise Audit
 COMPONENT SERIAL NO. | 1 | 1 | 3 |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0.0

ANALYSIS:

This fiscal note reflects the fact that there is no longer a fiscal cost to Revenue because the committee substitute deleted the requirement for the Department of Revenue to provide warning signs to licensee under AS 43.50.

Prepared By: Carl Meyer *Carl Meyer* Phone: (907) 465-2320
 Division: Income and Excise Audit Division Date: March 5, 1991

Approved by Commissioner: Lee E. Fisher *Lee E. Fisher*
 Agency: Department of Revenue Date: 3/6/91

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

CS FOR HOUSE BILL NO. 84 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BROWN, Ellis, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offense of selling or giving tobacco to a minor; prohibiting the
2 sale of tobacco products by vending machine; requiring certain retailers to post a tobacco
3 warning sign; relating to the suspension or revocation of a license to sell, purchase,
4 possess, or acquire cigarettes; relating to supervision of cigarette vending machines; and
5 providing for an effective date."

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

7 * **Section 1. FINDINGS.** The legislature finds that

8 (1) smoking is responsible for the largest preventable cause of premature death and
9 disability in the United States and responsible for 390,000 deaths annually, nearly one person each
10 minute;

11 (2) the use of cigarettes causes more premature death than AIDS, the use of heroin,
12 cocaine, alcohol, fire, automobile accidents, homicides, and suicides combined;

13 (3) it has been estimated that approximately 1,000,000,000 packs of cigarettes are sold

1 illegally to children in this country each year;

2 (4) each year in the state, there are approximately 1,360 person-years of potential life lost
3 as a result of smoking-attributable deaths with direct and indirect costs in excess of \$100,000,000 due
4 to smoking-related death and disability, contributing to a national cost of about \$52,000,000,000 a year,
5 and

6 (5) young residents of the state are particularly at risk because 90 percent of smokers
7 begin cigarette addiction before they reach the age of 19, the legal smoking age in the state, and the
8 younger the age at which one begins to smoke, the more likely that a person will become a long-term
9 smoker and develop smoking-related diseases.

10 * Sec. 2. AS 11.76.100(a) is amended to read:

11 (a) A person commits the offense of selling or giving tobacco to a minor if the person
12 is 19 years of age or older and

13 (1) negligently [KNOWINGLY] sells, exchanges, or gives a cigarette, a cigar,
14 tobacco, or a product containing tobacco to a person under 19 years of age; or

15 (2) maintains a vending machine that dispenses cigarettes, cigars, tobacco, or
16 products containing tobacco [AND THAT IS ACCESSIBLE TO PERSONS UNDER 19 YEARS
17 OF AGE].

18 * Sec. 3. AS 11.76.100(a) is amended to read:

19 (a) A person commits the offense of selling or giving tobacco to a minor if the person
20 is 19 years of age or older and negligently

21 [(1)] sells, exchanges, or gives a cigarette, a cigar, tobacco, or a product
22 containing tobacco to a person under 19 years of age [; OR

23 (2) MAINTAINS A VENDING MACHINE THAT DISPENSES CIGARETTES,
24 CIGARS, TOBACCO, OR PRODUCTS CONTAINING TOBACCO].

25 * Sec. 4. AS 11.76.100(b) is repealed and reenacted to read:

26 (b) Notwithstanding the provisions of (a) of this section, a person who maintains a
27 vending machine is not in violation of (a)(2) of this section if the vending machine is

28 (1) located on premises licensed as a beverage dispensary under AS 04.11.090;

29 (2) located at least 25 feet from the nearest exit from the licensed premises; the
30 requirement in this paragraph does not apply to a fire or emergency exit; and

31 (3) in a location that is directly and continually supervised by a person employed

1 on the licensed premises during the hours the vending machine is accessible to the public.

2 * Sec. 5. AS 11.76.100(d) is amended to read:

3 (d) Selling or giving tobacco to a minor is a violation and upon conviction is
4 punishable by a fine of not less than \$300.

5 * Sec. 6. AS 11.76 is amended by adding a new section to read:

6 Sec. 11.76.107. FAILURE TO SUPERVISE CIGARETTE VENDING MACHINE. (a)

7 A person commits the offense of failure to supervise a cigarette vending machine if the person
8 owns premises licensed as a beverage dispensary under AS 04.11.090 and with criminal
9 negligence fails to have an employee supervise a vending machine on those premises that
10 dispenses cigarettes, cigars, tobacco, or products containing tobacco as required by
11 AS 11.76.100(b)(3).

12 (b) Failure to supervise a vending machine is a violation and upon conviction is
13 punishable by a fine of not less than \$300.

14 * Sec. 7. AS 11.76.107 is repealed and reenacted to read:

15 Sec. 11.76.107. SALE OF TOBACCO PRODUCTS BY VENDING MACHINE
16 PROHIBITED. (a) A person may not sell cigarettes, cigars, tobacco, or tobacco products by
17 vending machine or permit the sale of cigarettes, cigars, tobacco, or tobacco products by vending
18 machine on property owned by the person.

19 (b) The court shall forward to the Department of Commerce and Economic Development
20 a record of each person convicted under this section.

21 (c) A person who violates this section is guilty of a violation and shall be punished by
22 a fine of not less than \$300.

23 * Sec. 8. AS 43.50.010(a) is amended to read:

24 (a) A person may not sell, purchase, possess, or acquire cigarettes as a manufacturer,
25 distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer without a
26 license.

27 * Sec. 9. AS 43.50.010(b) is amended to read:

28 (b) The department, upon application and payment of the fee, shall issue a license to each
29 manufacturer, distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer.
30 The department shall adopt reasonable regulations that it considers necessary in respect to the
31 application for and the issuance of licenses.

1 * Sec. 10. AS 43.50.020 is amended to read:

2 Sec. 43.50.020. SEPARATE LICENSES. If a person operates more than one place of
3 business, the person shall [MUST] obtain a separate license for each place of business [,
4 EXCEPT THAT A PERSON OPERATING ONE OR MORE CIGARETTE VENDING
5 MACHINES IS CONSIDERED TO HAVE ONLY ONE PLACE OF BUSINESS FOR THE
6 PURPOSE OF A LICENSE UNDER AS 43.50.010 - 43.50.180]. A person licensed only as a
7 manufacturer, distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer
8 may not operate in another capacity unless the appropriate license for it is first secured. Each
9 license shall be exhibited at the place of business for which it is issued and in the manner
10 prescribed by the department.

11 * Sec. 11. AS 43.50.070 is amended to read:

12 Sec. 43.50.070. REVOCATION OF LICENSES. The department may suspend or revoke
13 a license issued under AS 43.50.010 - 43.50.180 (1) for a criminally negligent violation of
14 AS 11.76.100, 11.76.107 or a violation of AS 43.50.010 - 43.50.180 or a regulation of the
15 department adopted under AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the
16 capacity for which the license was issued; or (3) if a manufacturer, distributor, or wholesale
17 distributor negligently sells tobacco or products containing tobacco to a nonlicensed retailer or
18 a retailer whose license endorsement under AS 43.70.075 has been suspended. A person whose
19 license is suspended or revoked may not sell cigarettes or permit cigarettes to be sold during the
20 period of the suspension or revocation on the premises occupied or controlled by that person. A
21 disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender,
22 renewal, or extension of a license issued under AS 43.50.010 - 43.50.180. The department shall
23 comply with the provisions of the Administrative Procedure Act (AS 44.62).

24 * Sec. 12. AS 43.70.075(d) is amended to read:

25 (d) If a person who holds an endorsement issued under this section, or an agent or an
26 employee of a person who holds an endorsement issued under this section acting within the scope
27 of the agency or employment, has been convicted of violating AS 11.76.100 or 11.76.107, or
28 violates a provision of this section or a regulation implementing this section adopted under
29 AS 43.70.090, the department shall suspend the endorsement for a period of

30 (1) 45 days; or

31 (2) 90 days, if within the past 24 months the person has been previously convicted

1 of violating AS 11.76.100 or 11.76.107, or a provision of this section or a regulation
2 implementing this section adopted under AS 43.70.090.

3 * **Sec. 13.** AS 43.70.075 is amended by adding a new subsection to read:

4 (f) A person who holds a license endorsement issued under this section shall post on the
5 licensed premises a warning sign as described in this subsection. A warning sign required by this
6 subsection must be at least 11 inches by 14 inches and must read, in lettering at least one-half
7 inch high, "WARNING: Tobacco products are highly addictive. Cigarettes cause lung disease
8 and cancer. Smoking during pregnancy may result in fetal injury, premature birth, and low birth
9 weight. The sale of tobacco products to persons under age 19 is illegal." The sign must also
10 include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal
11 diameter within a surrounding red circle. A person holding an endorsement issued under this
12 section shall display the sign in a manner conspicuous to a person purchasing or consuming
13 tobacco products on the licensed premises. The department shall, without charge, furnish
14 warning signs required under this section to a person who holds an endorsement issued under this
15 section or a person who requests the sign with the intention of displaying it.

16 * **Sec. 14.** AS 11.76.100(b), 11.76.100(c), and AS 43.50.030(c) are repealed.

17 * **Sec. 15.** The supreme court shall include on a schedule of bail amounts the fine established under
18 AS 11.76.100(d) and 11.76.107(b) for a violation of those sections.

19 * **Sec. 16.** The supreme court shall include on a schedule of bail amounts the fine established under
20 AS 11.76.107(c) for a violation of that section.

21 * **Sec. 17.** Sections 3, 7, 8, 9, 10, 14, and 16 of this Act take effect January 1, 1995.

Representative Kay Brown

ALASKA STATE LEGISLATURE

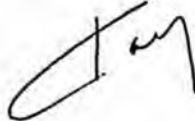
Legislative Information Office
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Anchorage, Alaska 99503
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During Session
P.O. Box V
Juneau, Alaska 99811
(907) 465-4998

TO: Representative Mike Navarre, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee

FROM: Representative Kay Brown

DATE: April 29, 1991



SUBJ: Draft Finance CS for CS HB 84 (Judiciary)

Please find attached a draft committee substitute for CS HB 84 (Judiciary) that I would like to offer for consideration by the House Finance Committee. This CS has been worked out with North Star Vending as a representative of vending business interests.

The essential change embodied in this proposal is to delay the effective date of the tobacco product vending machine ban until 1995 in order to allow for the amortization of machine investments. This change in the legislation is offered in response to concerns expressed by vendors that cigarette machines can represent a significant investment. This change will allow vendors to recover their investment prior to the ban taking effect. This CS would also, as an interim measure prior to the ban taking effect, restrict placement of tobacco vending machines to places that have a beverage dispensary license.

A letter of support from North Star Vending is also included in the committee packets. This letter states:

"The intent of the legislation is very good. ...[B]y allowing a phase in of the law [the committee substitute] will give a chance for the vendors to amortize out their equipment costs over a

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reasonable time and at the same time getting to your final goal of limiting access of tobacco products to our young people."

With the changes proposed by the CS, North Star Vending has "no objections to the legislation."

It should be noted that even the proposed interim restriction limiting tobacco vending machines to places with a beverage dispensary license is not adequate to prevent minors from gaining access to machines. As documented in purchasing trials in New York and Alaska minors have little if any difficulty in accessing cigarette machines, even those located in bars.

However, in order to allow otherwise legitimate vending businesses to redirect their investments to other types of investments, I offer this draft CS and ask for the committee's support.

enclosure

CS FOR HOUSE BILL NO. 84 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES BROWN, Ellis, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offense of selling or giving tobacco to a minor; prohibiting the
2 sale of tobacco products by vending machine; requiring certain retailers to post a tobacco
3 warning sign; relating to the suspension or revocation of a license to sell, purchase,
4 possess, or acquire cigarettes; relating to supervision of cigarette vending machines; and
5 providing for an effective date."

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

7 * Section 1. FINDINGS. The legislature finds that

8 (1) smoking is responsible for the largest preventable cause of premature death and
9 disability in the United States and responsible for 390,000 deaths annually, nearly one person each
10 minute;

11 (2) the use of cigarettes causes more premature death than AIDS, the use of heroin,
12 cocaine, alcohol, fire, automobile accidents, homicides, and suicides combined;

13 (3) it has been estimated that approximately 1,000,000,000 packs of cigarettes are sold

1 illegally to children in this country each year;

2 (4) each year in the state, there are approximately 1,360 person-years of potential life lost
3 as a result of smoking-attributable deaths with direct and indirect costs in excess of \$100,000,000 due
4 to smoking-related death and disability, contributing to a national cost of about \$52,000,000,000 a year;
5 and

6 (5) young residents of the state are particularly at risk because 90 percent of smokers
7 begin cigarette addiction before they reach the age of 19, the legal smoking age in the state, and the
8 younger the age at which one begins to smoke, the more likely that a person will become a long-term
9 smoker and develop smoking-related diseases.

10 * Sec. 2. AS 11.76.100(a) is amended to read:

11 (a) A person commits the offense of selling or giving tobacco to a minor if the person
12 is 19 years of age or older and ~~negligent~~ ^{add - negligently =} ~~DELTE~~

13 (1) [KNOWINGLY] sells, exchanges, or gives a cigarette, a cigar, tobacco, or a
14 product containing tobacco to a person under 19 years of age; or

15 (2) maintains a vending machine that dispenses cigarettes, cigars, tobacco, or
16 products containing tobacco [AND THAT IS ACCESSIBLE TO PERSONS UNDER 19 YEARS
17 OF AGE].

18 * Sec. 3. AS 11.76.100(a) is amended to read:

19 (a) A person commits the offense of selling or giving tobacco to a minor if the person
20 is 19 years of age or older and negligently

21 [(1)] sells, exchanges, or gives a cigarette, a cigar, tobacco, or a product
22 containing tobacco to a person under 19 years of age [; OR

23 (2) MAINTAINS A VENDING MACHINE THAT DISPENSES CIGARETTES,
24 CIGARS, TOBACCO, OR PRODUCTS CONTAINING TOBACCO].

25 * Sec. 4. AS 11.76.100(b) is repealed and reenacted to read:

26 (b) Notwithstanding the provisions of (a) of this section, a person who maintains a
27 vending machine is not in violation of (a)(2) of this section if the vending machine is

28 (1) located on premises licensed as a beverage dispensary under AS 04.11.090;

29 (2) located at least 25 feet from the nearest exit from the licensed premises; the
30 requirement in this paragraph does not apply to a fire or emergency exit; and

31 (3) in a location that is directly and continually supervised by a person employed

1 on the licensed premises during the hours the vending machine is accessible to the public.

2 * Sec. 5. AS 11.76.100(d) is amended to read:

3 (d) Selling or giving tobacco to a minor is a violation and upon conviction is
4 punishable by a fine of not less than \$300.

5 * Sec. 6. AS 11.76 is amended by adding a new section to read:

6 Sec. 11.76.107. FAILURE TO SUPERVISE CIGARETTE VENDING MACHINE. (a)

7 A person commits the offense of failure to supervise a cigarette vending machine if the person
8 owns premises licensed as a beverage dispensary under AS 04.11.090 and with criminal
9 negligence fails to have an employee supervise a vending machine on those premises that
10 dispenses cigarettes, cigars, tobacco, or products containing tobacco as required by
11 AS 11.76.100(b)(3).

12 (b) Failure to supervise a vending machine is a violation and upon conviction is
13 punishable by a fine of not less than \$300.

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16 PROHIBITED. (a) A person may not sell cigarettes, cigars, tobacco, or tobacco products by
17 vending machine or permit the sale of cigarettes, cigars, tobacco, or tobacco products by vending
18 machine on property owned by the person.

19 (b) The court shall forward to the Department of Commerce and Economic Development
20 a record of each person convicted under this section.

21 (c) A person who violates this section is guilty of a violation and shall be punished by
22 a fine of not less than \$300.

23 * Sec. 8. AS 43.50.010(a) is amended to read:

24 (a) A person may not sell, purchase, possess, or acquire cigarettes as a manufacturer,
25 distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer without a
26 license.

27 * Sec. 9. AS 43.50.010(b) is amended to read:

28 (b) The department, upon application and payment of the fee, shall issue a license to each
29 manufacturer, distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer.
30 The department shall adopt reasonable regulations that it considers necessary in respect to the
31 application for and the issuance of licenses.

1 * **Sec. 10.** AS 43.50.020 is amended to read:

2 Sec. 43.50.020. SEPARATE LICENSES. If a person operates more than one place of
3 business, the person shall [MUST] obtain a separate license for each place of business [,
4 EXCEPT THAT A PERSON OPERATING ONE OR MORE CIGARETTE VENDING
5 MACHINES IS CONSIDERED TO HAVE ONLY ONE PLACE OF BUSINESS FOR THE
6 PURPOSE OF A LICENSE UNDER AS 43.50.010 - 43.50.180]. A person licensed only as a
7 manufacturer, distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer
8 may not operate in another capacity unless the appropriate license for it is first secured. Each
9 license shall be exhibited at the place of business for which it is issued and in the manner
10 prescribed by the department.

11 * **Sec. 11.** AS 43.50.070 is amended to read:

12 Sec. 43.50.070. REVOCATION OF LICENSES. The department may suspend or revoke
13 a license issued under AS 43.50.010 - 43.50.180 (1) for a criminally negligent violation of
14 AS 11.76.100, 11.76.107 or a violation of AS 43.50.010 - 43.50.180 or a regulation of the
15 department adopted under AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the
16 capacity for which the license was issued; or (3) if a manufacturer, distributor, or wholesale
17 distributor negligently sells tobacco or products containing tobacco to a nonlicensed retailer or
18 a retailer whose license endorsement under AS 43.70.075 has been suspended. A person whose
19 license is suspended or revoked may not sell cigarettes or permit cigarettes to be sold during the
20 period of the suspension or revocation on the premises occupied or controlled by that person. A
21 disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender,
22 renewal, or extension of a license issued under AS 43.50.010 - 43.50.180. The department shall
23 comply with the provisions of the Administrative Procedure Act (AS 44.62).

24 * **Sec. 12.** AS 43.70.075(d) is amended to read:

25 (d) If a person who holds an endorsement issued under this section, or an agent or an
26 employee of a person who holds an endorsement issued under this section acting within the scope
27 of the agency or employment, has been convicted of violating AS 11.76.100 or 11.76.107, or
28 violates a provision of this section or a regulation implementing this section adopted under
29 AS 43.70.090, the department shall suspend the endorsement for a period of

30 (1) 45 days; or

31 (2) 90 days, if within the past 24 months the person has been previously convicted

1 of violating AS 11.76.100 or 11.76.107, or a provision of this section or a regulation
2 implementing this section adopted under AS 43.70.090.

3 * Sec. 13. AS 43.70.075 is amended by adding a new subsection to read:

4 (f) A person who holds a license endorsement issued under this section shall post on the
5 licensed premises a warning sign as described in this subsection. A warning sign required by this
6 subsection must be at least 11 inches by 14 inches and must read, in lettering at least one-half
7 inch high, "WARNING: Tobacco products are highly addictive. Cigarettes cause lung disease
8 and cancer. Smoking during pregnancy may result in fetal injury, premature birth, and low birth
9 weight. The sale of tobacco products to persons under age 19 is illegal." The sign must also
10 include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal
11 diameter within a surrounding red circle. A person holding an endorsement issued under this
12 section shall display the sign in a manner conspicuous to a person purchasing or consuming
13 tobacco products on the licensed premises. The department shall, without charge, furnish
14 warning signs required under this section to a person who holds an endorsement issued under this
15 section or a person who requests the sign with the intention of displaying it.

16 * Sec. 14. AS 11.76.100(b), 11.76.100(c), and AS 43.50.030(c) are repealed.

17 * Sec. 15. The supreme court shall include on a schedule of bail amounts the fine established under
18 AS 11.76.100(d) and 11.76.107(b) for a violation of those sections.

19 * Sec. 16. The supreme court shall include on a schedule of bail amounts the fine established under
20 AS 11.76.107(c) for a violation of that section.

21 * Sec. 17. Sections 3, 7, 8, 9, 10, 14, and 16 of this Act take effect January 1, 1995.

Sectional Analysis

Draft CS for CS HB 84 (Judiciary) — Work Draft: LS0139\M (4/30/91)
Youth Tobacco Addiction Prevention Act

Section 1

Findings.

Section 2

Amends AS 11.76.100 (a) to establish that it is a violation to negligently sell, give or exchange tobacco products or to negligently maintain a tobacco product vending machine. This section clarifies that a violation is subject to the negligence standard.

Section 3

Effective January 1, 1995, amends AS 11.76.100 (a) to delete language referencing the sale of tobacco products through vending machines and provide that it is a violation to sell tobacco products through a vending machine.

Section 4

Until January 1, 1995, a person may maintain a tobacco vending machine located on premises licensed as a beverage dispensary under AS 04.11.090.

Section 5

Amends AS 11.76.100(d) to establish that the sale or gift of tobacco to a minor is a violation punishable by a fine of \$300.

Section 6

Until January 1, 1995, it is a violation for a person to fail to supervise a tobacco vending machine.

Section 7

Effective January 1, 1995, the sale of tobacco products through vending machines is prohibited. The court shall forward a record of any person

convicted to the Department of Commerce and Economic Development. A violation is punishable by a fine of \$300.

Section 8

Conforming amendment. Effective January 1, 1995, amends AS 43.50.010(a) to remove language referencing the sale of tobacco products through vending machines.

Section 9

Conforming amendment. Effective January 1, 1995, amends AS 43.50.010(b) to remove language referencing the sale of tobacco products through vending machines.

Section 10

Conforming amendment. Effective January 1, 1995, amends AS 43.50.020 to remove language referencing the sale of tobacco products through vending machines.

Section 11

Amends AS 43.50.070 to add that violation of the law regarding the criminally negligent sale or gift of tobacco to minors (AS 11.76.100) or the sale of tobacco products through vending machines (AS 11.76.107) are grounds for the suspension or revocation of a tobacco sales license under AS 43.50.010-180.

Section 12

Amends AS 43.50.075(d) to reference that a violation of AS 11.76.107 is grounds for suspension of a tobacco license endorsement.

Section 13

Amends AS 43.50.010 to add a new subsection to require the posting of warning signs on the premises where tobacco products are sold.

Section 14

Conforming amendment. Effective January 1, 1995, AS 11.76.100(b), regarding the interim placement of vending machines on premises licensed as a beverage dispensary; AS 11.76.100(c), language regarding the maintenance of a vending machine; and AS 43.50.030(c), regarding a license fee for tobacco vending machine operators are repealed.

Section 15

Prior to January 1, 1995, directs the supreme court to include on a schedule of bail amounts the fines resulting from violations of the law regarding tobacco sales or gifts to minors or through vending machines for violations under AS 11.76.100(d) and AS 11.76.107(b).

Section 16

Effective January 1, 1995, directs the supreme court to include on a schedule of bail amounts the fines resulting from violations of the law regarding tobacco sales through vending machines under AS 11.76.107(c).

Section 17

Effective date. Sections 3, 7, 8, 9, 10, 14, and 16 take effect January 1, 1995.

North Star Vending

P.O. BOX 201627 ANCHORAGE, ALASKA 99520
337-6748 694-1277 FAX (907) 338-7251

April 28, 1991

Representative Kay Brown
Pouch "V"
Juneau, Alaska 99811

Dear Representative Brown,

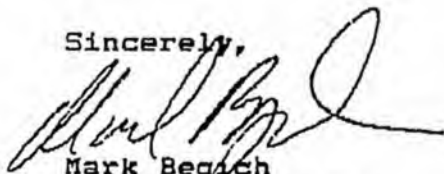
I have reviewed your Committee Substitute for House Bill 84, An Act Relating to the Use, Sale, Exchange, or giving of Tobacco and Tobacco Products, overall I have no objections to the legislation.

The intent of the legislation is very good.. With in the industry we have made strong efforts to prohibit the use of tobacco products among our youth and I believe we have been very successful.

The committee substitute has addressed some of the concerns I had with the original bill. As I had explained to you and your staff the machines that vend cigarettes are very expensive and if the original bill became law it would have been very costly to some businesses. By allowing a phase in of the law you will give a chance for the vendors to amortize out their equipment costs over a reasonable time and at the same time getting to your final goal of limiting access of tobacco products to our young people. This change is appreciated.

Thanks for taking the time to work on these modifications. If there is anything else I can do please don't hesitate to contact me.

Sincerely,

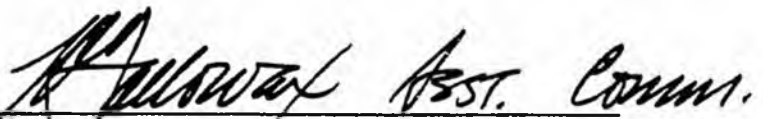


Mark Begich
Managing Partner

CSHB 84 (L&C): "An Act relating to the offense of selling or giving tobacco to a minor; prohibiting sale of tobacco products by vending machine; requiring certain retailers to post a tobacco warning sign; and relating to the suspension or revocation of a license to sell, purchase, possess, or acquire cigarettes."

The bill attempts to reduce the availability of tobacco products by prohibiting the sale of tobacco products by vending machines. The bill also requires the court to notify the business licensing section of the Department of Commerce and Economic Development of any person convicted of violating the prohibition on vending machine sales in order to facilitate suspension of the person's business license tobacco endorsement. The department must also provide a consumer warning sign to be posted by all businesses that are issued the tobacco endorsement on their business license.

CSHB 84 (L&C) will strengthen existing laws concerning the illegal sale of tobacco to minors under the age of 19 by removing the availability of tobacco vending machines and, therefore, the department supports passage of the bill.


Glenn A. Olds, Commissioner

Date: 3-22-91

House Bill No. 84

For an Act entitled: "An Act relating to the sale, exchange, or giving of tobacco and tobacco products."

Summary

This bill amends AS 11.76.100, Selling or giving tobacco to a minor and AS 43.50. Article 1, Cigarette Tax Act, Sections 10 and 20, License and Separate Licenses. The bill repeals Subsection (b) and (c) of AS 11.76.100 and subsection (c) of AS 43.50.030. These subsections refer to the offense committed through the sale of tobacco products to a minor by vending machines and the licensing of vending machine operators to sell tobacco products. Section 107 is added to AS 11.76 prohibiting the sale of tobacco products by vending machines and provides for a fine of not less than \$300.00 for those found in violation. Subsection (d) in AS 11.76.100 is amended to fine persons not less than \$300.00 who are convicted in violation of selling or giving tobacco to a minor. Section 43.50.070(1) is amended to provide for suspension or revocation of license for those found criminally negligent in violation of selling tobacco products to minors or the sale of tobacco products through vending machines.

Subsection (f) is added to AS 43.50.010 and requires persons holding a license to sell tobacco products to post an 11 by 14 inch warning sign that reads "WARNING: Tobacco products are highly addictive. The sale of tobacco products to persons under age 19 is illegal." This sign must also depict a pack of cigarettes defaced by a red diagonal diameter within a surrounding red circle.

Discussion

Only a very small percentage of smokers begin smoking as adults. Efforts at prevention must focus on children. Vending machines are the main source of cigarettes for the youngest children.

Nicotine addiction becomes quickly established in children as evidenced by studies that document the difficulty children have in quitting. Given the prevalence of smoking in the Alaska (33.8%) and the Nation (26.5%), tobacco use is the most widespread form of drug dependency. The sale of tobacco should be considered as seriously as the sale of alcohol and other

addictive drugs.

In addition, tobacco-use represents the most extensively documented cause of disease ever investigated in the history of biomedical research. There are forty-three identified carcinogens present in tobacco smoke and high concentrations of carcinogenic tobacco-specific nitrosamines found in smokeless tobacco.

Maternal smoking is associated with several complications of pregnancy in addition to a 25 to 50 percent high rate of fetal and infant death among women who smoke during pregnancy.

The economic impact of smoking in Alaska, the smoking attributable direct and indirect costs, was 82.3 million in 1985. This includes 2.4 million in pediatric deaths associated with smoking.

Alaska is among the states at highest risk for tobacco use and its devastating health consequences. Alaska has the highest age-adjusted lung cancer death rate in the Nation. Close to 90% of all lung cancer deaths are caused by cigarette smoking and 43.4% of Alaska males over 20 smoke, the highest smoking rate in the country.

Cancer was the second leading cause of death in Alaska in 1986 and 1987, accounting for 21% of all deaths, 30 percent of all cancer deaths and again, 90% of all lung cancer deaths are caused by smoking.

Recent studies by the Centers for Disease Control and the American Cancer Society rank Alaska second in the nation with deaths from oral and pharyngeal cancer and tied for third in our death rate from all cancers. Risk taking behaviors associated with oral and pharyngeal cancer are tobacco use and heavy alcohol consumption.

The elimination of vending machines will make tobacco products less available and reduce children's and adolescent's opportunity to experiment with tobacco products and lessen the likelihood that children will develop a regular pattern of use.

Studies have shown that children and adolescents who start to smoke do not understand the nature of tobacco addiction and are unaware of or underestimate important health consequences of smoking. Children and adolescents decision to smoke is therefore not a fully informed choice.

Studies by states and voluntary health organizations have shown that merchant compliance with tobacco access laws is

low. A recent study reported that 80 percent of the retailers in five states were violating the law and selling to minors.

However, compliance with the law was six times greater in stores where signs were posted compared to stores without signs. The posting of the sign as required by this bill, will increase the difficulty a minor has in obtaining tobacco products through a higher merchant compliance with the law.

The initiatives contained in this bill are becoming more widespread. Legislation restricting the sale of tobacco products through vending machines exists in nine states with Colorado banning the sale of smokeless tobacco products through vending machines.

There are currently 22 cities and/or counties in the U.S. that have a total ban on vending machine sales of tobacco products. In addition, there are 14 states that require the posting of signs relating to prohibiting the sale of tobacco products to minors.

In addition, the 100th Congress introduced legislation, (H.R. 3658), that included the limiting of sales of tobacco products to over-the-counter (prohibiting vending machine sales) and requiring every retail establishment selling tobacco products to post a sign stating "The sale of cigarettes to minors is strictly prohibited".

Given both the highly addictive nature of tobacco use and its adverse health consequences, it is important to protect children and adolescents from using tobacco until they are capable of making a mature and informed decision.

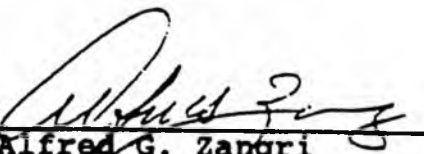
This bill would compliment the laws already in place that are known to reduce the availability of tobacco products to children 1) restricting the sale of tobacco products to minors; 2) banning the use or possession of tobacco by minors; 3) banning vending machines and 4) the posting of signs at the point-of-purchase. Banning the free distribution of tobacco product samples is the fifth policy shown to be effective in preventing initiation of tobacco addiction.

Although addiction is one of the health consequences of the use of tobacco products, the Department recommends strengthening the message on the sign; for example "WARNING: Tobacco products are highly addictive, hazardous to your health and may cause complications during pregnancy. The sale of tobacco products to persons under age 19 is illegal." Stronger language may be substituted such as "a cause of lung disease and cancer".

Recommendation


The Department strongly supports this bill which will help prevent the initiation of smoking among young children and adolescents.

Recommended: _____


Alfred G. Zangri
Acting Director
Division of Public Health

Date: _____

Approved: _____


Theodore Mala, M.D., M.P.H.
Commissioner
Department of Health
and Social Services

Date: 2/25/91

10 Reasons to Eliminate Tobacco Vending Machines

1. Cancer-causing, addictive drugs should not be sold as if they were candy or sodapop.
2. No other dangerous, cancer-causing, addictive product or drug that is illegal for children to own is sold through vending machines. Cigarettes should not be the exception.
3. Each day more than 3,000 minors start smoking — approximately one new teenage smoker every 30 seconds — more than one million new teenage smokers each year.
4. According to a survey of high school seniors, the average age for the first use of cigarettes is 13 years. Vending machines are an especially significant source for these youngest of new smokers.
5. Industry sponsored research has documented that teens who illegally buy cigarettes from vending machines find vending machines to be attractive because no one will stop them from buying cigarettes this way.
6. A survey of high school seniors found a strong correlation between those who were cigarette smokers and those who had used harder drugs. Non-smokers were found to be less likely to have used harder drugs.
7. Secretary of Health and Human Services Louis Sullivan and former Surgeon General Koop have called for total ban on cigarette vending machines.
8. The federal Department of Health and Human Services estimates that smoking related illness cost the nation about \$52 billion per year (about \$221 per capita) in health treatment and other costs.
9. In Alaska, it has been estimated that for one year (1985) there were 261 smoking-attributable deaths in Alaskans over age 20 representing 1,363 person-years of potential life lost *direct* costs of \$52.8 million (hospital care, physician services, medication, etc.) and *indirect* morbidity and mortality costs of \$47.7 million — for just one year then, *total costs in excess of \$100 million.*
10. More than twenty local governments in Minnesota have passed total bans on cigarette vending machines.

Alaska Federation of Natives, Inc.

February 27, 1991

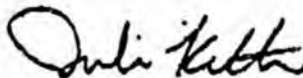
Rep. David Finkelstein, Chairman
House Labor & Commerce Committee
ALASKA STATE LEGISLATURE
P.O. Box V
Juneau, AK 99811

Dear Rep. Finkelstein:

In October of 1990, delegates to the Alaska Federation of Natives' Annual Convention unanimously passed Resolution 90-13, supporting the inclusion of tobacco in mandates for state and federal drug abuse agencies. This action was taken in recognition of the growing health threat posed by tobacco products to Alaska Natives, especially Alaska Native youth.

As you are aware, House Bill 84, sponsored by Rep. Kay Brown, is pending before your Committee. I am writing to convey the support of AFN for this measure. While we recognize there may be economic costs to some businesses as a result of this legislation, we believe that the resultant health benefits far outweigh any financial loss. Once again, AFN supports the intent of HB84. Thank you for your time.

Sincerely,



Julie Kitka
President

cc: Rep. Kay Brown
Anne Walker, ANHB



April 30, 1991

The Honorable Kay Brown
Alaska House of Representatives
PO Box V
Juneau, Alaska 99811

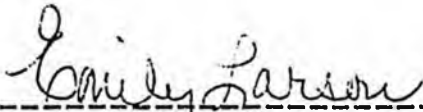
Re: HB84, an Act banning sale of tobacco from vending machines

Dear Representative Brown:

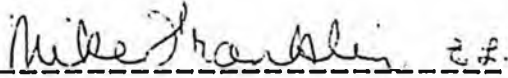
In keeping with our mission to eradicate the dreaded disease of cancer, the Alaska Division of the American Cancer Society wholeheartedly endorses and supports the passage of HB84.

In our view, vending machines have not had the control put upon them to adequately discourage our young people from purchasing tobacco products.

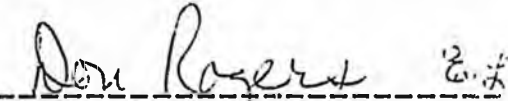
Thank you for your sponsorship and efforts at a measure to help insure the health and well being of Alaska's youth.



Emily Larson, Chairman of Board
Alaska Division of American Cancer Society



Dr. Michael Franklin, President
Alaska Division of American Cancer Society



Dr. Don Rodgers, Public Issues Chairman
Alaska Division of American Cancer Society



TANANA CHIEFS CONFERENCE, INC.

122 FIRST AVENUE
FAIRBANKS, ALASKA 99701-4897
PHONE (907) 452-8251 FAX (907) 451-8936

April 30, 1991

Representatives Eileen MacLean
& Mike Navarre
Co-Chairs, House Finance Committee
P.O. Box V
Juneau AK 99811

Dear Co-Chairs MacLean & Navarre:

The Tanana Chiefs Conference supports House Bill 84, a bill designed to curb the purchase of tobacco products by teenagers through vending machines.

Tobacco is the nation's leading preventable cause of death and disease. Studies show 18% to 21% of all high school students are smokers. Teenagers spend over one billion dollars a year on tobacco products. One of the major sources of cigarettes for teenagers is the vending machines. Vending machines provide easy and undetected access to cigarettes as these machines do not always have adult supervision even though it is required. The tobacco industry gears their marketing efforts to youth. It is much easier to start smoking at a young age than it is to start as an adult. Furthermore, when a young person becomes addicted to nicotine, that young adult will more than likely continue this habit for many, many years.

Tobacco use is not a free individual choice for teenagers. We want to make it difficult to learn to smoke. We have an opportunity to take away at least one major source of supply to teenage smokers. House Bill 84 has our full support and we hope you give serious consideration to the positive aspects of this bill.

Sincerely,

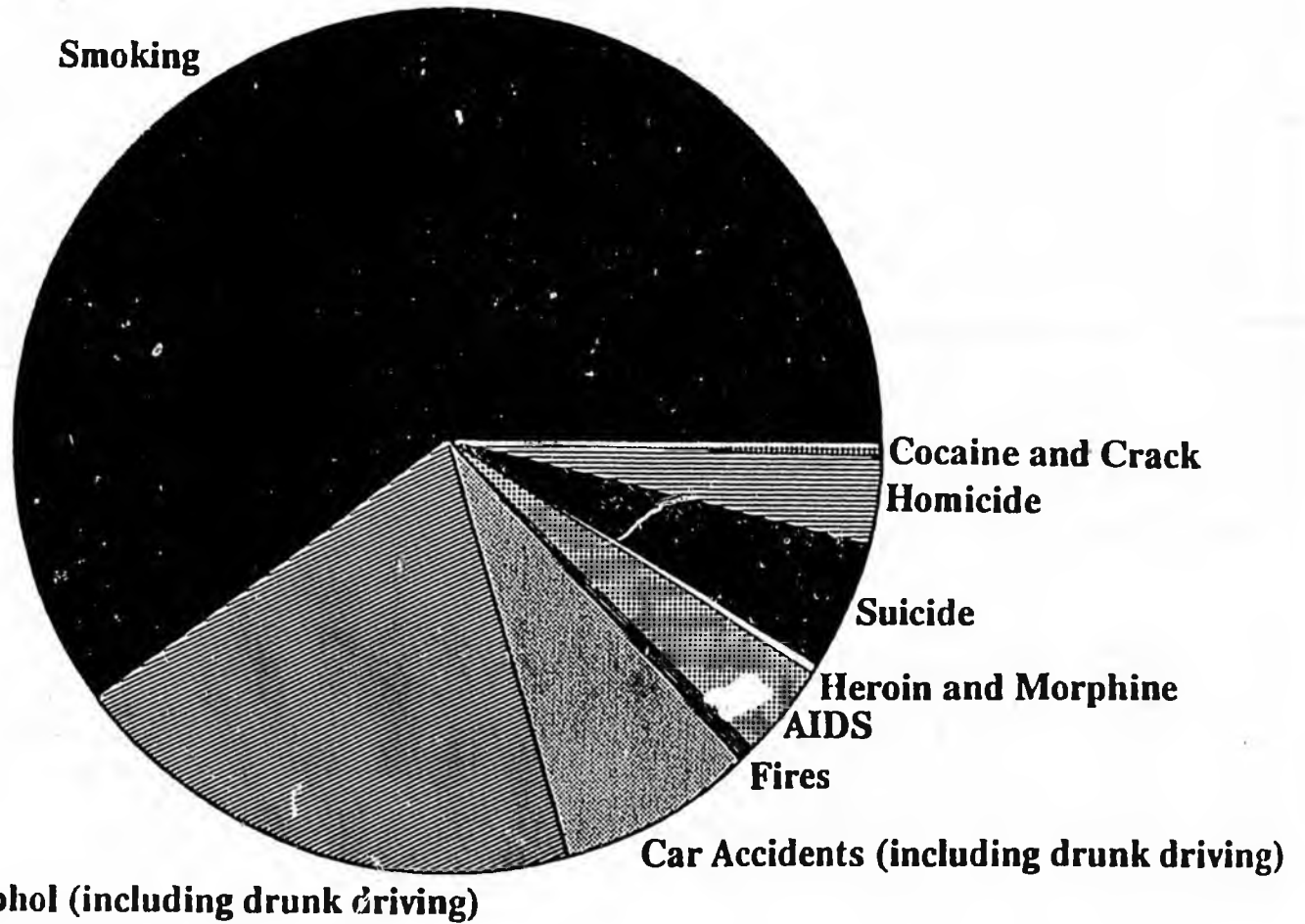
Michael Graf, Ph.D.
Director, Community Health Services

cc: House Finance Committee Members

Smoking Kills More Americans Each Year Than Alcohol, Cocaine, Crack Heroin, Homicide, Suicide, Car Accidents, Fires, and AIDS combined.

Approximate Number of Deaths:

Smoking.....	390,000 ¹
Alcohol (including drunk driving).....	125,000 ²
Car Accidents (including drunk driving).....	47,000 ³
Fires.....	4,000 ³
AIDS.....	23,000 ⁴
Heroin and Morphine.....	2,400 ⁵
Suicide.....	31,000 ⁵
Homicide.....	21,000 ⁵
Cocaine and Crack.....	3,300 ⁵



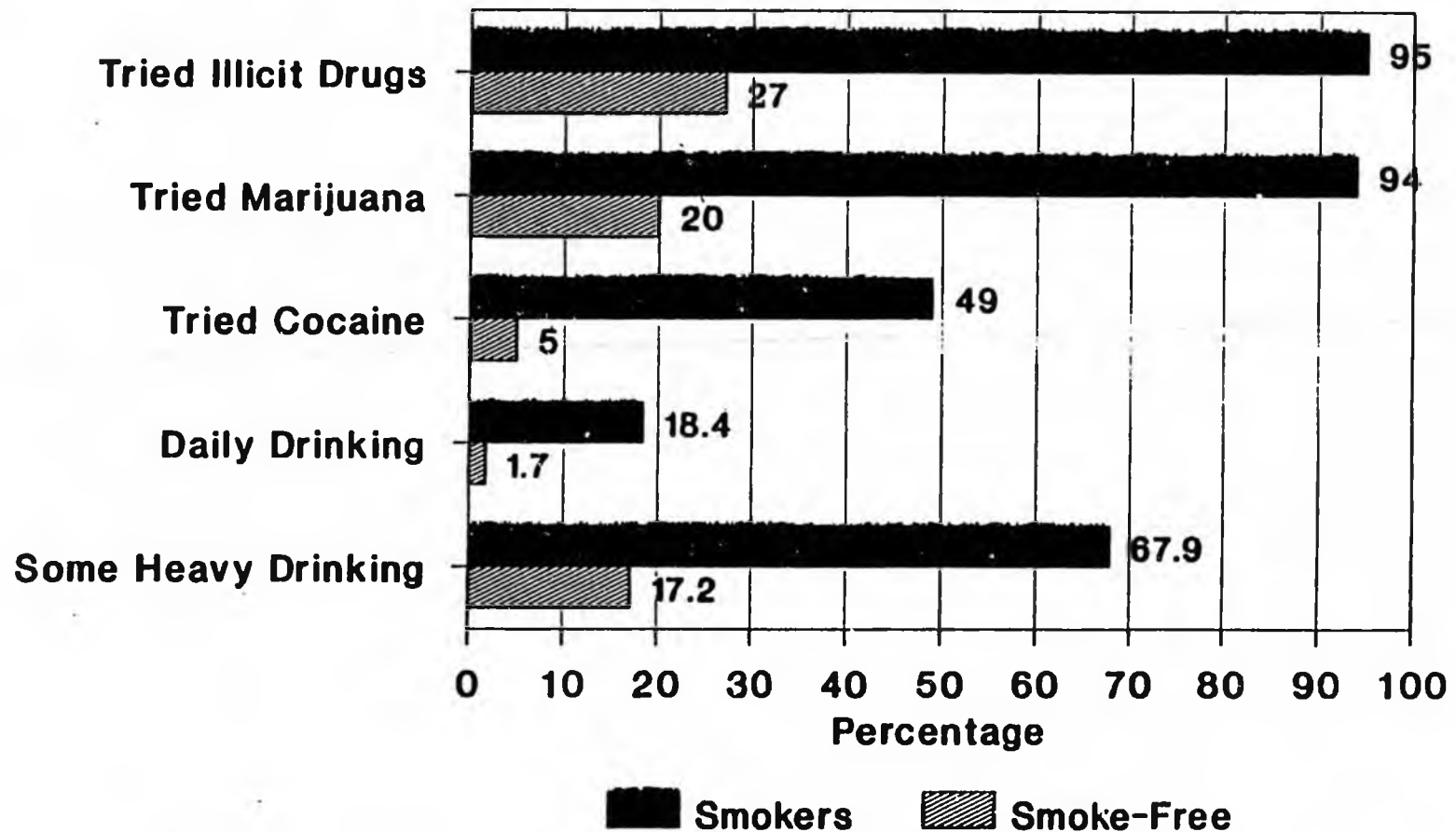
¹1989 Surgeon General's Report, 1985 data
²Surgeon General's Office, 1985 data
³National Safety Council, 1989 data
⁴Center For Disease Control, 1989 data
⁵National Center For Health Statistics, 1987 data

Smokefree Educational Services
 Incorporated

375 South End Avenue, Suite 321
 New York, NY 10280
 Phone: (212) 912-0964
 Fax: (212) 488-8911

TOBACCO AS A GATEWAY DRUG

Percentage of High School Seniors Who
Have Tried Illicit Drugs and Alcohol
Smokers vs. Smoke-Free



Source: U.S. National Institute on Drug Abuse:
National Trends in Drug Use and Related Factors Among
American High School Students and Young Adults 1975-86

Smokefree Educational Services, New York City

PLEASE MICROFILM TOP PAGE ONLY

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

- miscellaneous reports on the effects of smoking
- news clippings
- letters of support



Smokefree Educational Services

Incorporated

375 South End Avenue, Suite 32F
New York, NY 10280

Joseph W. Cherner, President
Phone: (212) 912-0960
Fax: (212) 488-8911

CIGARETTE VENDING MACHINES SELL CIGARETTES TO CHILDREN, 11-15 YEARS OLD, 100% OF THE TIME

Six children, ages 11-15, were able to buy cigarettes from 35 of 35 cigarette vending machines tested in Manhattan, Brooklyn, Queens, Staten Island, and the Bronx.

Over 25% of these vending machines were located in bars. Eleven and twelve year olds had no more difficulty buying cigarettes from vending machines in bars than they had buying cigarettes from vending machines in restaurants, pizza parlors, or video arcades. In all instances, the barman and/or patrons watched but did not intervene.

The 35 cigarette vending machines were located in the following establishments:

Restaurants	11	Hotel	1
Bars	8	Video Arcade	1
Pizza Parlors	5	Ice Cream Parlor	1
Supermarkets	4	Other	2
Bowling Alleys	2	Total	35

In one case, a restaurant employee ran after an 11 year old to tell him that he forgot his change. In another case, a gas station attendant told an 11 year old that they did not have a cigarette vending machine, but would have one next week. In almost all cases, adults watched but did not care.

No other dangerous product or drug, addictive product or drug, or cancer-causing product or drug is sold through vending machines. No other product or drug which is illegal to sell to children is sold through vending machines. Dangerous, addictive, cancer-causing drugs should not be sold like candy and soda pop. Cigarettes should not be sold in vending machines.