

**HB**

**365**

# FISCAL NOTE

STATE OF ALASKA

BILL NO: HB 365

**1996 LEGISLATIVE SESSION**

Revision Date: January 9, 1996 Dept. Affected: Public Safety  
 Title: Revisions to Minor in Possession of Tobacco Statute BRU: Alaska State Troopers  
 Sponsor: Representative Bunde Component: Detachments  
 Requestor: H. State Affairs COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b> Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**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.)**

This bill does not have a fiscal impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: January 9, 1996  
 Approved by Commissioner: *Del Smith* Date: 2/24/96  
 Agency: Ronald L. Otte, Department of Public Safety

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FISCAL NOTE

RECEIVED  
MAY - 2 1996

Ans'd.....

May 1, 1996

Dear Senator Taylor,

The passage of HB 365 from  
your committee and into law  
is important for all of Alabama.

I'm proud that our Juvenile  
community has led the way  
in stopping tobacco sales to  
youth by using students to  
identify which businesses are  
selling to minors. We've gone  
from less than 50% compliance  
to almost 100%. Passing this  
bill allowing more aggressive  
procedures for stopping sale  
of tobacco to minors will help  
spread our local success throughout  
the state. This along with the  
tobacco tax will keep my kids  
and theirs from the smoking habit.

Thank you,  
Jefferson R. ...



Rick Mystrom,  
Mayor

# Municipality of Anchorage

Department of Health and Human Services

825 "L" Street

P.O. Box 196650 Anchorage, Alaska 99519-6650



Date: May 1, 1996

To: Senate Judiciary Committee  
Chair : Robin Taylor  
V-Chair: Lyda Green  
Mike Miller  
Johnny Ellis  
Al Adams

Subject: HB365

After speaking with an aide for the Judiciary Committee about HB 365, I wanted to address one of the concerns of the committee about the bill. I understand there was a question about why there was a special bill needed to exempt the usage of minors in stings when law enforcement uses people for stings already for alcohol and narcotics without a special bill. While it is true that the police use adults for stings in certain cases, they most likely do not use minors. There is a big difference in using an adult with their own permission, and using a minor.

A concern that the Municipal Prosecutor expressed to our group in Anchorage about using minors in a tobacco sting is that it is illegal not only for the minor to possess tobacco, but also for an adult to incite a youth to buy an illegal product. This is considered contributing to the delinquency of a minor, and the Prosecutor felt it would put any enforcement effort in a precarious situation should the merchant cited decide to sue. The Prosecutor said that we cannot get around it being illegal, only the Legislature can change the law.

Without a change in the law specifying an exemption for using youth in tobacco compliance efforts, it will be difficult to get widespread support in the Municipality. Please feel free to contact us if you have any other questions.

Delisa Culpepper, Manager  
Community Health Promotions Program  
343-4622  
343-6564 Fax

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

Department of Health & Social Services  
Division of Public Health  
Section of Community Health and Emergency Medical Services

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April 30, 1996

Senator Robin Taylor  
Room 30, Capitol Building  
Juneau, AK 99801-1182

Dear Senator Taylor:

At the hearing on HB 365 held in the Senate Judiciary Committee yesterday, you requested information on the number of other states that involve youth in conducting routine, unannounced inspections (compliance checks) of vendors of tobacco products, under the Synar Amendment.

This morning I spoke with Sandie Johnson, Public Health Advisor for the State of Alaska, with the Division of State Prevention Systems, Center for Substance Abuse Prevention, in Rockville, Maryland. The Center for Substance Abuse Prevention (CSAP) is located within the federal Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMSHA). In January of this year, SAMSHA distributed the regulations implementing the Synar Amendment, "45 CFR Part 96 "Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grants; Final Rule".\*

She informed me that *ninety percent* of states currently involve youth in conducting the unannounced inspections of vendors. She also added that the ten percent that currently do not will likely need to revise their inspection procedures, to comply with the recently published regulations. Youth involvement in inspections is not required in the federal regulations and CSAP is open to inspection protocols which do not involve youth. *However, they do not see how inspections can reliably be done without involving youth. All guidance for conducting inspections that CSAP has provided to states since publication of the federal register includes youth involvement.*

If I can be of further assistance to you or other members of the Judiciary Committee on issues surrounding HB 365, please contact me. I can be reached at phone 465-3140.

Sincerely,



Karen Dalenius, MPH  
Tobacco Prevention and Control Coordinator

cc: Representative Con Bunde  
Loren Jones

\* the Synar Amendment is a federal law that mandates adoption and enforcement of laws prohibiting sale or distribution of tobacco products to those younger than 18 years

REPRESENTATIVE CON BUNDE  
CO CHAIR HEALTH, EDUCATION  
& SOCIAL SERVICES  
VICE CHAIR RULES

**Alaska State Legislature**  
**House of Representatives**

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**SPONSOR STATEMENT**  
**HB 365**

**“An Act relating to the offense of possession of tobacco  
by a minor.”**

The problem of youth in possession of tobacco is pervasive in Alaska and throughout the United States. In 1992, the problem was addressed on a federal level by the passage of the Synar Amendment. This amendment requires states to conduct random, unannounced inspections of locations which sell tobacco and to show a reduction in illegal sales. States which do not conduct the inspections and reduce rates of illegal sales will lose some portion of their federal substance abuse block grants.

In order to reduce rates of nicotine addiction in youth and to ensure compliance with the Synar Amendment, members of the Alaska Tobacco Control Alliance (ATCA) have been seeking to undertake “compliance checks” to determine which merchants are selling tobacco to children. Compliance checks that involve having undercover youth attempt to buy tobacco, are equivalent to the “random unannounced inspections” specified by the Synar Amendment. However, because state law prohibits the possession of tobacco by youth, the youth who participate in compliance checks could conceivably be charged with breaking the law, and the adults who work with them could be charged with contributing to the delinquency of a minor.

HB 365 was introduced to ensure our state's ability to conduct compliance checks consistent with the mandate of the Synar Amendment. This legislation adds a section to existing statute that will allow youth to work in tandem with law enforcement agencies to complete compliance checks relating to the sale of tobacco to youth.

If there are no compliance checks, there is no way to know which stores are selling tobacco to children. If police don't know who is selling, they obviously cannot enforce the law. Youth will continue to purchase tobacco and become addicted to nicotine, and we will continue to see high rates of tobacco related death and disease in Alaska. In addition, many other substance abuse prevention and treatment efforts will suffer if federal substance abuse block grants are reduced.

I urge your positive support of this legislation. This legislation will eliminate current obstacles to carrying out compliance checks and will reduce illegal sales of tobacco.

Department of Health & Social Services  
Division of Public Health  
Section of Community Health and Emergency Medical Services

TERRY KNOWLES, GOVERNOR

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April 24, 1996

Representative Con Bunde  
Room 108, Capitol Building  
Juneau, AK 99801

Dear Representative Bunde:

This is in response to your request for information pertaining to the financial burden placed upon the state if HB 363 is not passed.

The Synar Amendment is a federal law that mandates adoption and enforcement of laws prohibiting sale or distribution of tobacco products to those younger than 18 years. The federal Department of Health and Human Services distributed the final regulation implementing the law just two months ago. According to provisions of this new law, states must show that they are enforcing their minimum age laws in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to underage youth. States must conduct annual, random unannounced inspections (of vendors of tobacco products) to ensure compliance with the law. In general, an inspection involves a minor entering the outlet and attempting to purchase a tobacco product. The proportion of all purchase attempts that are successful is used to estimate the percentage of outlets that sell tobacco products to minors.

The first applicable year for Alaska concerning these tobacco regulations was FY 94. In FY 94 and 95, the state was required 1) to have in effect a youth access law, 2) to be conducting annually a reasonable number of random, unannounced inspections of outlets to ensure compliance with the law, and 3) to plan and begin to implement other actions which the state believed were necessary to enforce the law.

For FY 96 and every year thereafter, the state is required to conduct random, unannounced inspections annually to ensure compliance with the law. These inspections must be conducted in such a way as to provide a probability sample of outlets. The sample must reflect the distribution of the population under age 18 throughout the State and the distribution of the outlets throughout the State accessible to youth. An annual plan, detailing the State's activities to enforce the law and of the overall success the State has achieved in reducing the availability of tobacco products to individuals under age 18, must be submitted.

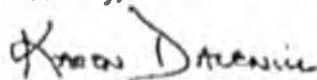
The Federal Substance Abuse and Mental Health Services Administration (SAMSHA) estimated the annual cost to the State to carry out the regulations at \$250,000. No new federal or state funds are available to cover this cost. Unlike some other states, Alaska does not have designated tobacco tax revenues or revenues generated from fees levied against non-compliant vendors to assist with implementation of these regulations.

If HB 363 is not passed, the difficulty and cost of complying with the Synar regulations in Alaska will greatly increase. Since it is not lawful at present for youth under age 19 to possess tobacco products, involving youth in inspections would require securing local legal authority in each identified community (which has one or more vendors included in the annual scientific sample). Such logistics may prevent the State from complying with the regulations.

The FY 96 baseline is due to the federal Department of Health and Human Services by September 1, 1996. The penalty associated with state noncompliance during this third applicable year is stiff. Thirty percent of the SAMSHA Substance Abuse Prevention and Treatment Block Grant for the State of Alaska, \$480,000, can be withheld. Such an action would cripple statewide alcohol and drug abuse services. The penalty increases. Forty percent of the grant can be withheld in FY 97 if the state is out of compliance.

Please contact me if I can be of further assistance to you. I can be reached at phone 465-3140.

Sincerely,



Karen Dalenius, MPH  
Tobacco Prevention and Control Coordinator

STATE

TONY KNOWLES, GOVERNOR

**DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES**

*ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE*

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January 22, 1996

The Honorable Con Bunde  
Alaska State House of Representatives  
State Capitol, Room 108  
Juneau, AK 99801-1182

Dear Representative Bunde:

The Advisory Board on Alcoholism and Drug Abuse, Legislative Committee met in Juneau on January 17, 1996, to review legislation that will be considered during this session. As part of that review, House Bill No. 365 was reviewed and the Committee supports this initiative. We understand the preventative value of this carefully considered measure. We recognize that tobacco is the "gateway drug" for Alaska's young people and that measures which reduce access will result in delaying the age of first use. This directly supports one of the strategies in the State Strategic Plan for alcoholism and drug abuse, "Meeting the Challenge."

Please let us know if there is anything that we can do to support passage of this Bill. Our staff is available for your help in forwarding this as well as other initiatives that will result in reducing the devastating effect that alcohol and other drug abuse is having on our state.

Sincerely,



Valerie Therrien, Chair  
Legislative Committee

# **THE OHIO COMPLIANCE CHECK PROGRAM**

**An Instructional Manual**

**Tobacco Risk Reduction Program  
Bureau of Chronic Diseases  
Division of Preventive Medicine  
Ohio Department of Health**

**March 1995**

**SUPPORTING DOCUMENTS**

## PREFACE

This manual was produced by the Tobacco Risk Reduction Program of the Bureau of Chronic Diseases, Ohio Department of Health. The initial version of this document was developed to assist seven local health departments in Ohio to conduct tobacco sales compliance checks to help determine the extent of youth access to tobacco products.

The primary intent of this manual is to provide a "how to" guideline for local health departments and other community groups to plan and conduct effective tobacco sales compliance checks.

Parts I and III explain why compliance checks are needed. Part II gives an overview of the process. How to plan and conduct a tobacco product buying campaign is detailed in Parts IV and V. Part VI is devoted to conducting the education and media campaign, and Part VII covers merchant education.

There are two video tapes available that focus on the problem of youth access and can assist in planning compliance checks.

"Making a Difference: Reducing Minors' Access to Tobacco" runs 15 minutes and highlights the Raleigh, N.C. COMMIT Project efforts to reduce tobacco sales to minors

"Stop the Sale - Prevent the Addiction" is a 25 minute education program which can be used as an educational tool for a variety of audiences.

The videos are available from:

Ohio Department of Health  
Bureau of Chronic Diseases  
Tobacco Risk Reduction Program  
P.O. Box 118  
Columbus, Ohio 43266-0118  
614/466-2144

## ACKNOWLEDGEMENTS

Some of the materials used in this manual were pulled from documents used in other youth access programs conducted by the Davis County Health Department in Farmington, Utah and the Raleigh, North Carolina COMMIT Project. The COMMIT Project also produced the motivational video, "Making a Difference: Reducing Minors' Access to Tobacco."

The supplement entitled "Facing The News Media" was developed by Gary Beals of Gary Beals Advertising and Public Relations, La Mesa, California [(619) 463-5050].

Special appreciation goes to the youth who worked with and the staff of the following seven local health departments who used the initial version of this manual to conduct compliance checks.

Akron City Health Department  
Allen County Health Department  
Columbiana County Health Department  
Findlay City Health Department  
Licking County Health Department  
Trumbull County Health Department  
Washington County Health Department

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**PART I**

**FEDERAL AND STATE LAWS**

## OHIO COMPLIANCE PROGRAM

### PHS Act Section 1926

#### "Synar Amendment"

Section 1926 of the Federal Public Health Services Act, passed July 10, 1992, and effective October 1, 1992 (Federal FY 1993), requires states to do the following in order to receive full funding from the federal government for substance abuse programs. Failure to comply will result in a ten percent reduction in federal funds for the first year, increasing by ten percent per year to a maximum loss of 40 percent.

#### A. Relevant Law.

1. For Fiscal Year 1994 and subsequent fiscal years, the Secretary (HHS) will make a grant for substance abuse activities only if the State involved has in effect a law providing it is unlawful for any manufacturer, retailer or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

Ohio is in compliance with this requirement.

#### B. Enforcement Activities and Reports.

1. For the first applicable fiscal year and subsequent fiscal year... "the State involved will enforce the law described in Section A above in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18". The first applicable fiscal year for Ohio was 1994.
2. The State involved will -
  - a. annually conduct random, unannounced inspections to ensure compliance with Section A; and
  - b. annually submit to the Secretary a report describing -
    - 1) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;
    - 2) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and
    - 3) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

The Ohio Compliance Program addresses Section B, Enforcement Activities and Reports. The original effort was a short term program to meet the federal requirements for federal fiscal year 1994 (October 1, 1993 - September 30, 1994) activities. No final rules for this section have been promulgated by the Department of Health and Human Services; therefore, this program addresses only those requirements of the original legislation. When final rules are released, the Ohio Department of Alcohol and Drug Addiction Services and the Ohio Department of Health, in cooperation with other state and local organizations, can develop a more comprehensive plan to prevent minors from obtaining tobacco products.

OHIO REVISED CODE

Section 2927.02      Illegal distribution of cigarettes or other tobacco products; vending machines

- (A) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes or other tobacco products, or any agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes or other tobacco products shall do any of the following:
- (1) Give, sell, or otherwise distribute cigarettes or other tobacco products to any person under eighteen years of age;
  - (2) Give away, sell, or distribute cigarettes or other tobacco products in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes or other tobacco products to a person under eighteen years of age is prohibited by law.
- (B) No person shall sell or offer to sell cigarettes or other tobacco products by or from a vending machine except in the following locations:
- (1) An area either:
    - (a) Within a factory, business, office, or other place not open to the general public; or
    - (b) To which persons under the age of eighteen years are not generally permitted access;
  - (2) In any other place not identified in division (B)(1) of this section, upon all of the following conditions:
    - (a) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of such person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of such person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of such person.
    - (b) The vending machine is inaccessible to the public when the place is closed.
- (C) As used in this section, "vending machine" has the same meaning as "coin machine" as defined in Section 2913.01 of the Revised Code.
- (D) Whoever violates this section is guilty of illegal distribution of cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of this section, then illegal distribution of cigarettes or other tobacco products is a misdemeanor of the third degree.

**PART II**

**OHIO  
COMPLIANCE CHECK PROGRAM:**

**AN OVERVIEW**

## PHASE I - BASELINE COMPLIANCE CHECKS

Ohio Revised Code prohibits the sale or distribution of tobacco products to anyone under the age of 18 years, but it is not illegal for minors to buy or possess tobacco products other than on school property or at school sponsored activities. Local health departments can conduct random, unannounced compliance checks (inspections) of tobacco vendors.

It is recommended that health departments work in cooperation with appropriate local legal and law enforcement agencies (city/county prosecutor, chief of police, sheriff, etc.). In seeking the cooperation of these offices, health department staff should make clear the federal requirements for such inspections and the penalties to Ohio; a ten to forty percent reduction in federal substance abuse monies if they are not completed regularly and in a professional manner.

Health departments and local legal and law enforcement agencies should develop a plan of action for the different phases before any activities begin.

### Selection of Tobacco Vendors

At least one vendor in each of these categories will be inspected: convenience store/gas station, grocery store, drug store, and vending machine.

Section 1926 calls for "random, unannounced" inspections. Given that time is not a factor, a purely random sample may be feasible. An alternative selection method might be to divide all tobacco vendors into the categories given above. If possible, a listing of all tobacco sellers should be obtained from the county auditor. If this list is not available, a listing from another source such as the Yellow Pages of the telephone directory or a local business directory may be used. To select a percentage from each category, select every X number vendor as necessary. For example: thirty convenience stores/gas stations are on the list. To select 25 percent or one in four, go down the list selecting every fourth vendor.

Once the selection is made, minor adjustments might be made to correct for geographic distribution or other factors which might skew the results.

### Compliance Checks

Phase I compliance checks will establish the baseline sales rate to minors. Therefore, it is recommended that they be conducted without any public announcement and with discretion. A member of the health department staff should accompany underage youth to the sites selected for compliance checks. The staff person should remain out of sight but be available as minors attempt to buy cigarettes, snuff, or chewing tobacco. If asked, the youth should answer truthfully about his/her age. If the youth is successful, he/she should leave the premises and turn over the purchased product to the staff person supervising the compliance check. A record of the compliance check can be completed using the form provided by the Ohio Department of Health in this Manual.

At this time, no indication will be made to the vendor of the inspection or, if a sale was made, the violation of Ohio Revised Code. It is critical that the vendor not alert other tobacco sellers that compliance checks are taking place.

A project like the one in North Carolina found that a team of two teens and one adult can survey 10 - 15 locations per hour. Plotting locations on a map and planning the buying route ahead of time will speed the process.

### **Age of Youth**

The average age that people begin smoking is 13; 60 percent begin by age 14 and 90 percent by age 20. The youth assisting in the compliance checks should not be obviously underage. Other compliance check programs have found that boys under age 14 are most likely to be asked for IDs; girls 14 and over are most likely to be successful and have the confidence to function well. Health departments might want to consider these experiences and recruit youth from 15 to 17 years of age to make the buys.

### **Written Permission**

All youth participating in the compliance checks must have written permission from their parent or legal guardian. A suggested permission form can be found in Part V of this Manual.

## **PHASE II - INFORMATION AND EDUCATION**

Following collection of baseline data, the results of the inspections can be made public through a news release and/or press conference. The information released can include the number of successful buys and the total number of attempts, the ages of the buyers, and the types of tobacco vendors checked. No individual vendor names should be used. The purpose is to inform the public of the extent of illegal sales.

In addition, the news release/press conference should briefly explain the federal requirements to conduct such inspections and the penalties to Ohio if they are not done. The news release/press conference should make it clear that this is not a one-time activity, but will be ongoing as required by the federal government.

During Phase II, all vendors making illegal sales should receive a letter signed by the county/city prosecutor and/or police chief, and the health commissioner. The letter should state the details of the illegal sale (date, time, what was purchased) and cite the appropriate sections of the Ohio Revised Code. A copy of the code section can also be included. Vendors should be advised that this is a warning letter. They should be informed that unannounced inspections will be ongoing and any further illegal sales could result in appropriate legal action.

All tobacco vendors, including those who made illegal sales, should receive letters briefly describing the federal requirements for inspections, citing the Ohio Revised Code, and explaining that they can expect the inspections to be ongoing.

### **PHASE III - FOLLOW-UP COMPLIANCE CHECKS AND LEGAL ACTION**

Phase III should be similar to Phase I with certain important changes. During Phase III, a representative of the appropriate legal and/or law enforcement office may accompany the health department staff and youth on all inspections. Different youth than those used in Phase I may be used during the follow-up period.

During Phase III, all vendors who sold tobacco products (including vending machines) to minors during Phase I should be reinspected. In addition, other tobacco vendors can be selected so that the total number of inspections equals those conducted in Phase I.

Legal and law enforcement authorities can take legal action as decided before the inspections begin. It is recommended that all legal actions should be based upon sales made during Phase III - follow-up compliance checks, and not on sales made during Phase I.

### **PHASE IV - REPORTING**

Health departments should generate and maintain reports to document the compliance check activity. It is suggested that such reports include survey forms (a sample of which is included in this Manual). The report should also include a summary of Phase I and Phase III data, copies of news releases, letters and other materials used/developed, and a general summary of the compliance check project (what did or did not work well, recommendations for improvement, etc.).

The Ohio Department of Health (ODH) encourages local health departments to share reports of their general activity and results. As a result of receiving such reports, the ODH could develop and maintain a master file to assess the effectiveness of the compliance check programs among participating health departments throughout Ohio.

## RECOMMENDED TIME TABLE

The ODH recommends that health departments conduct Phase I through Phase III during consecutive weeks to enhance program effectiveness. A time table might look like this:

### Phase I

- Week 1 Train youth and conduct first compliance checks.
- Week 2 Compile data from first compliance checks and prepare for Phase II.

### Phase II

- Week 3 Issue news releases, hold news conference, send letters to vendors and send out information packets.

### Phase III

- Week 4 Conduct follow-up compliance checks.
- Week 5 Compile data from follow-up compliance checks and compare with results of first compliance checks.

**PART III**

**UNDERAGE  
CIGARETTE BUYING OPERATIONS:  
WHY CONDUCT THEM?**

## UNDERAGE CIGARETTE BUYING OPERATIONS:

### WHY CONDUCT THEM?

Questions have been raised about the advisability and the legality of a health agency sponsoring an event for young teens to buy cigarettes. Wouldn't we be arranging for them to do exactly what we didn't want them to do? Would buying cigarettes teach them how to do it? Would their parents even let them participate? Would we alienate members of the community rather than win them as allies? And isn't there already a law against selling cigarettes to minors and is this something law enforcement, rather than a health department, should do something about?

These are serious, legitimate questions that can be raised in the context of community concerns. Yet, we can justify our reasons for being involved in a community education program about tobacco.

- Many of us had been touched by tobacco-caused deaths of loved ones and knew we wanted to keep kids from ever starting to smoke.
- We knew the average age that smokers begin is 13, and understood that if we could prevent young teens from being able to buy cigarettes, that would be a big step toward preventing addiction resulting in later death and disease.
- We knew that much of the public, including many store owners, clerks, and teenagers, were unaware of - or unconcerned about - the law against selling cigarettes to anyone under 18 years old.

### Translating Beliefs Into Action

As it will probably turn out, your concerns will become insignificant compared to the impact the campaign can make on your community. Taking actions which can make a difference will develop a deep sense of pride among your teens, and even your community. The truth is that no one wants young kids smoking and the campaign can produce dramatic, visible results from your own actions. There is no substitute for becoming an actor in a campaign which can change a community's capacity to protect children's lives and health.

You can also accomplish some less tangible results. You can expect these kinds of rewards and changes in your community, too:

- Community-wide awareness about the easy availability of cigarettes to minors can dramatically increase. You can deluge the media with press conferences, radio public service announcements, photographs, newsmaking events, youth appearances at the City Council, youth petitions to change the vending machine laws, TV talk shows, and slide shows to PTAs and community groups.

- Community awareness can lead to increased community involvement, which heightens efforts to change laws and change merchants' selling behavior.
- Simple participation by youth can grow into their taking real leadership roles and developing public speaking and advocacy skills. After teens have such a key role in buying operations and reporting of results, you can continue to provide arenas for them to describe their experiences. The youths' genuineness and the poignancy of their reflections can generate an audience impact. In many instances, the audience will observe the teens making new discoveries about the significance of their experiences as they speak:

"The clerk sold me the cigarettes I asked for and (knowing that I was underage) told me to put them in my pocket before leaving the store."

Because it was so easy, some minors thought buying cigarettes was a boring experience.

- Most merchants and store owners will probably respond enthusiastically to your "voluntary compliance" approach and to the fact that you do not identify store names in reporting the results. Follow-up calls to stores will reveal how much they appreciate your efforts.
- In Raleigh, N.C., a broadly diverse group in the community coalesced around the issue of minors' access to tobacco; and in the process of planning and conducting the campaign they created stronger ties within their community and greater interest in its health and welfare. Their actions created protective laws in the city, and they were able to have an empowering impact on their community.

Logistics, planning, and persistence (and maybe a few headaches) are all part of this process, but it's worth it. Your whole community can get involved in keeping cigarettes out of the hands of young people.

# ASSOCIATION OF ALASKA SCHOOL BOARDS

316 West 11th Street, Juneau, Alaska 99801-1510 • Tel: (907) 586-1063 • Fax: (907) 585-2995

*Advocates for Alaska's Youth*

April 18, 1996



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Senate Judiciary Committee  
The Honorable Robin Taylor, Chair  
The Honorable Lyda Green, V-Chair  
Alaska State Capitol, Rm. 30  
Juneau, AK 99801

RECEIVED

APR 15 1996

Ans'd.....

Dear Committee Members:

The Association of Alaska School Boards has established child advocacy as one of our top priorities. Our mission to promote parental, public, and social service commitment to the shared responsibility of educating all children enables us to address issues that deal with the health and safety of Alaska's children. To this end our membership adopted a resolution at the 1995 AASB Annual Conference which recommends supporting vigorous enforcement of laws concerning the sale, use, and possession of tobacco-related products by children and adolescents.

We encourage the Senate Judiciary Committee to schedule a hearing and pass HB 365, a bill which reduces children's access to tobacco through the enforcement of current Alaska law. We believe that, through the combined influences of strict law enforcement, quality education, and tax levies, we can all have a hand in keeping our kids tobacco free.

Thank you for your commitment to the health and well-being of Alaska's children.

Sincerely,

Carl F. N. Rose  
Executive Director

# ASSOCIATION OF ALASKA SCHOOL BOARDS

*Advocates for Alaska's Youth*

## Association of Alaska School Boards Resolution

**SUBJECT AREA: CHILD ADVOCACY  
RESTRICTING CHILDREN'S ACCESS TO TOBACCO PRODUCTS**

WHEREAS, nicotine is an addictive drug and has been proven to be harmful to children;  
and

WHEREAS, the average teenage smoker starts at 14 1/2 years old and becomes a daily  
smoker before the age of 18; and

WHEREAS, studies show that if people do not begin to smoke as teenagers or children,  
it is unlikely they will ever do so; and,

WHEREAS, each and every day, another 3,000 young people become regular smokers,  
and nearly 1,000 of them will eventually die as a result of their smoking; and

WHEREAS, children tend to vastly underestimate the likelihood that they will become  
addicted to nicotine; and

WHEREAS, a 1994 Surgeon General's report found that young people were able to  
buy cigarettes in vending machines an average of 88% of the time; and

WHEREAS, Alaska state law prohibits the use of tobacco by minors.

NOW THEREFORE BE IT RESOLVED that the Association of Alaska School Boards  
seeks legislation to strengthen penalties for illegal sale of tobacco products to  
minors; and

BE IF FURTHER RESOLVED, that AASB seek legislation to further reduce access to  
tobacco vending machines by minors; and

BE IT FURTHER RESOLVED that AASB support vigorous enforcement of laws  
concerning the sale, use, and possession of tobacco-related products by children and  
adolescents.



# Seven Circles Coalition

*"It takes a whole village to raise a child"*

-African Proverb

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Representative Con Bunde  
Alaska State Legislature  
Juneau, AK 99801

February 27, 1996

Dear Representative Bunde:

I have received a request from the Division of Alcoholism and Drug Abuse to provide you with information on tobacco compliance checks recently conducted in Juneau to assist you in monitoring the effect of the Synar Amendment on youth access to tobacco products. I hope the following information will be of use to you.

Thank you for your support of tobacco issues especially efforts which help protect our youth from beginning a deadly addiction to tobacco. We appreciate the legislation you have introduced in support of compliance checks and to increase the tax on tobacco products. Members of the Tobacco Prevention Network and the Seven Circles Coalition are actively advocating for these pieces of legislation and we have members who would be happy to testify before committee hearings. We are also organizing and educating young people who are concerned about tobacco issues and would be willing to talk with legislators and testify before committees.

Please let us know if we can be of further assistance. If you have any questions or would like additional information on compliance checks or any of the other activities of the Juneau Tobacco Prevention Network please feel free to contact me directly at 463-5844.

Sincerely,

*Jeannie Monk*

Jeannie Monk  
Community Coordinator

Funded by the Center for  
Substance Abuse Prevention

Lead Agency  
Southeast Alaska Regional  
Health Consortium

## **Juneau Tobacco Prevention Network Tobacco Compliance Checks 1995**

The Juneau Tobacco Prevention Network and the Seven Circles Coalition have been working during the past year to conduct underage compliance checks as part of an effort to reduce youth access to tobacco products in Juneau.

The Juneau Tobacco Prevention Network is a grassroots group working to decrease the harmful effects of tobacco usage especially among youth. The Network takes a comprehensive approach to tobacco issues and has focused on four strategies. The Network believes all of these strategies are necessary and important if we are going to protect children from a deadly tobacco addiction.

1. Education and Cessation Programs
2. Tobacco Advertising To Youth
3. Tobacco Tax Increase
4. Youth Access to Tobacco Products

The Seven Circles Coalition is a regional coalition which seeks to assist communities in creating effective strategies, with youth involvement, to prevent the use of alcohol, tobacco, and other drugs and violence among youth. Seven Circles has provided staff and financial support to help the Tobacco Network achieve the goals, especially around issues involving youth access to tobacco.

The Juneau Tobacco Prevention Network became involved during the past year in trying to limit illegal tobacco sales to underage youth. This project was begun due to concerns that educational efforts in schools, churches and at home were being undermined when children were able to walk into a store and easily buy an illegal tobacco product.

We began our compliance checks last May using eighth grade - 14 and 15 year old - youth. During our first series of compliance checks we found that out of 42 purchase attempts 17 resulted in an illegal sale to a minor. This is a underage purchase rate of 40%. We found youth had an even easier time purchasing tobacco products at locations in the Mendenhall Valley (where the majority of youth live) with a underage purchase rate of 55%. It was disturbing how easy it was for 14 and 15 year old youth (well below the legal purchase age of 19) to buy tobacco from our local retailers.

Following the compliance checks we educated the community and the retailers about the problem of youth access to tobacco products. Managers at all establishments were contacted and alerted to concerns about illegal sales to minors and provided with materials to educate their clerks and signs to post at every checkout stating the law regarding sales to minors. The retailers were encouraged to talk with their clerks and help us ensure that underage youth were not able to purchase tobacco products at their store.

During our follow-up compliance checks conducted two months later (November & December 1995) we found clerks were more conscientious about preventing illegal sales to minors. This time we made 45 purchase attempts with only 9 resulting in a sale. The purchase rate for underage minors was reduced to 20%.

Again, managers of each establishment were contacted and the names of those retailers continuing to sell tobacco products to underage youth were publicly released. Additional educational support was offered to retailers. In the future, we hope to conduct a final series of compliance checks which provide immediate feedback to the clerk and store manager either through working with the police department to issue citations, having youth notify clerk after a sale has been made that it was an illegal sale, or by contacting the store manager immediately following the purchase attempt. The legislation being considered might help to provide additional police support in conducting our follow-up compliance checks.

Although our efforts demonstrated a significant reduction in illegal sales of tobacco to youth, the problem of youth smoking in Juneau has not gone away. In our compliance checks we primarily used younger teenagers and the youth participating were instructed not to lie about their age if asked directly or to lie if asked for ID. In real-life, youth attempting to buy cigarettes and chewing tobacco will lie about their age and will use fake ID. They also will get older teenagers to purchase for them. For these reasons although we strongly believe in compliance checks as an excellent way to enforce merchant compliance they are only one piece of the puzzle and must be used in combination with other strategies to prevent tobacco addiction among youth.

# JUNEAU TOBACCO PREVENTION NETWORK

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The purpose of the Juneau Tobacco Prevention Network is to decrease the harmful effects of tobacco by reducing the availability and usage of tobacco products in our community especially among youth.

**The Tobacco Network takes a comprehensive approach to tobacco issues with emphasis in four areas:**

- ◆ Education & Cessation Programs
- ◆ Youth Access to Tobacco Products
- ◆ Tobacco Tax Advocacy
- ◆ Advertising Tobacco to Youth

The Tobacco Network is a grassroots organization that is active because of the diverse interests and talents of its members. Membership is opened to anyone who would like to be involved with all or just one aspect of the Network's activities.

The Network receives support from the State of Alaska Department of Health and Social Services, Seven Circles Coalition through SEARHC, and in-kind support from a variety of community organizations and individuals.

## **WE WELCOME YOUR PARTICIPATION!**

The Tobacco Network meets monthly and has on-going sub-committees working on special projects. If you would like more information or ideas on how you can get involved call Karen Doxey at 789-9762 or Jeannie Monk at 463-5844.

*"If, in the United States, five 727s with 200 people crashed every day of the week of every month of every year, sooner or later someone would say,*

*'We've got to do something about this.'"*

*-- Dr. John Allen (past president)  
American Lung Association*

Dear Mr. Chairman:

SB 365 will be instrumental in our efforts to reduce ~~to~~ tobacco use by kids in Alaska. By allowing underage kids to participate in compliance checks, vendors will be held to the law which states it is illegal to sell tobacco to minors under 19.

An angry mother called me the other day. Her 16 yr. old son had been caught with a can of chew that he bought at a 7-11 ~~store~~ in Anchorage. Her son was punished, but when the mother called the police about what ~~can~~ could be done to the ~~shop~~ vendor, she was told nothing could be done. She only represents one of many angry mothers who are willing to go all lengths to make sure vendors do not sell this addictive substance to their children. SB will show a means to conduct compliance checks. Please support it.

Thank you,

Annette Marley

Alaska State Representative

# A National Survey of Public Support for Restrictions on Youth Access to Tobacco

William J. Bailey, James W. Crowe

**ABSTRACT:** A national telephone survey was conducted to measure public support for seven proposals to restrict youth access to tobacco products, including increases in the cigarette excise tax. A random digit dialing survey, using computer-assisted telephone interviews and a two-stage Milofsky-Wuksberg design, was used to generate and replace telephone numbers and to select individuals from within households. More than 94% of respondents believed cigarette smoking by children and adolescents to be a "very serious" or "somewhat serious" problem. Most respondents expressed support for all the proposed measures to restrict youth access to tobacco products (fines for sellers, fines for youthful violators, licensing of all tobacco vendors, restrictions on cigarette vending machines, ban on sponsorship of youth-oriented events, and ban on all tobacco advertising), and for increases in the cigarette excise tax. (*J Sch Health*. 1994,64(8):314-317)

Despite 30 years of publicity about the health consequences of smoking, following publication of the first Surgeon General's report on smoking and health,<sup>1</sup> and a substantial decline in overall smoking rates since 1964,<sup>2</sup> cigarette smoking still is a causative factor in about one in six deaths per year in the U.S. (about 434,000).<sup>3</sup> Further, nearly one-third of U.S. adults continue to smoke cigarettes.<sup>4</sup>

Despite extensive education and information campaigns, each year more than 1 million Americans begin smoking cigarettes (about 3,000 people per day).<sup>4</sup> Most new smokers are children and adolescents — nearly 75% of current smokers began smoking before age 18.<sup>5</sup> In 1989, almost 1 billion packs of cigarettes were sold to persons younger than age 18.<sup>6</sup> Any long-term reduction in smoking prevalence must include a strategy for reducing the number of children and adolescents who begin smoking each year. In *Healthy People 2000*,<sup>7</sup> the U.S. Public Health Service established national health objectives to reduce tobacco use by youth (Objective 3.5), enact and enforce state laws against sales and distribution of tobacco products to youth (Objective 3.13), and to eliminate or severely restrict all forms of tobacco product advertising and promotion to which youth are exposed (Objective 3.15).

In addition to concerns about the direct health consequences of tobacco use, cigarette smoking also has been identified as a risk factor for the abuse of alcohol and other drugs by children and adolescents.<sup>8,9</sup> As a means of reducing this risk, in 1992, the U.S. Congress enacted the so-called "Synar amendment" to the authorization act providing block grant funding to states for alcohol and other drug abuse prevention and treatment programs, requiring states to enact and enforce laws restricting youth access to tobacco.<sup>10</sup> In response to the legislation, the Substance Abuse and Mental Health Services Administration (SAMHSA) proposed strict rules to require enforcement monitoring, including a regular system of "sting" operations to test vendor compliance with the state laws.<sup>11</sup> The "Synar amendment" requirements caused ex-

tensive policymaking debate at the state level, with policymakers expressing concern over public support for strict restrictions on youth access to tobacco.<sup>12</sup>

Despite increasing public attention to problems associated with youth access to tobacco, ample evidence indicates 70% to 100% of minors attempting to purchase cigarettes have little trouble doing so.<sup>13-16</sup> Despite state laws, now in effect in 49 of 50 states, that restrict sales to those younger than age 18,<sup>11</sup> enforcement of those laws is ineffective or non-existent in most communities.<sup>13-16</sup> In 1990, the U.S. Dept. of Health and Human Services endorsed a model law for states and local communities that would restrict minors' access to tobacco products.<sup>17</sup> The model law would (1) create a system of licensing retail vendors of tobacco, similar to the system used to license alcoholic beverage vendors, (2) use civil penalties and administrative sanctions to reduce impact on the criminal court system, (3) impose a graduated system of penalties, including fines and license suspensions, (4) set a minimum age of 19 for purchase of tobacco products, and (5) ban cigarette vending machines.<sup>17</sup>

Additional proposals to reduce tobacco use by minors include restrictions on advertising and promotion of tobacco products aimed at youth,<sup>8</sup> and removal of profits from underage sales through taxation or assessments.<sup>18</sup> Empirical evidence suggests tobacco advertising has a disproportionate influence on children and adolescents,<sup>19,21</sup> and may directly influence brand purchasing decisions.<sup>19</sup> Cigarette excise taxes decrease demand for cigarettes, especially among youth.<sup>22-24</sup> Price increases in the cost of cigarettes can reduce demand by minors for cigarettes by up to 40%.<sup>22-24</sup>

Strict enforcement of existing laws restricting sales to minors, and implementation of licensing systems that are enforced, also can have a dramatic impact on youth access to tobacco.<sup>25-27</sup> Active enforcement can reduce over-the-counter sales of tobacco products to minors to almost zero.<sup>24</sup> In response to the new federal mandates for state compliance checks, rigorous protocols for monitoring youth access have been developed.<sup>29</sup>

Although new federal regulations now require systematic enforcement of state youth access laws, including implementation of "sting" operations, little has been done to measure public support for proposals to restrict youth access to tobacco.<sup>13</sup> This survey measured popular support for a range of proposed strategies to reduce access to and use of tobacco by children and adolescents.

*William J. Bailey, MPH, Co-Director, Institute for Drug Abuse Prevention, and Associate Professor, Dept. of Applied Health Science; and James W. Crowe, EdD, Co-Director, Institute for Drug Abuse Prevention, and Associate Professor and Chair, Dept. of Applied Health Science, Indiana University, Bloomington, IN 47405. This article was submitted March 28, 1994, and revised and accepted for publication August 1, 1994.*

## SURVEY PLAN. IING

Data were collected through a national telephone survey of adults living in U.S. households. A list-assisted random sample of all possible household telephone numbers in the U.S., generated by "Genesys" software, was used. This system allows for an equal probability of selecting all households with telephones, including unpublished and new listings. A two-stage Mitofsky-Waksberg design<sup>11,13</sup> was used to select and replace numbers from the list, and to select respondents from within households.<sup>13</sup> This design allows for systematic replacement of those who refuse to participate ("refusals"), or who do not answer repeated calls or cannot be contacted ("unable to contacts"), with randomly selected equivalent respondents. The design also assures random selection of adults within each household, rather than simply surveying the individuals that answer the telephone.

Indiana University's Center for Survey Research (CSR) coordinated data collection. The Center operates the nation's largest university-based Computer Assisted Telephone Interview (CATI) facility. This facility allows for

up to 24 interviews to be conducted simultaneously, and for audio and visual monitoring of all interviews by supervisors. Computer software controls the interview process, from sequencing of telephone numbers through sequencing of questions and recording of answers. All interviewers were experienced telephone surveyors who received at least 20 hours of training on general interviewing techniques, as well as an additional three hours of specific training on the questionnaire used in the survey. Each interviewer was monitored randomly at least twice during each four-hour shift. All CSR interviewers receive training in refusal conversion as part of the 20 hours of training. At least two attempts were made to convert each refusal prior to replacement. When replacements were necessary due to refusal or inability to contact the selected person, specific cutoff rules were followed<sup>12,13</sup> to assure the  $k+1$  or  $k+2$  replacement telephone numbers were equivalent to the number replaced.

The survey questionnaire was developed and pretested by the research team. The questionnaire was reviewed by subject matter experts and by experts in telephone survey methodology, and field tested for one week. The protocols were reviewed by Indiana University's Institutional review board to assure compliance with human subjects protection, and conform to the standards of disclosure of the National Council on Public Polls and the American Association for Public Opinion Research. Data were collected from October 7 through November 15, 1993. Eight questions concerning minors' access to tobacco, as well as 10 demographic questions, were embedded into a 35-item survey. The average interview length was 18 minutes, with approximately six minutes devoted to the tobacco items. Data were analyzed using SPSS. Confidence intervals for a population proportion were calculated using the protocol suggested by Daniel.<sup>14</sup>

Figure 1  
Text of Telephone Survey Items

1. In your opinion, how serious a problem is smoking in children and adolescents. Is it:
  - a) very serious
  - b) somewhat serious
  - c) not too serious, or
  - d) not at all serious?

Several proposals are being considered in some states to deal with smoking by children and adolescents. For each of the following proposals, please indicate your level of support.

2. First, making it illegal to place cigarette vending machines in locations where children and adolescents can have access to them. Do you:
  - a) support
  - b) oppose, or
  - c) neither support nor oppose this proposal?
3. Next, strengthening state laws against the sale of tobacco to minors by imposing fines on sellers, similar to the fines imposed on those who sell alcoholic beverages to minors. Do you:
  - a) support
  - b) oppose, or
  - c) neither support nor oppose this proposal?
4. Requiring businesses that sell tobacco to have a license, the alcohol sellers, so that their licenses could be suspended or revoked if they repeatedly sell tobacco to minors. Do you:
  - a) support
  - b) oppose, or
  - c) neither support nor oppose this proposal?
5. Banning tobacco products from sponsoring events that have special appeal to minors, such as athletic events and rock concerts. Do you:
  - a) support
  - b) oppose, or
  - c) neither support nor oppose this proposal?
6. Banning all advertising and promotion of tobacco products, including newspaper and magazine ads, special events sponsorships, and billboards. Do you:
  - a) support
  - b) oppose, or
  - c) neither support nor oppose this proposal?
7. Imposing fines on minors who possess or use tobacco products. Do you:
  - a) support
  - b) oppose, or
  - c) neither support nor oppose this proposal?
8. Increasing the federal excise tax on cigarettes. Do you:
  - a) support
  - b) oppose, or
  - c) neither support nor oppose this proposal?

## SURVEY RESULTS

A total of 1,005 interviews was completed. The number of interviews was planned to generate 95% confidence levels no greater than  $\pm 3\%$ . The response rate was 71%, the refusal rate was 18%, and the "unable to contact" rate was 11%. The use of the Mitofsky-Waksberg design reduces the importance of the response rate, since all refusals and "unable to contacts" are randomly replaced with equivalent households. Respondents ranged in age from 18 to 91. The demographic characteristics of respondents are found in Table 1. The distribution of respondents is typical of those found in RDD telephone surveys, and fairly represents the population of adults living in U.S. households with telephones. A post-survey weighting procedure was used to adjust for the slight over-representation of females in the survey population.

Each respondent was asked about his or her tobacco use and then asked to characterize how serious a problem they believed smoking by children and adolescents to be. More than 94% of respondents reported considering smoking by children and adolescents to be "very serious" (64.3%) or "somewhat serious" (29.3%). Only 0.5% of the respondents considered it to be "not at all serious."

Confidence intervals are shown in Table 2.

Next, respondents were asked about their support for seven specific proposals to reduce smoking by children and adolescents: (1) vending machine restrictions, (2) imposition of fines on sellers, (3) licensing of all tobacco vendors, (4) ban on sponsorship of events with appeal to youth, (5) ban on all advertising of tobacco products in all media, (6) imposition of fines on the minors who violate underage use laws, and (7) increasing cigarette excise taxes. Table 3 shows the percentages of respondents who supported, opposed, or expressed no opinion on each proposal. Widespread support existed for all seven proposals, with support to opposition ratios ranging from 7 to 1 for imposing fines on sellers who violate the laws, to 1.5 to 1 for imposing fines on the minors who violate the laws. Approximately twice as many respondents supported a total ban on tobacco advertising as opposed such a ban. Two-thirds supported increasing the excise tax on tobacco, while only one-fifth opposed such an increase.

**SURVEY IMPLICATIONS**

Cigarette smoking continues to be the United States' single greatest cause of preventable mortality,<sup>2</sup> accounting for nearly one-fifth of deaths from all causes each year.<sup>3</sup> Nearly 3,000 children and adolescents begin smoking each day, despite health warnings and societal disapproval.<sup>4</sup> If the national health objectives for the year 2000<sup>5</sup> are to be met, a significant reduction must occur in tobacco use by children and adolescents. Virtually all respondents to this national survey recognized cigarette use by children and adolescents to be a "very serious" or "somewhat serious" problem. Proposed laws and regulations to restrict youth access to tobacco enjoy widespread public support. The public also supports significant increases in the cigarette excise tax, which is predicted to make tobacco use much less attractive to minors.<sup>23-25</sup>

While the data reported herein cannot be generalized beyond individuals living in households with telephones (approximately 93% of the U.S. adult population), they demonstrate broad-based support for restricting youth access to tobacco products. Some legislators at the national, state, and local levels, have been reluctant to enact such restriction,<sup>12</sup> perhaps due to pressure from pro-tobacco industry forces, but public sentiment in favor of such restrictions is strong. Many state officials have been reluctant to implement the "random sting" enforcement procedures proposed by SAMHSA to comply with the "Synar amendment" due to concern about public opposition to such tactics.<sup>11</sup> The extent of public support for such measures has perhaps been underestimated by policymakers. The strong support expressed by the respondents to this national telephone survey should provide evidence needed to convince legislators and other officials that restricting youth access to tobacco products, restricting tobacco advertising, and increasing the excise tax on cigarettes are politically palatable to their constituents. If we are to reach the national health objectives for the year 2000, such policy decisions will be necessary.

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**Table 1**  
Characteristics of Survey Respondents  
(n=1,005)

	Percent (95% C.I.)*
<b>Gender</b>	
Male	40.6(±3.0)
Female	59.4(±3.0)
<b>Age</b>	
18-25 years	12.5(±2.0)
26-35 years	24.3(±2.7)
36-50 years	31.0(±2.0)
51-65 years	19.3(±2.5)
Older than 65 years	12.0(±2.0)
<b>Education</b>	
0-11 years	8.5(±1.7)
12 years	23.7(±2.8)
some college	26.7(±2.7)
college degree	19.4(±2.4)
some postgraduate	3.7(±1.2)
master's degree	7.6(±1.6)
doctorate	1.8(±0.8)
vocational/technical degree	3.6(±1.1)
<b>Ethnicity</b>	
White (Caucasian)	77.8(±2.8)
Black or African-American	10.3(±1.9)
Hispanic	3.6(±1.1)
Native American	3.5(±1.1)
Asian or Pacific Islander	1.5(±0.8)
Other	3.3(±1.1)
<b>Annual Household Income</b>	
00-14,999	15.6(±2.2)
15,000-24,999	18.2(±2.5)
25,000-34,999	23.1(±2.6)
35,000-49,999	20.8(±2.5)
50,000 and above	24.6(±2.7)
<b>Tobacco Use History</b>	
Never used tobacco	39.0(±3.0)
Former tobacco user	29.6(±2.8)
Current tobacco user	31.5(±2.9)
*95% confidence interval	

**Table 2**  
Perceived Seriousness of Smoking by Minors  
(n=1,005)

	Percent (95% C.I.)*
Very serious	64.3(±3.0)
Somewhat serious	29.3(±2.8)
Not too serious	0.8(±1.6)
Not serious at all	0.5(±0.3)
*95% confidence interval	

**Table 3**  
Public Support for Proposals to Control Minors' Access to Tobacco  
(n=1,005)

	Support Percent (95% C.I.)*	Oppose Percent (95% C.I.)	Neither Support nor Oppose Percent (95% C.I.)
Vending machine controls	89.3(±2.0)	15.4(±2.2)	15.3(±2.2)
Fines on sellers	77.3(±2.8)	11.2(±1.8)	11.5(±2.0)
Licensing sellers	74.0(±2.7)	15.2(±2.2)	10.8(±1.8)
Fines on minors possessing tobacco	49.8(±3.1)	32.2(±2.9)	21.8(±2.8)
Banning youth-oriented tobacco shops	63.5(±3.0)	18.3(±2.4)	17.8(±2.3)
Banning all advertising	61.8(±3.1)	28.4(±2.8)	19.8(±2.5)
Increasing excise tax on tobacco	66.7(±2.8)	19.6(±2.4)	13.7(±2.1)
*95% confidence interval			

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August 10, 1995

Contact: FDA Press Office  
(301) 443-1130

CHILDREN AND TOBACCO: WHAT OTHERS SAY

"I figure if it's really so bad for you, they wouldn't be selling them everywhere. I mean, you walk into the Stop 'N' Go, and there's a whole wall of them right up front at the cash register. If they were really that bad for you, they'd make them less accessible."

-- Brian Grindole, 18  
*The New York Times*, July 30, 1995

"Given all that we know, the scientific case for protecting children from tobacco is indisputable. The moral imperative to act is ~~imperative~~... This is not a Democratic or a Republican issue. It is a bipartisan, pro-child, pro-family, pro-health issue."

*overwhelming*

-- President Jimmy Carter  
*USA Today*, August 3, 1995

"The tobacco industry continues to insist that smoking is a simple matter of individual rights and adult choice. If that were true, I would be on their side. But we're not talking about adults. We're talking about keeping an addictive and lethal substance out of the hands of children. Neither the FDA nor anyone else is talking about prohibiting adults from smoking."

-- Former U.S. Sen. Barry Goldwater  
*Wall Street Journal*, August 8, 1995

"The American Medical Association reminds physicians, the public, and politicians that the damning evidence against tobacco makes opposition to its use a pressing, nonpartisan public health issue."

-- Editorial  
*Journal of the American Medical Association*  
July 19, 1995

"We believe that current tobacco regulations, limited primarily to a ban on television advertising and the promotion of warning labels on packages, are insufficient in protecting America's children. The FDA should have authority to control tobacco by placing new limits on tobacco advertising, creating stricter licensing regulations for vendors, and banning cigarette vending machines."

-- American Public Health Association  
Letter to President Clinton from APHA  
July 13, 1995

"What is most significant about teens and smoking, however, is that, from all indications, smoking is an addiction that is typically initiated during the teenage years or not at all. For the great majority of smokers, this addiction begins before they are old enough to purchase tobacco lawfully. In fact, 75 percent of all adult smokers report that they became addicted to tobacco before they were 18 years old. Very few smokers take up smoking for the first time as adults. If youth access can be controlled effectively, and the decision whether to smoke can be delayed until adulthood, then, over time, smoking will be greatly reduced as a major addiction in our society."

-- "No Sale: Youth, Tobacco and Responsible  
Retailing"  
Working Group of State Attorneys General  
December, 1994

"The nation must commit itself to a vigorous public health initiative in tobacco control....The nation cannot reasonably expect to eliminate tobacco-related disease and death by 2010. However, by putting a youth-centered prevention strategy at the center of tobacco control efforts, and by implementing the initiatives proposed (to that end) in this report, the nation can take a firm and resolute step on that path."

-- "Growing Up Tobacco Free"  
Institute of Medicine, September, 1994

"The concept -- pediatric disease -- qualifies as an epiphany, given the acknowledged authority of society over a minor. He/she has to go to school, has to wait until a certain age before being allowed to drive, to vote, to drink beer. It yields no substantial libertarian ground to add to the list enforcement mechanisms designed to dissuade the 15-year-old from taking up a habit that brings on premature and painful death."

-- William F. Buckley Jr.  
Syndicated columnist, March, 1995



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
Olympia, Washington 98504

May 12, 1994

RE: Retailer Compliance Checks -- Immunity for Youth Participants

To determine the ease to which youth under the age of eighteen can access tobacco products, retailer compliance checks are being conducted across the state by local health departments and districts or their authorized contractors. Youth volunteers have agreed to participate in these controlled buys with the approval of their parents or guardians.

State law (RCW 70.155.080) grants immunity to youth participating in tobacco retailer compliance checks:

"A person under the age of eighteen who purchases or attempts to purchase or obtains or attempts to obtain cigarettes or tobacco products commits a class 3 civil infraction under chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80 RCW or participation in a smoking cessation program, or both. This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a liquor control board, law enforcement, or local health department activity." [RCW 70.155.080 RCW]

All youth participants will be under the strict supervision of an adult escort. All tobacco products obtained through these compliance checks will be returned to the local health department to be destroyed or used as evidence.

If there are any questions regarding this immunity, please contact your local health department, your local Liquor Control Board office or the Department of Health's Youth Tobacco Prevention Program at (206) 753-4312.

Sincerely,

Jo Wadsworth, Director  
Non-Infectious Disease and Injury  
Department of Health

Gary Gilbert, Chief  
Washington State Liquor  
and Tobacco Enforcement

# Active Enforcement of Cigarette Control Laws in the Prevention of Cigarette Sales to Minors

Leonard A. Jason, PhD, Peter Y. Ji, Michael D. Anes, Scott H. Birkhead

**Objective.**—To assess the effect that cigarette legislation would have on reducing merchant sales rates of cigarettes to minors and the effect on adolescent smoking behavior.

**Design.**—Observational survey of merchant selling behaviors and adolescent smoking habits before and after passage of legislation.

**Setting.**—The setting for the merchant survey was Woodridge, Ill (population 25 200), a suburban community of Chicago. The surveys were distributed to adolescents in the local junior high school.

**Participants.**—Convenience sample of both merchants and adolescent students.

**Intervention.**—Passage of community antismoking legislation.

**Main Outcome Measures.**—Percentage of stores selling cigarettes to minors in Woodridge and percentage of students who had experimented with cigarettes or were regular smokers.

**Results.**—Merchant sales rates in Woodridge decreased from a baseline of 70% before legislation to less than 5% in 1.5 years of compliance checking after legislation. Student surveys showed that the rates of cigarette experimentation and regular use of cigarettes by adolescents were reduced by over 50%.

**Conclusion.**—Cigarette control laws can be effective in significantly reducing the rate of cigarettes sold by merchants and rates of cigarette use by adolescents. Key elements of successful legislation implementation are consistent compliance checking and heightened community awareness of the problems and prevalence of adolescent smoking.

(JAMA 1991;266:3159-3161)

DESPITE the health hazards of smoking, approximately 3000 adolescents become new smokers daily.<sup>1</sup> A recent study by DiFranza and Tye<sup>2</sup> has estimated over \$1 billion in illegal sales of tobacco products to minors. Although state laws prohibit sales to minors, minors frequently have little difficulty in purchasing cigarettes. Across the nation, active tobacco-control investigators have sent minors, under supervision, into stores to purchase cigarettes. In Santa Clara County, California, 74% of stores sampled in this manner sold tobacco products to minors.<sup>3</sup> In Massachusetts, an 11-year-old child was able to purchase cigarettes from stores 75% of the time.<sup>4</sup>

Campaigns to alert merchants to cigarette laws are insufficient for restricting cigarette sales. In Buffalo, NY, letters describing the city's cigarette sales law, warning signs, and enforcement instruc-

tions were sent to merchants. Despite Buffalo's educational efforts, a citywide investigation showed that 77% of stores receiving educational packages sold cigarettes to minors.<sup>5</sup> In Santa Clara, Calif, an aggressive campaign was used to alert merchants to cigarette laws. There was an initial reduction of cigarette sales to minors from 74% to 39%,<sup>6</sup> yet vending machine sales were unchanged. A 1-year follow-up showed that the merchant sales had rebounded to 60%.<sup>7</sup>

See also pp 3168 and 3185.

The following study sought to assess, by periodic checking, the effects of licensing and enforcement of legislative provisions on cigarette selling behaviors of merchants and minors' accessibility to cigarettes. Through distribution of questionnaires before and after passage of legislation, we also sought to determine the effect of the law on the prevalence of adolescent cigarette use in a local junior high school.

## METHOD

This study was initiated as a result of a private citizen's complaint regarding a minor's possession of cigarettes to Officer Bruce Talbot of the Woodridge, Ill (population, 25 200), police department. In August 1988, Officer Talbot sent a letter to all cigarette vendors in Woodridge detailing Illinois state law prohibiting cigarette sales to minors. In addition, following a media focus on a DePaul University study of cigarette sales to minors in Chicago (L. A. J. and P. Y. J., unpublished data, 1991), Officer Talbot invited one of the authors (L. A. J.) to assess cigarette sales rates in Woodridge. These measurements were done in August and November 1988 and February 1989. The DePaul University research team also distributed a questionnaire to students at the local junior high school in March 1989 to determine the number of adolescent smokers and their smoking habits. In May 1989, new legislation was passed restricting cigarette sales in Woodridge, and cigarette sales were tracked after the legislation was passed.

During each checking period, minors 12 to 13 years of age (all of whom were rated by independent judges as looking less than 18 years of age) were sent into stores to purchase a pack of cigarettes. Unobtrusively, a Woodridge police official or a DePaul University research assistant observed the transaction. Vending machine sales were also tracked by sending minors to purchase cigarettes from these machines. There was 100% agreement between two independent judges as to whether an illegal sale occurred.

Sales assessments conducted before legislation to determine if Officer Talbot's letter to merchants was effective, were made in August and November 1988 and February 1989. In the spring of 1989, Officer Talbot and other Woodridge officials drafted cigarette control legislation modeled after the city's liquor control laws. This was done to treat the sales of tobacco and alcohol, both age-restricted products, in precisely the same manner. Using the liquor laws as

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Sales Rates and Offense Data Before and After Pa: of Community Smoking Legislation

Date	No. of Stores	Sales Rate, %	No. of Stores Complying	First Offense	Second Offense
Before Passage					
August 1988	20	70	0		
November 1988	20	60	8		
February 1989	19	79	4		
After Passage					
June 1989	23	35	15	8	
August 1989	22	30	14	4	4
November 1989	22	0	22	0	0
January 1990	22	0	22	0	0
April 1990	27	4	26	1	0
July 1990	27	4	26	1	0
December 1990	30	3	29	1	0

a guide had the additional effect of taking advantage of existing civil enforcement structures, such as the mayor's office, for issuing sales licenses and following up violations. The new cigarette legislation, containing licensing, enforcement, and possession provisions, was passed May 1, 1989, with a 30-day enforcement grace period. Vendors were issued cigarette sales licenses and billed a licensing fee of \$50.

Reports of the cigarette sales assessment and the passage of the law were aired on local television stations and published in local newspapers to inform community members. During the grace period, Officer Talbot personally delivered a copy of the law and a tip sheet describing all forms of valid age identification issued by the state of Illinois to every cigarette vendor in Woodridge. Vendor's questions about the law were answered during these face-to-face store visits, each of which took approximately 15 minutes. All store visits were concluded in 1 day.

The Woodridge police department planned quarterly "stings" to check merchant compliance after the grace period, and all stores were checked regularly (Table). When a violation occurred, the police officer wrote a report on the violation and sent it to the mayor's office (the mayor is the tobacco commissioner under the ordinance, as well as liquor commissioner). The mayor's office then sent a letter informing the merchant of his or her right to appeal within 10 days. If the merchant chose to appeal, a civil hearing was held; otherwise, the mayor issued a warning to the merchant, and either suspended the cigarette-selling license for 1 or more days, and/or imposed a monetary fine of up to \$40. First offenses incurred a warning in the first year of enforcement, with a fine and/or suspension imposed if a second violation occurred during the subsequent compliance check. In the second year of enforcement, the tobacco commissioner has tended to enforce the ordinance more stringently than in the first year. If the merchant did not sell cigarettes to minors

during compliance checking periods, a congratulatory note was sent from the mayor's office.

The possession clause of the Woodridge ordinance allows police officers to issue a ticket to any minor caught with illegal tobacco products. This ticket carries a fine of \$25. The minor can pay the fine immediately at the police department, in a manner similar to paying for a parking ticket, or can wait for a civil hearing on the possession charge.

The police department in Woodridge has played an important role in the enforcement of penalties. First, after passage of the ordinance, all officers were informed of the provisions by a departmental memorandum from the chief of police. Second, if a store incurred a 1-day suspension, the mayor's office notified the police, and all officers patrolling the area were reminded at morning roll call to keep a watchful eye on the store.

The police also maintained heightened community awareness in Woodridge by sending letters to two different populations on a regular basis. At the end of every school year, police sent a letter to merchants warning them that during the summer months more adolescents would be in their stores, reminding them of the ordinance, and asking for their continued support. Also, at the beginning of every school year, Woodridge schoolchildren were given an informative letter about the ordinance to take home to their parents. This letter asked for continued compliance and stressed the importance of preventing adolescent tobacco access.

A follow-up questionnaire was distributed to junior high school students in April 1991, almost 2 years after passage of the ordinance. This questionnaire sought to determine the effects of the Woodridge ordinance on the number of adolescent smokers and their smoking habits.

## RESULTS

Results of the assessment of Woodridge merchants' sales rates before en-

actment of the ordinance are shown in the Table. In addition, in each of the time periods predating the legislation, sales from three vending machines in Woodridge were shown to be 100%.

The results of compliance checking of Woodridge merchants conducted after the passage of the legislation are shown in the Table.

From March through May 1989, the interval between the compliance checks before and after passage of the legislation, the number of vending machines in Woodridge increased from three to six. In the first assessment after passage of the legislation (June 1989), three of six vending machines sold cigarettes in Woodridge. The number of vending machines decreased from six in January 1990 to two in December 1990. In January, April, and July 1990, there were no vending machine sales. In December 1990 there was one vending machine sale.

Fifty minors were cited for possession of cigarettes in the 1.5 years after passage of the ordinance. These minors were assessed a \$25 fine and their cigarettes were confiscated. Four of the 50 minors were repeat offenders during this time period.

A total of 680 local seventh- and eighth-grade students were surveyed in March 1989, before the law was passed. Results from this survey indicated that 46% of the students had experimented with cigarettes (i.e., had tried cigarettes on at least one occasion) and 16% were regular smokers. In April 1991, almost 2 years after passage of the Woodridge ordinance, 639 local seventh- and eighth-grade students were surveyed, and 23% reported experimentation with cigarettes, with only 5% describing themselves as regular smokers. Survey return rates were at 90% or above both before and after passage of the legislation.

Other important data from the April 1991 survey revealed that 77% of the smokers cited friends, parents, siblings, or others as sources of their cigarettes, 17% cited stores or vending machines outside of Woodridge as their source, and 6% cited stores or vending machines within Woodridge. Additionally, 86% of student respondents knew of the Woodridge law and 69% felt the law would either prevent their procurement of cigarettes or make it harder for them to obtain cigarettes.

## COMMENT

Two significant findings have emerged from this study. Principally, to our knowledge, Woodridge is the first community to successfully reduce cigarette sales rates to minors to a minimal level as a result of legislation. The key ele-

ments of the legislation are vendor licensing, active compliance checking, and penalties for merchant sales violations and minor possession of cigarettes. Second, the combined effects of this legislation and a community awareness of the problem of adolescent smoking have substantially reduced the frequency of adolescent experimentation with cigarettes and regular smoking.

The licensing process in Woodridge is efficient because it takes advantage of existing enforcement procedures designed to control sales of alcohol to minors. The purpose of licensing is to motivate a store to monitor itself in cigarette sales, rather than face license suspension. If a temporary suspension is made, it is likely to have a greater impact than a fine, because so much of a store's profit is made through the sale of cigarettes, especially in large stores.

The legislation and enforcement success in Woodridge must also be attributed to the commitment of the police department and mayor's office to continually reinforce to the community the problem of adolescent smoking. The involvement of the local and Chicago metropolitan area media in reporting on cigarette sales before passage of the ordinance, the ordinance passage itself, and subsequent successes fostered community pride in the initiative. The police visits to merchants to clarify the law, internal police briefings regarding merchant violations, the police letter to merchants at the beginning of the summer, and the yearly age-identification tip sheets were all integral parts of main-

ing positive police-merchant interaction. Thank-you letters from the mayor's office helped to instill a sense of merchant solidarity and promoted merchant-community ties. Finally, the police department's letter describing the ordinance that was given to schoolchildren to take home to their parents and police efforts toward enforcement helped to keep families focused on the issue of adolescent smoking.

School survey results indicate that the Woodridge law has substantially reduced the number of adolescents who smoke. The reduction of merchant cigarette sales has played a major role in keeping cigarettes from minors. Another possible contribution to this reduction is the possession clause of the ordinance. The possession clause may provide an additional deterrent to experimental cigarette use by minors. Although opponents of penalties for possession in cigarette legislation have insisted that these clauses are a case of "blaming the victim" for cigarette use, we feel that possession clauses are one part of an overall plan—one part that may have a deterrent effect.

Traditional educational approaches to reducing merchant cigarette sales have resulted in only short-term reductions presumably because an educational message instills little motivation for change. Without the possibility of direct action, merchants will fail to respond to educational programs to reduce the number of adolescent smokers because of the tremendous profits involved in cigarette sales and the certainty of not being

caught. Legislation was effective in Woodridge because (1) police conducted regularly scheduled compliance checks and used uniform checking methods, (2) legislation was coupled with a strong educational message from the police to community members at the beginning and end of every school year, and (3) the community's success received consistent media exposure.

We would like to thank students Nick Cicarelli, age 13 years, Allison Vega, age 13 years, Christy Keller, age 13 years, and Jenny Haut, age 12 years, for participating in the Woodridge compliance checks.

We also thank Richard Russell, principal of Jefferson Junior High School in Woodridge, Ill, for allowing access to students for our surveys and Woodridge Police Department Juvenile Officer Will Sterling for his helpful comments.

Last, we would like to thank Sergeant Bruce "Buzz" Talbot for his continued effort, support, and contribution to the Woodridge City Tobacco Ordinance, without which this article would not have been possible.

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