

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Ralph Kinney to Barbara Wooley re: SSNs and DOBs [partial] (1 page)	03/18/1997	b(6)
002. fax	Andrew Hyman to Barbara Woolley (1 page)	04/01/1997	#Error
003. list	re: NIC Net Case Status (1 page)	n.d.	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elizabeth Drye
OA/Box Number: 13021

FOLDER TITLE:

Rule Implementation

2014-0046-S

rc1423

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

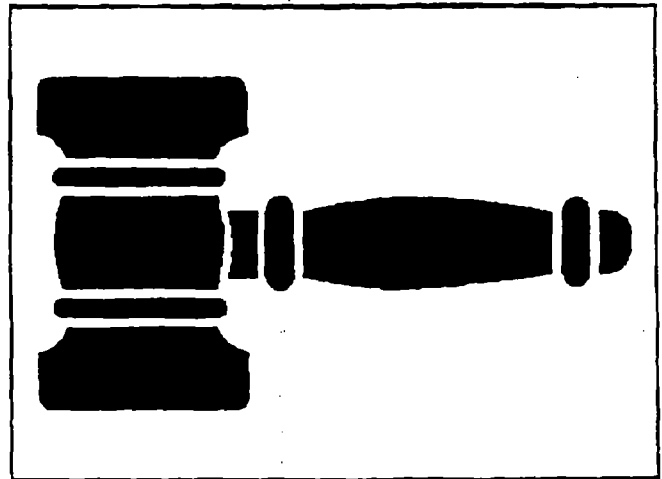
FACSIMILE TRANSMISSION

U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 713-F H.H. Humphrey Building
Washington, DC 20201

TO: Elizabeth
Drye

FROM: Andrew D. Hyman
Office of the General Counsel
Telephone: 202/690-6318
Facsimile: 202/690-7998

FAX: 456-7028



No. of pages: 7

MESSAGE:

As discussed.

URGENT

February 5, 1997

2 Drafts: #30 +
#31

P R E S S R E L E A S E S C L E A R A N C E

TO: Chief of Staff*
Melissa Skolfield / Victor Zonana
OGC*
OPHS
ASPE
IGA
ASMB
WH Press Office

The two attached press releases are intended to be issued as FDA begins its outreach and training for implementation of tobacco regulations.

The releases would not be issued until we are certain (Monday) that court action has not impeded the implementation.

*OGC - Can you please assure that the appropriate White House clearance is obtained for the release that focuses on the President.

Clearance is needed by Thursday, Feb. 6.



Campbell Gardett
HHS Press Office

cc: ES
CDC

DRAFT

30

draft
1/10/96

President Clinton today called on the nation's retail community to join with the Administration and the 50 states in protecting America's children by not selling tobacco products to anyone under 18.

The President made his statement in connection with the commencement today of the Food and Drug Administration's nationwide outreach effort to retailers, parents, and community leaders about the provisions of the FDA rule to protect children from tobacco products. The first provisions of the rule -- making 18 the age for the purchase of tobacco products nationwide and requiring photo IDs for anyone under 27 -- become effective February 28, 1997.

"No parent wants his or her children to begin smoking, and we all have a responsibility to protect our neighbors' children as well," said President Clinton. "If we act together, we can stop this epidemic that threatens our children."

The FDA will hold 10 regional outreach meetings around the country in the next three weeks and one national televised outreach meeting, and will mail to more than 400,000 retailers information about the provisions of the new FDA rule. In addition, informational brochures for retailers and consumers will be distributed nationwide, and a toll-free telephone number (1-888-

DRAFT #30

FDA-4KIDS) has been established for retailers to obtain additional information.

In addition to the public education campaign, FDA will enforce the new rule by working with state and local officials in conducting spot checks of retail outlets. The nationwide toll-free telephone number has also been designed so that anyone can report potential violations. Retailers can be subject to penalties of \$250 or more for selling tobacco products to minors.

"We are going to work with store owners to make sure they understand their responsibility not to sell tobacco products to anyone under 18," said Health and Human Service Secretary Donna E. Shalala. "Our kids deserve a life free from the disease and death that comes with using tobacco."

Nearly 3,000 young people become regular smokers each day, and nearly 1,000 of these children and adolescents will die early from their use of tobacco products.

"Nicotine addiction begins as a pediatric disease," said FDA Commissioner David A. Kessler, M.D. "We will be vigorous in our enforcement efforts: Our children deserve that."

The regional meetings will be held between February 11 and February 27 in Atlanta, Baltimore, Boston, Boulder, Chicago, Detroit, Houston, Los Angeles, Miami, and Seattle. On February 18, the

DRAFT #30

national teleconference will be televised in an additional 25
cities around the country.

###

DRAFT #3/

P97-?

DATE

DRAFT 1/29/5 p.m.

Ivy Fleischer Kupac
301-443-3285**FDA SHOWS LOCAL RETAILERS, OTHER CITIZENS
HOW TO STOP TOBACCO SALES TO KIDS
OFFICIALS EXPLAIN NEW FEDERAL RULE**

The Food and Drug Administration today will hold a public meeting at (time) in (location) as part of an nationwide campaign to help retailers comply with the new rule to protect children and adolescents from cigarettes and smokeless tobacco.

The first provisions of the rule make it a federal violation to sell tobacco products to anyone under 18. Further, to prevent sales to youngsters under 18 who look older than their age, retailers must verify the age of any buyer under 27 by checking a photo ID. These measures become effective February 28.

Today's meeting is one of a series of meeting being held across the country to educate retailers, parents and community leaders about the provisions of the new FDA rule. In addition to viewing several video presentations that explain the rule and how to prevent sales to minors, meeting participants also will have an opportunity to learn what every retailer should know to comply with these rules.

Informational brochures for retailers and consumers will be distributed at the meeting and nationwide. A toll-free telephone number (1-888-FDA-4KIDS) has been established for retailers to obtain additional information.

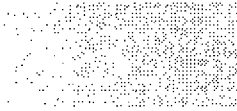
DRAFT #31

-2-

In addition to the public education campaign, FDA will enforce the new rule by working with state and local officials in conducting spot checks of retail outlets. The nationwide toll-free telephone number has also been designed so that anyone can report potential violations. Retailers can be subject to penalties of \$250 or more for selling tobacco products to minors.

(Host city name) is one of 10 cities where FDA is hosting regional outreach meetings prior to the regulation's start date, February 28.

###



Jerold R. Mande

06/13/97 11:24:53 AM

Record Type: Record

To: Elizabeth Drye/OPD/EOP

cc:

Subject: More clips

Florida Agents, With FDA, Plan
Sting Attack on Tobacco Sales

By CHANA R. SCHOENBERGER and BRUCE INGERSOLL

Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON -- Florida officials agreed to conduct undercover sting operations for the Food and Drug Administration to catch retailers selling tobacco to minors.

Under a \$200,000 contract signed Thursday, the Florida Department of Business and Professional Regulation's tobacco-control agents will begin using teenagers in enforcement sweeps to see whether store clerks are illegally selling cigarettes and other tobacco products to young people under age 18.

The eight-month contract is the first of 10 agreements the FDA plans to negotiate by the end of September, said Mitchell Zeller, the agency's chief tobacco policy maker. The FDA has a \$4.9 million enforcement budget for the current fiscal year and is seeking \$34 million for fiscal 1998. With only 1,000 field inspectors nationwide, the agency has to rely heavily on the states for enforcement help. State agencies in Arkansas, Arizona, California, Colorado, Illinois, Massachusetts, Minnesota, Texas and Washington are expected to sign FDA contracts.

"We picked the states principally for reasons of geographical diversity," Mr. Zeller said. In view of budget constraints, "we knew ... it would not be possible to work with all 50 states."

Ultimately, the FDA aims to raise a miniarmy of 15 and 16-year-olds to work with state agents as undercover decoys. The agency's surrogate enforcers will give retailers a pass on the first violation and fine them \$250 for the second.

The agency, Mr. Zeller said, is counting on publicity about the government's antismoking campaign to magnify its deterrent effect. FDA letters chastising first-time and repeat offenders will be posted on the agency's Web site, as will letters of praise sent to retailers who don't sell to undercover teenagers.

Another federal strategy is to use computers and other means to track the compliance records of supermarket, pharmacy and convenience-store chains and other retail outlets. Repeat offenders could face thousands of dollars in fines.

By mid-July, the Florida agents will have completed an FDA training program. Some of them already have experience in running sting operations. They will recruit teenagers from high schools and civic clubs.

If Congress approves the administration's \$34 million request, Mr. Zeller said, the FDA will take its sting tactics nationwide. But much of the money will go toward educating retailers about the FDA's new rules.

"The more outreach you do, the greater chance you will receive retail compliance," Mr. Zeller said.

The FDA rules, which took effect Feb. 28, require retailers to demand a photo-ID card from would-be tobacco buyers under age 27. Earlier this year, a federal judge in Greensboro, N.C., upheld those rules and struck down FDA curbs on tobacco advertising. The FDA and tobacco industry have appealed the judge's ground-breaking ruling to a federal appellate court.

[Return to top of page](#)

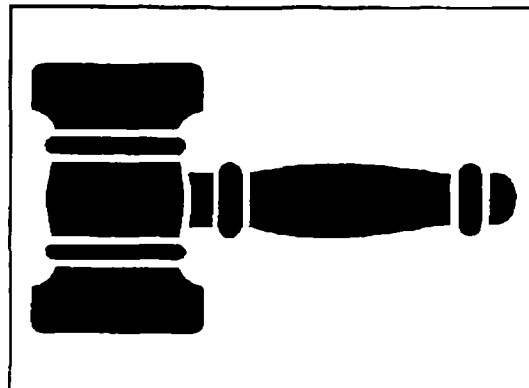
U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

PHONE: (202) 690-6318

FAX: (202) 690-7998

DATE: June 11, 1997

TO: ELIZABETH DRYE
fax: 456-7431



FROM: ANDREW D. HYMAN
Special Assistant to the General Counsel
Office of the General Counsel, Room 707F
U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20201

COMMENTS: Attached is a draft press release regarding FDA's contract with Florida. Obviously, this is a very close hold.

No. of Pages (including cover): 3

DRAFT # 135

P97-?
DATE

Ivy Fleischer Kuper
301-443-3285

FDA-STATE PARTNERSHIP TO PROTECT CHILDREN FROM TOBACCO

The Food and Drug Administration (FDA) has contracted with the State of Florida to enforce FDA's new regulation that prohibits retailers from selling cigarettes and smokeless tobacco products to children under 18. Florida is the first state to enter into partnership with FDA.

"With this contract, we're taking concrete steps to keep tobacco out of the hands of kids," said Donna Shalala, Secretary of Health and Human Services. "This approach should substantially reduce the number of teens who become addicted to tobacco."

Under the contract, Florida will conduct approximately 300 unannounced retail compliance checks each month over the next eight months. Typically dressed 15 and 16 year olds, accompanied by an adult, will attempt to purchase cigarettes or spit tobacco in retail stores throughout Florida.

Information about the compliance checks will be sent to FDA, which will issue a warning to retailers found selling to the adolescents. These retailers will be ~~penalized~~ and risk fines of \$250 for a second violation.

Subject to repeat inspections

The first provisions of FDA's final rule to protect children from tobacco took effect February 28, making 18 the national minimum age to purchase tobacco products and requiring retailers to check photo IDs of anyone under age 27. These measures are part of a comprehensive program designed to reduce smoking by young people by half in the next seven years. FDA issued the regulation Aug. 28, 1996 with provisions that limit access by children and adolescents to tobacco products and reduces the appeal these products have for underage smokers.

DRAFT

#135

On April 25, the Federal District Court in Greensboro, N.C., ruled that FDA has jurisdiction under the Food, Drug and Cosmetic Act to regulate nicotine-containing cigarettes and smokeless tobacco. The court upheld all restrictions involving youth access and labeling, including the two provisions that went into effect Feb. 28.

"Florida and FDA are committed to working together in fighting this pediatric epidemic of nicotine addiction," said Michael A. Friedman, Lead Deputy Commissioner for food and drugs. "Three thousand children and adolescents become regular smokers every day, and nearly 1,000 will die prematurely from a smoking-related disease."

Children and adolescents have long had easy access to tobacco products. In 13 studies reviewed by the Surgeon General, minors were successfully able to buy cigarettes 67 percent of the time.

Florida is one of ten states with which FDA is currently negotiating. It will use a portion of the \$4.9 million budgeted this year to assist states in enforcing the regulation and to reach out to retailers and the general public and educate them on the new provisions that went into effect in February. President Clinton recently requested \$34 million for next year's tobacco regulation in his budget submission to Congress.

###

Wingabeal =

What time on
Friday can you
meet on Food Policy
w/ Bob Castellan?

Barbara

FD-315-224-2367 MKR 19 97 18-43 NO.012 F.02

**COUNTY OF WAYNE
OFFICE OF THE SHERIFF**



ROBERT A. FICANO
Sheriff
MELVIN E. TURNER
Undersheriff

SHERIFF'S EXECUTIVE
ADMINISTRATIVE OFFICES
1231 St. Antoine
Detroit, Michigan 48226
224-2232-33

March 12, 1997

Barbara Woolley,
Office of Public Liaison
The White House
Fax: 202 456-6218 /6628

Dear Ms. Woolley:

This letter is confirmation of our telephone call a few days ago.

Wayne County Sheriff Robert Ficano, myself, and approximately 3 other individuals would like to meet with you, in Washington, on Thursday, April 3, 1997 at 2:00 PM.

The purpose of the meeting is to discuss the strategies and methods taken by the State of Michigan and the Wayne County Sheriff's Department to reduce the sale of cigarettes to children. We are interested in discussing enforcement of the new FDA regulations.

In the next few days, I will be sending you the names, dates of birth, and social security numbers, and titles, for all the individuals who will be in attendance. We are awaiting the names of the Department of Public Health officials that will be accompanying us.

Again thank you; a more detailed communications will be sent for your review by the end of the week. My phone number is (313) 224-2298, my fax is (313) 224-2367. Your assistance on this most urgent issue is deeply appreciated.

Sincerely

A handwritten signature in black ink, appearing to read "Ralph Kinney", written over a horizontal line.

Ralph Kinney
Director of Drug Prevention

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
--------------------------	---------------	------	-------------

001, letter	Ralph Kinney to Barbara Wooley re: SSNs and DOBs [partial] (1 page)	03/18/1997	b(6)
-------------	---	------------	------

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elizabeth Drye
OA/Box Number: 13021

FOLDER TITLE:

Rule Implementation

2014-0046-S

rc1423

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

OFFICE OF THE SHERIFF

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
--------------------------	---------------	------	-------------

002. fax	Andrew Hyman to Barbara Woolley (1 page)	04/01/1997	#Error
----------	--	------------	--------

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elizabeth Drye
OA/Box Number: 13021

FOLDER TITLE:

Rule Implementation

2014-0046-S

rc1423

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Wayne County Sheriff's Department

Office of Drug Prevention

**Don't Match Cigarettes
With Children in Wayne County**



**Robert A. Ficano
Sheriff of Wayne County**





STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF COMMUNITY HEALTH
JAMES K. HAVEMAN, JR., Director

COMMUNITY PUBLIC HEALTH AGENCY

3423 N. MARTIN L. KING JR. BLVD.
PO BOX 30195
LANSING, MI 48909

March 28, 1997

Sheriff Robert Ficano
Wayne County Sheriff Department
1231 Stantoine
Detroit, Michigan 48226

Dear Sheriff Ficano:

We appreciate the initiative you've taken on reducing tobacco use among youth in Wayne County. Your establishment of this as a priority particularly with many other pressing concerns, is commendable.

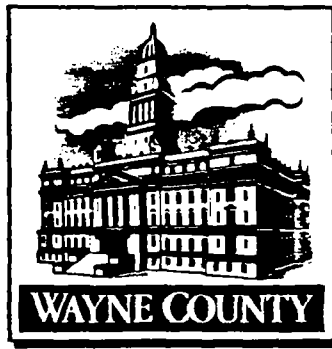
As you know, we convened a meeting with FDA representatives, state government stakeholders, the Michigan Sheriffs Association and the Michigan Association of Chiefs of Police. All parties were very interested in Michigan being designated as one of the pilot states in the initial FDA enforcement efforts.

We are looking forward to participating in the FDA enforcement program as a complementary effort to our Synar implementation. We look forward to working with you in this initiative.

Sincerely,

A handwritten signature in cursive script that reads "Karen Schrock".

Karen Schrock, Chief
Center for Substance Abuse Services



Edward H. McNamara
County Executive

March 20, 1997

Wayne County Sheriff's Department
Ralph Kinney, Director
Office of Drug Prevention
Detroit, Michigan 48226

Gentlemen:

It is with great pleasure that we submit this letter of support for the Don't Match Cigarettes With Children in Wayne County program.

As you know, every day approximately three thousand youths will begin to use tobacco products, and become addicted. Of this three thousand, one thousand will not live out their adult lives, and will die from a tobacco related illness. This is why it is so important to protect our youth early on, so that they can live without this shadow of death walking with them.

Wayne County Health Department, The American Stop Smoking Intervention Study for Cancer Prevention and Wayne County Smoking and Tobacco Intervention Coalition over the past year, have worked diligently with Wayne County Sheriff Robert A. Ficano and Department staff to protect our communities youths against tobacco. Numerous youth tobacco compliance checks were made across Wayne County. Youths, community groups, businesses, health professionals and others have come together to advocate for the protection of children through various projects initiated. Letter writing campaigns are ongoing, and television education sessions have been held. We believe, we have and must continue to make a difference in the lives of children.

Law enforcement is such a vital part in this war against tobacco use, we must tighten the linkage by expanding on the past year's activities, support the FDA efforts, find funding for more advertising, recruit more warriors into the battle and encourage dedicated organizations such as the Wayne County Sheriff's Department.

We continue to be supportive of your program to protect Wayne County Children against tobacco.

Yours For A Smoke Free County,

Velestia A. ReVels, Dept. Mgr., A.S.S.I.S.T Director,
WC/S.T.I.C Coordinator

DEPARTMENT OF PUBLIC HEALTH
2501 SOUTH MERRIMAN ROAD • WESTLAND, MICHIGAN 48186 • (313) 467-3300

Executive Summary

To Protect Children and Adolescents From Nicotine Addiction

The mission of this report is to propose a Wayne County response to the epidemic increase in illicit use of nicotine. This will be accomplished through the use of three techniques:

1. Finding the pertinent information
2. Analyzing the information
3. Presenting the information

This report is written primarily as a *Strategic Plan, Information Update, and Operations Guide* for Sheriff Robert A. Ficano. It was prepared by the Sheriff's Executive Assistant/Director of Drug Prevention, Ralph Kinney, in order to better assist the Sheriff in carrying out his duties to the health and public safety communities in Wayne County, Michigan.

This reports contains a strategy for restricting the sale and distribution of cigarettes, smokeless tobacco, and other nicotine products to Wayne County children and adolescents. The informational section briefly and succinctly reviews a few relevant issues in narrative and statistical formats.

This report takes no position on the issue of lawful nicotine sales or adult nicotine addiction, nor is it a panacea on youth smoking issues, rather it should be viewed as a starting point in the Sheriff's dialogue with parents, police, health professionals, law makers and the courts on this most important issue.

Problem Analysis

Why Protect Children and Adolescents From Nicotine Addiction?

{edited from surgeon general reports}

Tobacco use is the single leading preventable cause of death in the United States. Tobacco use is the single leading preventable cause of death in the United States. It deserves repeating again. Nicotine kills more than 400,000 Americans each year — more people each year than AIDS, car accidents, alcohol, homicides, illegal drugs, suicides, and fires, combined.

The use of tobacco products, and the resulting nicotine addiction, begins predominantly in children and adolescents and is, consequently, a pediatric disease. Approximately 3 million American adolescents currently smoke, and an additional 1 million adolescent males use smokeless tobacco. Each year, another 1 million young people become regular smokers. *Approximately one out of every three of these young people will die prematurely as a result!*

Studies suggest that anyone who does not begin to use tobacco as a child or adolescent is unlikely to start as an adult. The FDA and the Surgeon General report that eighty-two percent of adults who ever smoked had their first cigarette before age 18, and more than half of them had already become regular smokers by that age. Among smokers ages 12 to 17 years, 70 percent already regret their decision to smoke and 66 percent say that they want to quit.

Furthermore, studies show that children and adolescents are starting to smoke at earlier and earlier ages. Data reported in December 1995 showed that the proportion of 8th- and 10th-graders who reported smoking in the 30 days before the survey had risen by one-third since 1991, to about 19 percent and 28 percent respectively.

Similar problems exist with underage use of smokeless tobacco. School-based surveys in 1991 estimated that 19.2 percent of 9th- to 12th-grade males use smokeless tobacco.

Finally, studies show that young people do not fully understand the serious health risks of these products, or believe that those risks do not apply to them. Young people believe they are invincible and not concerned about health conditions which may afflict them at the age of 50 or older. They are also very impressionable and therefore vulnerable to the sophisticated marketing techniques employed by the tobacco industry, techniques that associate the use of tobacco products with excitement, glamour, and independence.

Quick Facts

Children's Future At Risk From Epidemic of Tobacco Use

- An estimated 4.5 million children and adolescents smoke in the United States, and another 1 million use smokeless tobacco.
- Each year, another 1 million young people join the ranks of regular smokers.
- Children are starting to smoke at younger and younger ages: The average teenage smoker begins to smoke at 14 1/2 years old and becomes a daily smoker before age 18.
- The Gallup Poll in 1992 found that 70 percent of smokers between the ages of 12 and 17 regret beginning to smoke and 66 percent want to quit.
- Children become addicted to nicotine easier than adults. More than 80 percent of all adult smokers had tried smoking by their 18th birthday and more than half of them had already become regular smokers by that age.
- The Centers for Disease Control and Prevention estimated that in 1993 the health care costs associated with smoking totaled \$50 billion: \$26.9 billion for hospital costs; \$15.5 billion for doctors; \$4.9 billion in nursing home costs; \$1.8 billion for prescription drugs, and \$900 million for home-health care expenditures.
- The Office of Technology Assessment calculated the social costs attributable to smoking in 1990 at \$68 billion. The calculation was based on \$20.8 billion in direct health care costs and \$6.9 billion in lost productivity from sickness and disabilities and \$40.3 billion in lost productivity from premature deaths.
- Protecting the future health of our children provides a benefit that will continue to pay dividends for our society. The annual benefits from reduced disease caused by smoking are projected to be \$28 to \$43 billion.
- These benefits are achieved through annual net medical cost savings of \$2.6 billion, annual morbidity-related productivity savings of \$900 million, and annual benefits of reduced mortality of \$24.6 to \$39.7 billion.
- The FDA reports that \$45 billion to \$50 billion is spent annually on tobacco products at the retail level.

Strategic Plan To Protect Children and Adolescents From Nicotine Addiction

A review of governmental and academic research materials produces four key objectives and four supporting tactics for their accomplishment.

- A. Objective: Reduce the number of merchants illicitly selling nicotine products in Wayne County.
- B. Objective: Increase the criminal, civil, and societal sanctions for the illicit distribution of nicotine products.
- C. Objective: Foster a zero-tolerance attitude in the neighborhoods and communities of Wayne County regarding the illicit use of nicotine products.
- D. Objective: Increase the number of children and adolescents in Wayne County who lead smoke-free and drug-free lives.

Tactic I Organization - Establish a policy development committee.

Tactic II Legislation- Lobby for tougher state and federal laws

Tactic II Litigation - Sue for the costs of the NIC NET unit

Tactic IV Communication - Publish a list of merchant violators

Mapping the Plan To Protect Children and Adolescents From Nicotine Addiction

A. Objective: Reduce the number of retail merchants illicitly selling nicotine products in Wayne County.

- Goal 1: Increase the frequency of random enforcement checks of tobacco retail merchants in Wayne County.

Currently, young people purchase an estimated \$1.26 billion worth of tobacco products annually. Despite laws in all 50 states that prohibit sales to minors, numerous studies show that adolescents have little difficulty purchasing tobacco products. The 1994 Surgeon General's report examined 13 studies of over-the-counter sales and determined that approximately 67 percent of minors were able to purchase cigarettes illegally.

Several studies indicate that actively enforced access restrictions are very effective. The best example, is a comprehensive community intervention in Woodridge, Illinois, involving regular compliance checks and penalties for merchant violations, it reduced illegal sales from 70 percent to less than 5 percent in under two years. Resulting rates of both experimentation and regular smoking decreased more than 50 percent among seventh and eighth grade students in this community.

- Goal 2: Increase the personnel assigned to Operation Nic Net.

Deploy a unit of 10 personnel, (2) Sergeants and (8) Deputy Sheriffs. The total cost is \$1 Million. An estimated 8,064 tickets would be issued to merchants, and an estimated 576 tickets would be issued to youth purchasers.

<u>Detroit Squad</u>
Sergeant - recruits (12) health professionals and (12) decoys.
Team 1 ---Deputy #1 Health Professional A, B, or C Youth Decoy A, B, or C
Team 2---Deputy #2 Health Professional D, E, or F Youth Decoy D, E, or F
Team 3 ---Deputy #3 Health Professional G, H, or I Youth Decoy G, H, or I
Team 4---Deputy #4 Health Professional J, K, or L Youth Decoy J, K, L

<u>Out-County Squad</u>
Sergeant - recruits (12) health professionals and (12) decoys.
Team 5 ---Deputy #5 Health Professional M, N, or O Youth Decoy M, N, or O
Team 6---Deputy #6 Health Professional P, Q, or R Youth Decoy P, Q, or R
Team 7 ---Deputy #7 Health Professional S, T, or U Youth Decoy S, T, or U
Team 8---Deputy #8 Health Professional V, W, or X Youth Decoy V,W, or X

Costs : 2 Sergeants @ \$48,000 + 50% fringe = 72,000	***144,000
8 Deputies @ \$41,000 + 50% fringe = 61,500	***492,000
10 Leased Cars @ 9,360 per year = 93,600	*** 93,600
900 Gal of gasoline x1.40/gal x10 cars =	*** 12,600
Stipends-- \$30/day x 2 people (youths decoy and health professional) =, \$60/day x 3 days/wk =, \$180/wk x 48 wk of operation = \$8,640 x 8 teams = 288 stipends x of \$30 x 8 teams	*** 69,120
Buy Money. 10 hits x \$5=, \$50 x 3 days of operation =, \$150 x 48 wk =, \$7,200 x 8 Teams	*** 57,600
Miscellaneous Fund for evaluation, media, etc.	***131,800

	Monday	Tuesday	Wednesday	Thursday	Friday
Team 1 Detroit - East	Re-investigate	Conduct	Conduct	Conduct	Administration /
Team 2 Detroit - East	previous Nic Net	Operation Nic Net	Operation Nic	Operation COPS	Court Day.
Team 3 Detroit - West	& Cop in Shops	with Decoys and	Net with Decoys	IN SHOPS to	Stats & reports
Team 4 Detroit - West	violators Decoys	Heath	and Heath	Target youth	to Sheriff.
Team 5 Western Wayne	Professionals	Professionals	Professional	purchasers with	Contact and
Team 6 Western Wayne	from A,D,G,J,	from B,E,H,K,N,	from C,F, I,L,	(4) two-person	schedule
Team 7 Downriver	M,P,S,& V.	Q,T,&W	O,R,U, & X	police units.	volunteers.
Team 8 Downriver					

Ticket Projections for Operation NIC NET = 8,064 Tickets

NIC NET is designed to ticket merchants illicitly selling nicotine products. Youth Decoys are the primary method used to find violators.

Formula = 7 tickets per day times 3 days per week of operation =, 21 tickets issued per week times 48 weeks of field operations =, 1,008 tickets per Team x 8 Teams = 8,064 Tickets issued to retailers.

Ticket Projections for Operation COPS IN SHOPS = 576 Tickets

COPS IN SHOPS is designed to ticket youths purchasing nicotine products. Police surveillance is the primary method used to find violators.

Formula = 3 tickets per day times 1 day per week of operation =, 3 tickets issued per week times 48 weeks of field operations =, 144 tickets per Team (2 person team) x 4 Teams (2 person team) =576 Tickets issued to youths.

TOTAL PROGRAM COST =	\$1,000,000
TOTAL PROJECTED TICKETS =	8,640
COSTS PER TICKET =	\$115.74

**WAYNE COUNTY SHERIFF'S DEPUTY
HOURLY AND OVERTIME RATES**

YEARLY SALARY	HOURLY RATES			OVERTIME RATES WITH FRINGE BENEFITS		
	STRAIGHT TIME	TIME & A HALF	DOUBLE TIME	STRAIGHT TIME	TIME & A HALF	DOUBLE TIME
\$27,600	13.27	19.90	26.54	15.86	23.78	31.72
\$30,100	14.47	21.71	28.94	17.29	25.94	34.58
\$31,500	15.14	22.72	30.29	18.09	27.15	36.20
\$33,000	15.87	23.80	31.73	18.96	28.44	37.92
\$36,500	17.55	26.32	35.10	20.97	31.45	41.94
\$37,700	18.13	27.19	36.25	21.67	32.49	43.32

NOTE: FRINGE BENEFITS CONSISTS OF RETIREMENT & FICA

11/13/93

B. Objective: Increase the criminal, civil, and societal sanctions for the illicit distribution of nicotine products.

- **Goal 1: Send written communications and make presentations to the 36th District Court Judges seeking enforcement of maximum criminal penalties for violators. The Detroit Ordinance provides for jail time, violators could be sentenced to the Alternative Work Force.**
- **Goal 2: Introduce a bill in the Michigan Legislature increasing the civil penalties for illicitly selling nicotine products. Attempt equalization of the civil penalties for illicit nicotine sales with those of illicit marijuana sales.**
- **Goal 3: Seek FDA adoption of the penalties proposed in the Michigan Legislation. Request support of MSA and NSA in this lobbying effort.**

C. Objective: Foster a zero-tolerance attitude in the neighborhoods and communities of Wayne County regarding illicit use of nicotine products.

- **Goal 1: Form effective partnerships with citizen based substance abuse prevention organizations, e.g. Baptist Pastors Substance Abuse Coalition and the Detroit City Council Task Force on Substance Abuse.**
- **Goal 2: Notify Wayne County Commissioners and Michigan State Representatives in Wayne County of the names and addresses of retailers illicitly selling nicotine products. Encourage these officials to share the information with citizen groups through their district newsletters.**
- **Goal 3: Activate a Court Monitor Program that would be composed of citizen volunteers who would appear as observers in District Court during the trial of youth tobacco cases. The volunteers will be given tee-shirts or arm bands stating WAYNE COUNTY SHERIFF'S OPERATRION NIC NET.**

D. Objective: Increase the number of children and adolescents in Wayne County who lead smoke free and drug-free lives.

- Goal 1: Decrease by 50% the number of school code violations for smoking related offenses in Detroit and Wayne County schools.
- Goal 2: Decrease to 5% the number of merchants willing to illicitly sell nicotine products.
- Goal 3: Increase the number of Wayne County students declaring themselves smoke-free and drug-free in national and other self-reporting surveys.
- Goal 4: Educate Wayne County youths about health risks of nicotine addiction. Tobacco manufacturers are required by the FDA to establish and fund public education programs to counter the effects of the advertising that has influenced young people to begin and continue using tobacco products.

IV. Tactic *Communication* - Publish a list of merchant violators in the newspapers.

Tobacco products are among the most heavily advertised in this country, accounting for advertising and promotional expenditures of more than \$6 billion in 1993. Studies show that tobacco advertising significantly influences children and adolescents in their decision to start smoking or using smokeless tobacco, and it must be considered in any serious effort to reduce tobacco use among youth. Media outlets and the advertising communities have an societal obligation to assist in the effort to reduce the illicit use of nicotine products by providing free media access to assist law enforcement.

Recommendation: Establish a Media Board to coordinate the solicitation of free-media access. Nic Net would publicize the names of merchants illegally selling nicotine products. The list of names would be accompanied by a message from the Sheriff, The Mayor, the County Executive, and the State Health Department, encouraging customers not to shop at the offending retail outlet, thereby driving up the costs for illicit nicotine sales.

Wayne County Sheriff's Department

Office of Drug Prevention

**Don't Match Cigarettes
With Children in Wayne County**



Robert A. Ficano
Sheriff of Wayne County

16

OFFICE OF THE SHERIFF COUNTY OF WAYNE, MICHIGAN

The project staff of
Operation Nic Net

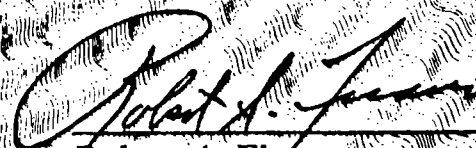
certify to all that

SGT. TONY BYNUM

has provided professional assistance and dedicated service to the Wayne County Sheriff's Department, when carrying out its law enforcement duties to enforce state laws and city ordinances that prevent the sell of tobacco to minors.

IN TESTIMONY WHEREOF, I have
hereunto placed my signature and caused the
Seal of the County of Wayne to be affixed
on this 9th Day of October 1996.




Robert A. Figino
Sheriff of Wayne County



Nic Net -Task Force

Sponsored by:

- Wayne County Health Department,
 - City of Detroit Health Department, &
 - Michigan Department of Community Health
- CALL (313) 224-2298**

OPERATION NIC NET

Wayne County Sheriff's Department

Office of Drug Prevention

Dear Store Owner:

You were monitored by our undercover Sheriff's Deputies. You refused to sell Nicotine products to youths!

Thank You for being a responsible member of the Community and obeying the law.

(YOU MAY POST THIS SIGN FOR YOUR CUSTOMERS TO VIEW)

Sheriff Robert A. Ficano

Date Issued: _____

SHERIFF - Special Project Deputization

Wayne County Sheriff's Department

Operation
NIC NET



Expires on
12-01-96

Alousi H. Alise

is a duly appointed Special Deputy for Nic Net

96-008

Robert A. Ficano
Sheriff of Wayne County



Operation NicNet ! Research in Brief

Preventing Nicotine Addiction in Children and Youths

Spent Department and Health Departments track down mechanisms of death

MORE AGGRESSIVE MEASURES NEEDED

More aggressive measures are needed to counteract the social forces that continue to induce a quarter of the nation's young people to use tobacco products, a committee of the Institute of Medicine (IOM) has concluded. Its new report recommends a youth-centered tobacco control strategy that leans strongly toward legislative and regulatory action.

Each year, more than 1 million youths become regular smokers. They're taking an average of 15 years off their lives and committing the health care system to at least \$8.2 billion in extra medical costs over their lifetimes.

The number of cigarettes consumed annually by about 3 million minors in the United States has been estimated conservatively at 516 million packets. At least half of those are illegally sold to minors.

DECISIONS BY YOUTHS ABOUT WHEATHER TO USE TOBACCO HAVE LIFELONG CONSEQUENCES

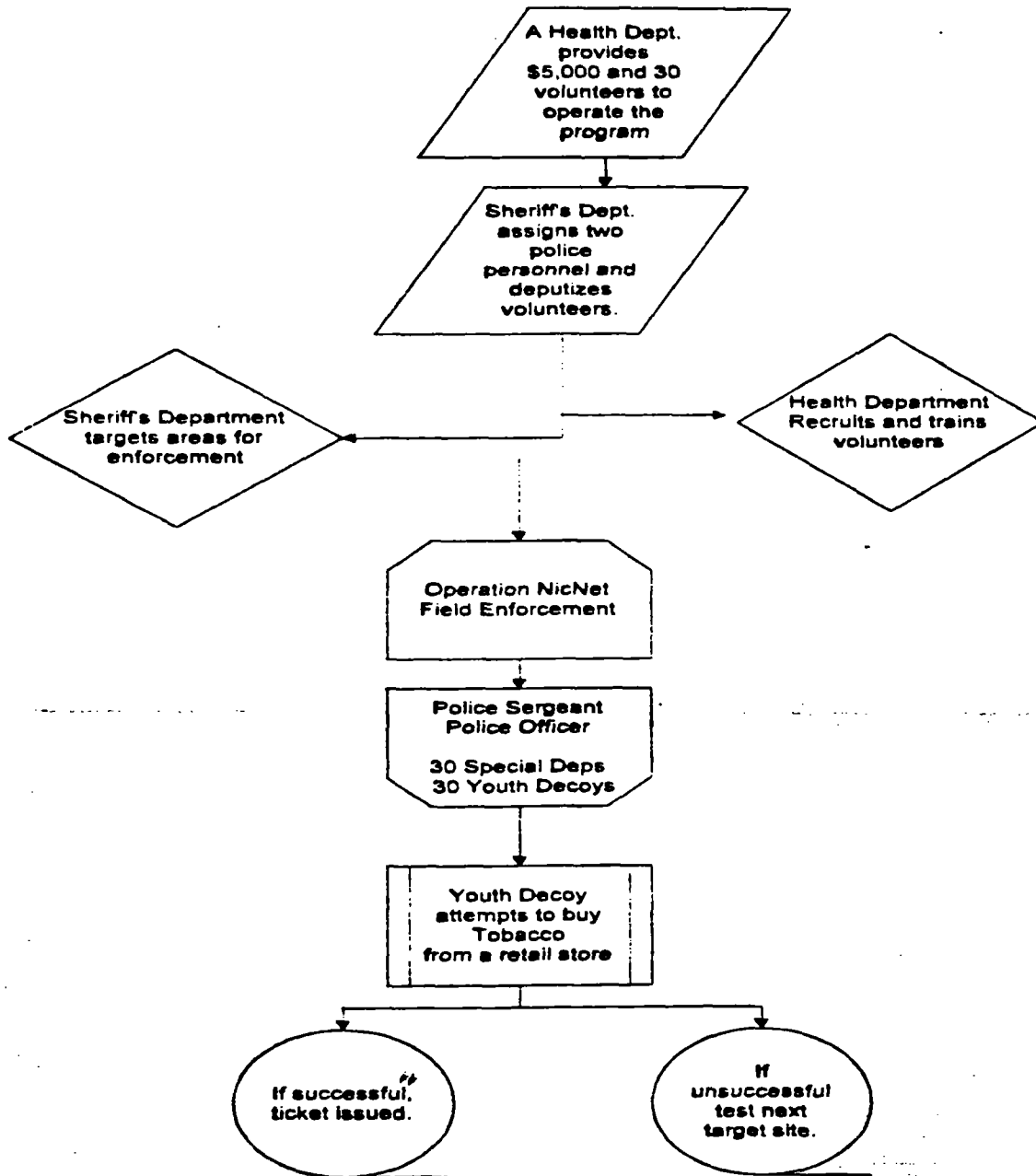
Most smokers begin smoking during childhood and adolescence; nicotine addiction begins during the first few years of tobacco use. Decades of research show that if people do not begin to use tobacco as youngsters, they are highly unlikely to initiate use as adults. For adults who smoke daily, 89 percent began using cigarettes and 71 percent began smoking daily by age 18.

If a person reaches the age of 18 without being a user of tobacco products, he or she is highly unlikely to become a tobacco user during adulthood. On the other hand, most children and youths who initiate regular tobacco use become addicted and their addiction persists for many years thereafter, perhaps throughout their lives. This is why a youth-centered prevention policy is an essential part of any coherent strategy for eliminating tobacco-related deaths and disease.

Operation NicNet! Flow Chart

Preventing Nicotine Addiction in Children and Youths

Operation NicNet Flow Chart



COUNTY OF WAYNE

OFFICE OF THE SHERIFF

ROBERT A. FICANO
Sheriff



MELVIN E. TURNER
Undersheriff

Wayne County Sheriff's Tobacco Enforcement Program
Parental Consent Form

I grant permission for my son/daughter _____

who is age _____ to participate as a youth decoy in the Wayne County

Sheriff's Department Tobacco Enforcement Program - OPERATION NIC NET.

- I understand my son/daughter will be transported to a retail store to attempt the purchase of tobacco. If my son/daughter is able to purchase tobacco, then the person selling tobacco to my son/daughter will be given a ticket or arrested.
- I understand that my son/daughter may have to testify in District Court at some point in the future regarding such transactions.
- I understand the program's hours of operation may be from 3:00 P.M. to 10:00 P.M., however this is subject to change by the Police Sergeant in Charge of the field operation.
- I understand this program, Operation Nic Net, is a joint project between the Wayne County Sheriff's Office, the Wayne County Health and Community Services Office and the City of Detroit Health Department.

Questions about the participation of my son/daughter in the program should be directed to Ralph Kinney, Director of Drug Prevention, Wayne County Sheriff's Department at 224-2298.

Signed: _____ Dated: _____

Student Address: _____

Student Phone Number: _____

PLEASE ENCLOSE A COPY OF STUDENT'S ID.

Training/ Depulization: Wednesday September 11, 1996 11:00 am to 2:00 pm

Location: William Dickerson Correctional
3501 Hamtramck dr.
Hamtramck, Michigan 48212

Content:

11:00 Welcome	Ralph Kenney/ Allen Martin
11:10 Overview/ History	Robert A. Ficano, Wayne County Sheriff
11:30 Comments	Dr. Amos Aduroja, Director BSA/DHD Karen Schrock, Chief, CSAS Valestia ReVals, Wayne County ASSIST
12:00 Lunch	
12:30 Tobacco Laws regarding Sells	Project ASSIST
12:45 conflict Resolution-	A. Martin BSA/DHD
1:00 Conduct and Operation	R. Kinney WCSD
1:15 Personal presentation	TBA
1:25 Appearance Tickets Prep.	TBA, Wayne County Sheriff's Dept.
1:35 Questions & Answers	
1:45 Depulization	Robert A. Ficano, Wayne County Sheriff
2:00 Adjournment:	

1500 Donance

YOUTH TOBACCO ACT COMPLIANCE CHECK REPORT FORM
TOBACCO RETAILERS
FY 96

Please correct name and address if necessary

Name of retailer: WILLIAMS & SON ICE CREAM

Address of store: 10700 MACK

City: 48214,

County: 82

Type of store: Grocery Convenience Gas station Restaurant Bar/Lounge
(circle one) Other(specify) _____

Vending Machine: Yes No

Date: _____

Time: _____ am pm

Were you able to buy tobacco products?

Clerk asked my age:

Clerk checked my I.D.:

I had to ask for tobacco from behind the counter:

Was a Youth Tobacco Act sign posted?

Yes	No
☐	☐
☐	☐
☐	☐
☐	☐
☐	☐

Clerk's Estimated Age (Circle one): under 18 18-29 30-49 50 or older

Clerk's Gender (Circle one): Male Female

Purchaser's Age: _____ Gender (Circle one): Male Female

What type of tobacco did you buy/try to buy?(Circle one): Cigarettes Chewing tobacco

Any comments made by store clerk:

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
--------------------------	---------------	------	-------------

003. list	re: NIC Net Case Status (1 page)	n.d.	b(6)
-----------	----------------------------------	------	------

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elizabeth Drye
OA/Box Number: 13021

FOLDER TITLE:

Rule Implementation

2014-0046-S

rc1423

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

WAYNE COUNTY SHERIFF'S DEPARTMENT
DEPARTMENTAL COMMUNICATION

TO: ALL CONCERNED
FROM: Sergeant Michael Modes
RE: Operation NicNet Statistics
DATE: FEBRUARY 28, 1997

<u>Date</u>	<u>Precict</u>	<u>Attempts</u>	<u>Buys</u>	<u>U-Tickets Issued</u>
09-26-96	1/7	10	5	5
10-04-96	8	10	5	5
10-07-96	8	27	17	19
10-09-96	12/8	24	15	19
10-18-96	11	22	11	15
10-24-96	3	25	10	11
11-20-96	2	19	10	11
12-04-96	9	12	10	14
12-11-96	5	25	9	10
01-08-97	13	19	19	22
01-15-97	10	21	7	10
01-22-97	4	23	19	23
01-29-97	6	21	6	8
02-28-97	8	11	7	9
TOTALS TO DATE:	13	269	150	181

Sy Michael Modes
Sergeant Michael Modes

WAYNE COUNTY SHERIFF'S DEPARTMENT
DEPARTMENTAL COMMUNICATION

TO: ALL CONCERNED
FROM: Sergeant Michael Modes
RE: Operation NicNet Statistics - Melvindale
DATE: March 21, 1997

The following is a list for Operation NicNet - Melvindale

<u>Date</u>	<u>Attempts</u>	<u>Buys</u>	<u>Tickets Issued</u>
03-21-97	21	5	5

Sgt Michael Modes
Sergeant Michael Modes

Wayne County Sheriff's Department

Office of Drug Prevention

**Don't Match Cigarettes
With Children in Wayne County**



**Robert A. Ficano
Sheriff of Wayne County**

Hypothermia-Related Deaths — Continued

tures. Other risk factors for hypothermia include hypothyroidism, mental illness, dehydration and starvation, homelessness and poverty, immobilizing illness, and sustained contact with materials that promote conductive heat loss (e.g., water, solvents, and metals) (1).

Hypothermia-related morbidity and mortality can be prevented by early recognition and prompt medical care. Early indications of hypothermia include shivering, numbness, fatigue, poor coordination, slurred speech, impaired mentation, blueness or puffiness of the skin, and irrationality. The use of insulated clothing that does not retain moisture and appropriate head gear can assist in preventing cold-related illness because 30% of heat loss comes from the head. Immersion in water and wet clothing during cold weather should be avoided. In addition, persons who are outdoors in cold conditions should increase fluid and calorie intake, abstain from consuming alcoholic beverages, and avoid overexertion and sweating.

References

1. Kilbourne EM. Cold environments. In: Gregg MB, ed. The public health consequences of disasters. Atlanta, Georgia: US Department of Health and Human Services, Public Health Service, CDC, 1989:63-8.
2. CDC. Hypothermia-related deaths—North Carolina, November 1993–March 1994. *MMWR* 1994;43:849,855-6.
3. CDC. Hypothermia-related deaths—Cook County, Illinois, November 1992–March 1993. *MMWR* 1993;42:917-9.

Estimates of Retailers Willing to Sell Tobacco to Minors — California, August–September 1995 and June–July 1996

The prevalence of tobacco use among adolescents is increasing, and the most common source of tobacco products for persons aged <18 years (minors) is retail stores (1). In 1991, an estimated 29.6 million packs of cigarettes were sold illegally to minors in California, and an estimated 255 million packs were sold illegally to minors nationwide (2). Federal law (i.e., the Synar Amendment*) enacted in July 1992 requires all states that receive federal funds for prevention and treatment of substance abuse to have and enforce laws prohibiting the sale or distribution of tobacco to minors, conduct annual statewide inspections of over-the-counter tobacco outlets and vending machines to assess the statewide rate of illegal tobacco sales to minors, and develop a plan to decrease the illegal sales rate to $\leq 20\%$ over several years (3). On September 28, 1994, California enacted the Stop Tobacco Access to Kids Enforcement (STAKE) Act†, which requires that 1) tobacco retailers (i.e., vendors) post warning signs at each point of purchase and check the identification of persons who appear aged <18 years; 2) the California Department of Health Services (CDHS) develop a statewide enforcement program and establish a toll-free telephone number for reporting observed illegal tobacco sales to minors; and 3) CDHS annually assess and report the rate of illegal sales of tobacco products to minors. This report describes the retailer education and enforcement program and summarizes the results of the first two annual assessments (Youth Tobacco Purchase Surveys [YTPSs]). The findings indicate

*Public Law 102-321, §1926 of the Public Health Service Act (42 USC §300x-26).

†Stop Tobacco Access to Kids Enforcement (STAKE) Act: SB1927, September 28, 1994. California Business and Professional Code, Sections 22950-9.

Tobacco Sales to Minors — Continued

that, from August–September 1995 to June–July 1996, among over-the-counter tobacco outlets the percentage of retailers who asked for age identification increased substantially, the percentage of stores displaying warning signs on age restrictions increased, and the percentage of retailers willing to sell tobacco products to minors decreased.

Education About and Enforcement of Youth Access Laws

In response to provisions of the STAKE Act, in August 1995 CDHS initiated an on-going public and retailer education program before the enforcement of the law began on December 27, 1995. The education program consisted of an advertisement in a retail trade journal; a statewide press conference; paid radio and television commercials and billboard advertisements promoting a toll-free telephone number; a direct mailing of educational materials and warning signs to approximately 27,000 retailers; and educational materials provided to local government officials, retail trade groups, local health groups, chambers of commerce, and state legislators. In addition, 120 local and regional community organizations conducted educational, policy development, and media activities to stimulate compliance with youth access laws.

The STAKE Act requires that the CDHS statewide enforcement program include 15- and 16-year-old minors for unannounced inspections of tobacco retailers. Civil penalties of \$200–\$6000 can be levied against the business owner depending on the number of offenses during a 5-year period. During December 27, 1995–June 10, 1996 (the period before the second YTPS began), CDHS conducted 865 unannounced inspections in 22 of the state's 58 counties. As of December 16, 1996, fines totaling \$65,550 had been paid by 258 business owners among the 286 who were in violation of the STAKE Act during December 27, 1995–June 10, 1996, and 28 business owners are involved in litigation or further administrative processing with CDHS.

Youth Tobacco Purchase Surveys

The 1995 YTPS was the first state-representative random survey in California of illegal tobacco sales to minors and was conducted during August 2–September 7, 1995. A second YTPS was conducted during June 11–July 26, 1996, after initiation of the retailer education campaign and enforcement program. The YTPS methodology was designed to permit statistically valid statewide estimates and year-to-year comparisons of over-the-counter tobacco sales to minors. The California State Board of Equalization provided a list of businesses most likely to sell tobacco over the counter, including all convenience stores, gas stations, drug stores, liquor stores, supermarkets, and cigar stores in California. Using simple random sampling, sample sizes of 405 for 1995 and 434 for 1996 were obtained after eliminating stores that were no longer in business, were not tobacco outlets, could not be located (four in 1995 and 21 in 1996), or were considered unsafe by the survey teams (none in 1995 and nine in 1996). Odds ratios and p values were calculated for the change from 1995 to 1996. The odds ratios for asking age and/or for identification, presence of warning signs, and total sales were adjusted for store type.

Newspaper advertisements and contacts in local health departments, tobacco-control organizations, and community programs were used to recruit the 63 minors aged 15–16 years (including 31 males and 32 females) who participated in the 1995 YTPS and 67 minors aged 15–16 years (including 29 males and 38 females) who participated in the 1996 YTPS. The adult escorts included staff members from local

Tobacco Sales to Minors — Continued

tobacco-control organizations. Teams consisting of one or two adults and two minors made one purchase attempt per store using the following protocol: an adult escort entered the store immediately before or shortly after one of the minors entered the store. The adult observed the transaction between the retailer and the minor and noted age-restriction signs posted inside the store. The minors could choose either cigarettes or smokeless tobacco. If asked by retailers, the minors were required to truthfully state their age and that they carried no age identification. Retailers were considered to be willing to sell tobacco products to minors if they recorded a sale on a cash register or placed the tobacco on the counter and asked for money. Retailers who refused to sell tobacco to the minor for any reason were considered to be not willing to illegally sell tobacco to the minor. If the retailer was willing to sell tobacco to the minor, the minor stated that he or she did not have enough money and left the store.

Overall, the percentage of retailers willing to sell tobacco to minors decreased from the assessment period in 1995 (37.0%) to 1996 (29.3%) (adjusted odds ratio [AOR], adjusted by type of store=0.7, $p<0.05$) (Table 1). Although sales to minors decreased in most types of stores, the decrease was statistically significant only for convenience stores selling gasoline (from 48.6% to 28.9%; odds ratio=0.4, $p<0.01$). From 1995 to 1996, there were similar percentages of retailers willing to sell tobacco to minors when the retailer asked for identification (2.4% in 1995 compared with 3.5% in 1996) or when the retailer asked either the minor's age or for identification (4.4% in 1995 compared with 3.3% in 1996).

However, the percentage of stores in which retailers asked minors for identification increased from 41.7% to 53.5% (AOR, adjusted by type of store=1.6, $p<0.05$), and the percentage of stores in which the retailer asked either the minor's age or for identification increased from 61.7% to 70.3% (AOR=1.5, $p<0.01$). The percentage of stores that displayed age-of-sale warning signs increased from 32.6% to 63.8% (AOR=3.6, $p<0.01$).

Reported by: Z Weinbaum, PhD, V Quinn, MEd, A Roeseler, MSPH, V Foster, MPH, N Bagnato, MPH, M Johnson, PhD, DG Bal, MD, Tobacco Control Section; D Walsh, Food and Drug Br, California Dept of Health Svcs; R Kropp, MA, J Keller, MPH, North Bay Health Resources Center, Petaluma. Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, CDC.

Editorial Note: The findings in this report are consistent with previous reports indicating that illegal sales to minors may be effectively decreased by the combination of increased merchant education and enforcement of laws prohibiting sales of tobacco to minors, and that the requirement of proof of age by retailers is associated with very low sales rates (4–7). In this report, sales were less likely in both years when age was asked and/or identification was requested and when warning signs were present.

The findings in this report are subject to at least two limitations. First, because comparable data are available for only 2 years, they may not indicate a trend. Second, because the STAKE Act required statewide implementation, an evaluation design using control communities was not possible, and further assessment is needed to examine the possible influences of other factors on the rate of illegal sales to minors.

The efforts of government and the private sector in California provide one model approach for reducing tobacco sales to minors. For example, the STAKE Act contains strengthening provisions that were not specifically required by the Synar Amendment. In addition, the STAKE Act was amended in 1995 to prohibit the sale of tobacco

TABLE 1. Number and percentage of store visits and number and percentage of retailers willing to sell tobacco products to minors*, by category and year, August–September 1995 and June–July 1996, and percentage point change from 1995 to 1996 of retailers willing to sell tobacco to minors — California

Category	1995					1996					% Point change from 1995 to 1996		
	Store visits		Retailers willing to sell tobacco			Store visits		Retailers willing to sell tobacco					
	No.	(%)	No.	(%)	p value†	No.	(%)	No.	(%)	p value†	%	OR‡	p value§
Type of store													
Drug store/pharmacy	36	(8.9)	8	(22.2)	<0.05	31	(7.1)	7	(22.8)	NS	+ 0.4	1.0	NS**
Gas/convenience	70	(17.3)	34	(48.6)		121	(27.9)	35	(28.9)		-19.7	0.4	<0.01
Gas station only	19	(4.7)	9	(47.4)		11	(2.5)	5	(45.5)		- 1.9	0.9	NS
Liquor store	61	(15.1)	27	(44.3)		77	(17.7)	27	(35.1)		- 9.2	0.7	NS
Small grocery/convenience	133	(32.8)	49	(36.8)		141	(32.5)	42	(29.8)		- 7.0	0.7	NS
Supermarket	69	(17.0)	17	(24.6)		45	(10.4)	9	(20.0)		- 4.6	0.8	NS
Other††	17	(4.2)	6	(35.3)		8	(1.8)	2	(25.0)		-10.3	0.6	NS
Clerk asked age													
No	301	(74.3)	143	(47.5)	<0.05	337	(77.7)	124	(36.8)	<0.05	-10.7	0.6	<0.01
Yes	104	(25.7)	7	(6.7)		97	(22.4)	3	(3.1)		- 3.1	0.5	NS
Clerk asked for identification													
No	236	(58.3)	146	(61.9)	<0.05	202	(46.5)	119	(58.9)	<0.05	- 3.0	0.9	NS
Yes	169	(41.7)	4	(2.4)		232	(53.5)	8	(3.5)		+ 1.1	1.5	NS
Clerk asked age or for identification													
No	155	(38.3)	139	(89.7)	<0.05	129	(29.7)	117	(90.7)	<0.05	+ 1.0	1.1	NS
Yes	250	(61.7)	11	(4.4)		305	(70.3)	10	(3.3)		- 1.1	0.7	NS
Warning signs in the store													
No	273	(67.4)	115	(42.1)	<0.05	157	(36.2)	69	(44.0)	<0.05	+ 1.9	1.0	NS
Yes	132	(32.6)	35	(26.5)		277	(63.8)	58	(20.9)		- 5.6	0.7	NS
Total	405	(100.0)	150	(37.0)		434	(100.0)	127	(29.3)		- 8.2	0.7	<0.05

*Persons aged <18 years.

†Tests for the difference within the same year in the number of retailers willing to sell tobacco to minors between store types, whether or not retailer asked for age and/or identification, and presence or absence of warning signs.

‡Odds ratio (OR) for change in number of retailers willing to sell tobacco to minors from 1995 to 1996. OR for asking age and/or asking for identification, presence of warning signs, and total number of retailers willing to sell tobacco to minors were adjusted for store type.

§Tests for the difference from 1995 to 1996 in the number of retailers willing to sell tobacco to minors.

**Not significant.

††Includes other store types listed by the California State Board of Equalization as selling tobacco products (e.g., gift stores and cigar stores).

Tobacco Sales to Minors — Continued

products from vending machines except those in bars not adjoining restaurants, while a different law⁵ bans the sale of individual cigarettes from open packages. Despite these efforts, the findings in this report indicate that, for 1996, one third of stores did not post warning signs, minors were not asked for proof of age identification in approximately half of stores, and retailers were willing to sell tobacco to minors in almost one third of purchase attempts.

On August 28, 1996, the Food and Drug Administration (FDA) issued regulations that prohibit sales of tobacco to persons aged <18 years, require retailers to request photographic identification to verify the age of all persons aged <27 years who request tobacco, ban vending machines and self-service displays except in facilities where only adults are permitted, ban sales of single cigarettes and packages with <20 cigarettes, and eliminate free samples of cigarettes and smokeless tobacco products (8). The effective date for the provisions prohibiting tobacco sales to minors and requiring photographic identification is February 28, 1997, and the effective date for the provisions affecting sales through vending machines, self-service displays, single cigarettes sales, and distribution of free samples is August 28, 1997. The FDA rule should further enhance state and local efforts to decrease illegal sales of tobacco to minors. In addition, the Substance Abuse and Mental Health Services Administration has developed technical-assistance guidelines addressing statewide sampling methodologies, inspections (i.e., compliance checks), and interventions; these guidelines can be used by states to develop programs that comply with requirements of the Synar Amendment (9).

References

1. CDC. Tobacco use and usual source of cigarettes among high school students—United States, 1995. *MMWR* 1996;45:413–8.
2. Cummings KM, Pechacek T, Shopland D. The illegal sale of cigarettes to US minors: estimates by state. *Am J Public Health* 1994;84:300–2.
3. Substance Abuse and Mental Health Services Administration. Final regulations to implement section 1926 of the Public Health Service Act regarding the sale and distribution of tobacco products to individuals under the age of 18. *Federal Register* 1996;13:1492–500.
4. Feighery E, Altman DG, Shaffer G. The effects of combining education and enforcement to reduce tobacco sales to minors: a study of four northern California communities. *JAMA* 1991;266:3168–78.
5. US Department of Health and Human Services. Preventing tobacco use among young people: a report of the Surgeon General. Atlanta, Georgia: US Department of Health and Human Services, Public Health Service, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 1994.
6. Landrine H, Klonoff EA, Alcaraz R. Asking age identification may decrease minors' access to tobacco. *Prev Med* 1996;25:301–6.
7. DiFranza JR, Savageau JA, Aisquith BF. Youth access to tobacco: the effects of age, gender, vending machine locks, and "It's the Law" programs. *Am J Public Health* 1996;86:221–4.
8. Food and Drug Administration. Regulations restricting the sale and distribution of cigarettes and smokeless tobacco products to protect children and adolescents: final rule. *Federal Register* 1996;61:41,314–75.
9. Substance Abuse and Mental Health Services Administration. Synar regulation guidance series: sampling, inspection, and change strategies. Rockville, Maryland: US Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 1996.

⁵ California Penal Code, Section 308.2.



CDC
Surveillance
Summaries

MORBIDITY AND MORTALITY WEEKLY REPORT

State Laws on Tobacco Control— United States, 1995

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Centers for Disease Control
and Prevention (CDC)
Atlanta, Georgia 30333



The *MMWR* series of publications is published by the Epidemiology Program Office, Centers for Disease Control and Prevention (CDC), Public Health Service, U.S. Department of Health and Human Services, Atlanta, GA 30333.

SUGGESTED CITATION

General: Centers for Disease Control and Prevention. *CDC Surveillance Summaries*, November 3, 1995. MMWR 1995;44(No. SS-6).
Specific: [Author(s)]. [title of particular article]. In: *CDC Surveillance Summaries*, November 3, 1995. MMWR 1995;44(No. SS-6):[inclusive page numbers].

Centers for Disease Control and Prevention David Satcher, M.D., Ph.D.
Director

The production of this report as an *MMWR* serial publication was coordinated in:

Epidemiology Program Office Stephen B. Thacker, M.D., M.Sc.
Director

Richard A. Goodman, M.D., M.P.H.
Editor, MMWR Series

Scott F. Wetterhall, M.D., M.P.H.
Associate Editor, CDC Surveillance Summaries

Scientific Information and Communications Program

CDC Surveillance Summaries Suzanne M. Hewitt, M.P.A.
Managing Editor

Nadine W. Martin

Rachel J. Wilson

Project Editors

Peter M. Jenkins

Visual Information Specialist

Use of trade names and commercial sources is for identification only and does not imply endorsement by the Public Health Service or the U.S. Department of Health and Human Services.

Copies can be purchased from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Telephone: (202) 783-3238.

State Laws on Tobacco Control— United States, 1995

Dana M. Shelton, M.P.H.¹
Marianne Haenlein Alciati, Ph.D.²
Michele M. Chang¹
Julie A. Fishman, M.P.H.¹
Liza A. Fues, J.D.³
Jennifer Michaels, M.L.S.¹
Ronald J. Bazile³
James C. Bridgers, Jr.³
Jacqueline L. Rosenthal, M.P.A.¹
Lalitha Kutty, M.S.³
Michael P. Eriksen, Sc.D.¹

¹*Office on Smoking and Health,
National Center for Chronic Disease Prevention
and Health Promotion, CDC*
²*National Cancer Institute,
National Institutes of Health*
³*The MayaTech Corporation
under contract to the
National Cancer Institute*

Abstract

Problem/Condition: State laws on smoke-free indoor air, youth access to tobacco products, advertising of tobacco products, and excise taxes on tobacco products are summarized.

Reporting Period Covered: Legislation effective through June 30, 1995.

Description of System: CDC and the National Cancer Institute (NCI) identified state laws addressing tobacco control by using LEXIS, which is an on-line legal research data base, and NCI's State Cancer Legislative Database (SCLD), which is a data base of legislation. CDC and NCI conducted detailed analyses of the content of the laws to identify specific provisions.

Results: CDC and NCI identified 1,238 state laws that address tobacco-control-related issues. Most laws either enact restrictions or strengthen current legislation that restricts tobacco use, sales to minors, or advertising; however, some laws preempt stronger measures by local ordinances. At the state level, forty-six states and Washington, DC require smoke-free indoor air to some degree or in some public places. All states prohibit the sale and distribution of tobacco products to minors, but only nine states restrict advertising of tobacco products. All states tax cigarettes (average excise tax is 31.5¢ per pack); 42 states also tax chewing tobacco and snuff.

Interpretation: State laws addressing tobacco control vary in relation to restrictiveness, enforcement and penalties, preemptions, and exceptions.

centers. Of those that do, 12 prohibit smoking at all times or require separately ventilated areas, nine prohibit smoking only when children are present, and six require only that the centers designate smoking areas. Forty-two states restrict smoking in hospitals, 42 on selected forms of public transportation, 30 in grocery stores, and 23 in enclosed arenas. Few states have laws that restrict smoking in bars, home-based child care centers, shopping malls, prisons, or hotels and motels.

Youth Access to Tobacco Products

Sale and Distribution

Laws pertaining to the sale of tobacco products to young persons are summarized (Table 3A). All states prohibit the sale and distribution of tobacco products to persons under 18 years of age, and 35% of states designate an enforcement authority in the legislation (Table 3A). In Alabama, Alaska, and Utah, 19 years is the minimum age for sale of tobacco products. In Pennsylvania, sales of any tobacco products to persons under age 18 years is prohibited, and 21 is the minimum age designated specifically for the sale of cigarettes. All state laws penalize the business owner, manager, and/or clerk for first violation. Fourteen state laws include the possibility of suspension or revocation of a license to sell tobacco products for violation of youth access laws.

Exceptions to laws on the sale and distribution of tobacco products to minors occur in Minnesota, where tobacco samples may be distributed for use in traditional American Indian ceremonies; in Utah, where tobacco samples may be distributed at professional conventions; in Alaska and California, which exempt minors in correctional facilities from these prohibitions; and in Arizona and Kansas, which exempt snuff from these prohibitions.

A total of 32 state laws prohibit purchase, possession, or use of tobacco products by minors. Sixteen state laws preempt restrictions at the local level on the sale and distribution of tobacco products to minors.

Vending Machines

Restrictions on vending machine sales of tobacco products are indicated (Table 3B). Although no state has completely banned the sale of tobacco products through vending machines, none allow such sales to minors, and 32 states provide additional restrictions to reduce youth access to vending machines (Table 3B). Twelve states ban vending machines from areas accessible to young persons and allow placement in bars, liquor stores, adult clubs, and other adult-only establishments. In Alaska, Michigan, New York, Vermont, and Washington, DC, supervision of vending machines is required even though they are banned from areas accessible to minors. An additional 18 states limit placement to areas inaccessible to minors unless the machines have locking devices, are supervised, or both. Florida's law has no restrictions on placement of vending machines but requires supervision in all locations at all times. New Jersey's law prohibits tobacco vending machines in schools only, and Nevada's law prohibits them in child day care centers, medical facilities, and several other public places.

Twenty-three state laws penalize the business for first violation, but in Maryland, retailers are not held liable if tobacco products are sold to minors through vending machines that display age-of-sale requirements (Table 3B). Oregon law contains a specific preemption on local vending machine restrictions (Table 3A).

centers. Of those that do, 12 prohibit smoking at all times or require separately ventilated areas, nine prohibit smoking only when children are present, and six require only that the centers designate smoking areas. Forty-two states restrict smoking in hospitals, 42 on selected forms of public transportation, 30 in grocery stores, and 23 in enclosed arenas. Few states have laws that restrict smoking in bars, home-based child care centers, shopping malls, prisons, or hotels and motels.

Youth Access to Tobacco Products

Sale and Distribution

Laws pertaining to the sale of tobacco products to young persons are summarized (Table 3A). All states prohibit the sale and distribution of tobacco products to persons under 18 years of age, and 35% of states designate an enforcement authority in the legislation (Table 3A). In Alabama, Alaska, and Utah, 19 years is the minimum age for sale of tobacco products. In Pennsylvania, sales of any tobacco products to persons under age 18 years is prohibited, and 21 is the minimum age designated specifically for the sale of cigarettes. All state laws penalize the business owner, manager, and/or clerk for first violation. Fourteen state laws include the possibility of suspension or revocation of a license to sell tobacco products for violation of youth access laws.

Exceptions to laws on the sale and distribution of tobacco products to minors occur in Minnesota, where tobacco samples may be distributed for use in traditional American Indian ceremonies; in Utah, where tobacco samples may be distributed at professional conventions; in Alaska and California, which exempt minors in correctional facilities from these prohibitions; and in Arizona and Kansas, which exempt snuff from these prohibitions.

A total of 32 state laws prohibit purchase, possession, or use of tobacco products by minors. Sixteen state laws preempt restrictions at the local level on the sale and distribution of tobacco products to minors.

Vending Machines

Restrictions on vending machine sales of tobacco products are indicated (Table 3B). Although no state has completely banned the sale of tobacco products through vending machines, none allow such sales to minors, and 32 states provide additional restrictions to reduce youth access to vending machines (Table 3B). Twelve states ban vending machines from areas accessible to young persons and allow placement in bars, liquor stores, adult clubs, and other adult-only establishments. In Alaska, Michigan, New York, Vermont, and Washington, DC, supervision of vending machines is required even though they are banned from areas accessible to minors. An additional 18 states limit placement to areas inaccessible to minors unless the machines have locking devices, are supervised, or both. Florida's law has no restrictions on placement of vending machines but requires supervision in all locations at all times. New Jersey's law prohibits tobacco vending machines in schools only, and Nevada's law prohibits them in child day care centers, medical facilities, and several other public places.

Twenty-three state laws penalize the business for first violation, but in Maryland, retailers are not held liable if tobacco products are sold to minors through vending machines that display age-of-sale requirements (Table 3B). Oregon law contains a specific preemption on local vending machine restrictions (Table 3A).

TABLE 3A. States with laws on sales of tobacco products to minors, as of June 30, 1995

State	Preemptions*	Minimum age for legal sale (years)	Includes chewing tobacco or snuff	Enforcement authority	License suspension or revocation for violation	Penalties for first violation to business owner, manager and/or clerk	Prohibits purchase, possession, and/or use by minors	Signage required
Alabama	No	19	Both	No	No	Fine of \$10-\$50	No	No
Alaska	No	19	Both	No	Both	Fine of at least \$300	Yes [†]	Yes
Arizona	No	18	Chewing tobacco only	No	No	Petty offense	Yes	No
Arkansas	No	18	Both	No	Both	Misdemeanor; fine of \$100	No	Yes
California	1	18	Both	No	No	Fine of \$200-\$300	Yes [‡]	Yes
Colorado	No	18	Both	No	No	Class 2 petty offense; fine of \$200	Yes	Yes
Connecticut	No	18	Both	Yes	Both	Fine up to \$50	Yes	Yes
Delaware	No	18	Both	No	No	Class B misdemeanor	No	No
Florida	No	18	Both	Yes	Both	2nd degree misdemeanor; fine of \$500	No	Yes
Georgia	No	18	Both	Yes	No	Misdemeanor	Yes	Yes
Hawaii	No	18	Both	No	No	Fine up to \$100	Yes	Yes
Idaho	No	18	Both	No	No	Misdemeanor	Yes	No
Illinois	No	18	Both	No	No	Petty offense; fine of \$200	Yes	No [‡]
Indiana	No	18	Both	No	No	Class C infraction	Yes	Yes
Iowa	1	18	Both	Yes	Both	Simple misdemeanor; fine of \$300	Yes	No
Kansas	No	18	Chewing tobacco only	No	Both for chewing tobacco only	Misdemeanor; fine up to \$1,000	Yes	No
Kentucky	1	18	Both	Yes	No	Fine of \$10-\$25	No	Yes
Louisiana	1	18	Both	Yes	No	Fine up to \$50	Yes	Yes
Maine	No	18	Both	No	No	Fine of \$10-\$1,000	Yes	Yes
Maryland	No	18	Both	No	No	Fine up to \$300	Yes	No
Massachusetts	No	18	Both	No	No	Fine of at least \$100	No	Yes
Michigan	1	18	Both	No	No	Misdemeanor; fine up to \$50	Yes	Yes
Minnesota	No	18	Both	No	No	Misdemeanor	Yes	No
Mississippi	1	18	Both	Yes	No	Misdemeanor; fine of \$20-\$100	No	Yes
Missouri	No	18	Both	No	No	Fine of \$25	No	Yes
Montana	1	18	Both	No	No	Fine of \$100	No	Yes
Nebraska	No	18	Both	No	Both	Class III misdemeanor	Yes	No
Nevada	No	18	Both	No	Both	Fine up to \$500	No	No
New Hampshire	No	18	Both	Yes	No	Fine up to \$25	Yes	Yes
New Jersey	No	18	Both	No	No	Fine of \$250	No	Yes
New Mexico	1	18	Both	Yes	No	Misdemeanor; fine up to \$1,000	Yes	Yes
New York	2	18	Both	Yes	Suspension	Fine of \$100-\$300	No	Yes

North Carolina	No	18	Both	No	No	Misdemeanor; fine up to \$500	No	No
North Dakota	No	18	Both	No	No	Class B misdemeanor	Yes	No
Ohio	No	18	Both	No	No	4th degree misdemeanor	No	Yes
Oklahoma	1	18	Both	Yes	No	Fine of \$25	Yes	Yes
Oregon	3	18	Both	Yes	No	Fine of \$100-\$500	Yes	Yes
Pennsylvania	No	18 (all tobacco products) 21 (cigarettes)	Both	No	No	Fine of at least \$25	No	No
Rhode Island	No	18	Both	No	Both	Fine of \$100	Yes	Yes
South Carolina	No	18	Both	No	No	Misdemeanor; fine of \$25-\$100	No	No
South Dakota	1	18	Both	Yes	No	Class II misdemeanor	Yes	No
Tennessee	4	18	Both	Yes	No	Class A misdemeanor; fine up to \$2,500	Yes	Yes
Texas	No	18	Both	No	No	Class C misdemeanor	No	Yes
Utah	No	19	Both	No	No	Class C misdemeanor	Yes	No
Vermont	No	18	Both	Yes	Both	Fine up to \$100	Yes	Yes
Virginia	No	18	Both	Yes	No	Fine up to \$50	Yes	Yes
Washington	1	18	Both	Yes	Both	Fine of \$100	Yes	Yes
Washington, DC	No	18	Both	No	Both	Misdemeanor; fine of \$100-\$500	No	Yes
West Virginia	No	18	Both	Yes	No	Misdemeanor; fine of \$10-\$25	Yes	No
Wisconsin	1	18	Both	No	Suspension	Fine up to \$500	No	Yes
Wyoming	1	18	Both	No	No	Misdemeanor; fine up to \$50	Yes	Yes
Total**	16		51	18	14	51	32	33

*1=preemption of youth access provisions, 2=preemption of sampling provisions, 3=preemption of vending machine provisions, 4=preemption of all laws on tobacco control.

† Except minors at adult correctional facilities.

‡ Except persons 16 years or older at correctional facilities.

§ Signage required for sale of tobacco accessories but not for tobacco.

**Total number of state laws that have preemptions, restrictions, enforcement, penalties, or signage (i.e., sign is posted indicating where smoking is prohibited).

NOTE: This table summarizes the legislative restrictions and preemption relating to sale and distribution of tobacco products to minors for all states. The table includes the minimum age for legal sale in years. "Includes chewing tobacco or snuff" indicates whether the laws also restrict sales and distribution of chewing tobacco or snuff. "Enforcement authority" indicates whether the law designates a specific agency, department, office, or governing body responsible for enforcing the law. The table also indicates whether retail licenses may be suspended or revoked for sales of tobacco products to minors; the penalties to business owners, managers, and/or clerks for first violation of the law; and whether purchase, possession, and/or use of tobacco by minors is prohibited. "Signage required" indicates whether the law requires signs to be displayed that describe the law.

TABLE 3B. States with laws on youth access to tobacco products through vending machines,* as of June 30, 1995

State	Restrictions on access	Banned from locations accessible to youth	Limited placement	Locking device	Supervision	Enforcement authority	Penalties to business for first violation	Signage required
Alaska	Yes	Yes	No	No	Yes	No	Fine of at least \$300	No
Arkansas	Yes	No	Yes	No	Yes	Yes	Misdemeanor; fine of \$100	Yes
Colorado	Yes	No	Yes	No	Yes	No	Class II petty offense; fine of \$200	Yes
Connecticut	Yes	No	Yes	No	Yes	Yes	No	Yes
Florida	Yes	No	No	No	Yes	Yes	Fine up to \$1,000	No
Georgia	Yes	No	Yes	No	Yes	Yes	Misdemeanor; fine up to \$300	Yes
Hawaii	Yes	Yes	No	No	No	No	Fine up to \$1,000	Yes
Idaho	Yes [†]	No	No	No	No	No	Misdemeanor	No
Indiana	Yes	No	Yes	Yes	No	No	Class C infraction	Yes
Iowa	Yes	No	Yes	Yes	Yes	Yes	No	No
Kentucky	Yes	No	Yes	No	Yes	Yes	Fine of \$10-\$25	No
Louisiana	No	No	No	No	No	No	No	Yes
Maine	Yes	No	Yes	No	Yes	No	Fine of \$100-\$500	Yes
Maryland	No	No	No	No	No	No	No	Yes
Massachusetts	No	No	No	No	No	No	No	Yes
Michigan	Yes	Yes [‡]	No	No	Yes	Yes	Misdemeanor; fine up to \$1,000	No
Minnesota	Yes	No	Yes	Yes	Yes	No	No	Yes
Mississippi	Yes	No	Yes	No	Yes	Yes	Misdemeanor; fine of \$20-\$100	No
Missouri	No	No	No	No	No	No	No	Yes
Montana	Yes	No	Yes	No	Yes	No	No	No
Nebraska	Yes	Yes [‡]	No	No	No	No	Class III misdemeanor	No
Nevada	Yes	No	Yes [‡]	No	No	No	No	No
New Jersey	Yes	No	Yes ^{**}	No	No	No	Fine of \$250	No
New Mexico	Yes	Yes	No	No	No	Yes	No	No
New York	Yes	Yes	No	No	Yes	Yes	Fine of \$100-\$300	No
Ohio	Yes	No	Yes	No	Yes	No	4th degree misdemeanor	No
Oklahoma	Yes	No	Yes	Yes	Yes	Yes	No	No
Oregon	Yes	Yes ^{††}	No	No	No	No	Fine up to \$250	No
South Dakota	Yes	No	Yes	No	Yes	Yes	Class II misdemeanor	Yes
Tennessee	Yes	No	Yes	Yes	Yes	Yes	Class C misdemeanor	No
Utah	Yes	Yes	No	No	No	No	Class C misdemeanor	No
Vermont	Yes	Yes ^{††}	No	No	Yes	Yes	No	Yes

Virginia	No	No	No	No	No	No	No	Yes
Washington	Yes	Yes	No	No	No	Yes	No	No
Washington, DC	Yes	Yes ¹	No	No	Yes	Yes	Fine up to \$1,000	No
Wisconsin	Yes	No	Yes	No	Yes	No	Fine up to \$500	Yes
Wyoming	Yes	Yes	No	No	No	No	Misdemeanor; fine up to \$50	Yes
Total¹¹	32	12	18	5	21	16	23	17

*No states provide for a complete ban on all vending machines selling tobacco products.

¹ Requires businesses that have vending machines to ensure minors do not have access to the machines; however, law does not specify type of restriction, such as limited placement, locking device, or supervision.

² Allows vending machines in certain licensed establishments not listed in youth access law.

³ Restricts placement on elevators, public buses, and school buses and in waiting rooms of medical facilities or offices, grocery stores, child care centers, and regional transportation maintenance facilities and offices only.

⁴ Restricts placement at schools only.

⁵ Exempts hotels and motels.

¹¹ Total number of state laws that have restrictions, enforcement, penalties, or signage (i.e., sign is posted indicating where smoking is prohibited).

NOTE: This table summarizes only those states that have tobacco vending machine restrictions or require signs describing youth access restrictions to be affixed to tobacco vending machines. "Restrictions on access" indicates whether there are any restrictions on youth access to these machines. States that have a "no" in this column are included on this table because they have laws requiring that signs on youth access restrictions be affixed to tobacco vending machines. "Banned from locations accessible to youth" indicates whether the law restricts the placement of vending machines to bars, cabarets, factories, businesses, offices, or any other establishment not readily accessible to minors. "Limited placement" indicates whether vending machines are banned from areas accessible to minors or are allowed in such areas only if the machines have locking devices (mechanical lock-out devices requiring tokens) or are supervised (in plain view of an employee). "Enforcement authority" indicates whether the law designates a specific agency, department, office, or governing body responsible for enforcing the law. The table also indicates the penalties to a business for first violation of the law. "Signage required" indicates whether the law requires that signs describing youth access restrictions be affixed to the vending machines.

TABLE 3C. States with laws on retail licensing for sales of tobacco products, as of June 30, 1995

State	Any retail license required	Retail license includes chewing tobacco or snuff	Over the counter		Vending machine		Renewal frequency	Penalties to business for violation
			License required	License fee	License required	License fee (machine operator fee/fee per machine)		
Alabama	Yes	Yes	Yes	\$2-\$15*	No	No	1 year	Fine of 15% of license fee
Alaska	Yes	No	Yes	\$25	Yes	\$25/\$0	1 year	Misdemeanor; fine up to \$2,000; license suspension or revocation
Arkansas	Yes	Yes†	Yes	\$10 (cigarettes); \$1 (tobacco)	Yes	\$50-\$100 ¹ /\$10	1 year	Class C misdemeanor; license suspension or revocation
Connecticut	Yes	No	Yes	\$25	Yes	\$25-\$1,000 ¹ /\$0	1 year	Fine up to \$500; license suspension or revocation
Delaware	Yes	Yes	Yes	\$5	Yes	\$0/\$3	No	License suspension or revocation
Florida	Yes	Yes	Yes†	up to \$50	No	up to \$50**	1 year	Fine up to \$500; license suspension or revocation
Georgia	Yes	Yes (vending machine only)	Yes	No	Yes	\$0/\$1	No (over the counter); 1 year (vending machine)	Fine of \$25-\$250; license suspension or revocation
Iowa	Yes	No	Yes	\$50-\$100*	Yes	\$100/\$0	1 year	Fine of \$50; license suspension or revocation
Kansas	Yes	No	Yes	\$12	Yes	\$0/\$12	2 years	Misdemeanor; fine up to \$1,000; license suspension or revocation
Kentucky	Yes	No	No	No	Yes	\$25/\$0	1 year	Fine of \$500
Louisiana	Yes	No	No	No	Yes	No	1 year	Misdemeanor; fine of \$50-\$500; license suspension or revocation
Maryland	Yes	No	Yes	\$30	Yes	\$500/\$0 (\$200 application fee; \$30 renewal fee)	1 year	Misdemeanor; fine of \$1,000; license suspension or revocation
Massachusetts	Yes	Yes	Yes	\$5	Yes	\$100/\$5	2 years (over the counter and vending machine); 1 year (vending machine operator)	Fine up to \$50; license suspension or revocation
Michigan	Yes	Yes	No	No	Yes	\$5-\$100 ¹ /\$0	1 year	Fine of 100% of tax due, felony with fine up to \$5,000, or both; license suspension or revocation
Montana	Yes	Yes	Yes	\$5	Yes	\$5-\$50 ¹ /\$0	1 year	Misdemeanor; fine of \$100-\$500; license suspension or revocation
Nebraska	Yes	Yes	Yes†	\$10-\$25*	No	\$10-\$25 ¹ /\$0	1 year	Class III misdemeanor
Nevada	Yes	No	Yes†	No	No	No	No	Misdemeanor; license suspension or revocation
New Hampshire	Yes	Yes	Yes	\$10	Yes	\$70/\$0	2 years	Misdemeanor; fine up to \$2,000 for individuals and up to \$20,000 for corporations; license revocation

MMWR

November 3, 1995

New Jersey	Yes	No	Yes	\$5	Yes	\$0/\$5	1 year	Fine up to \$250; license suspension or revocation
New York	Yes	Yes	Yes	\$100	Yes	\$0/\$25	1 year	Fine up to \$200 (over the counter); fine up to \$100 (vending machine)
North Carolina	Yes	Yes	Yes ^{††}	\$10	No	No	No	Class 1 misdemeanor
North Dakota	Yes	Yes	Yes [†]	\$15	No	\$15/\$0	1 year	License suspension or revocation
Ohio	Yes	No	Yes	\$25-\$30 per site [‡]	Yes	\$0/\$25-\$30 [§]	1 year	Misdemeanor; license suspension or revocation
Oklahoma	Yes	No	Yes	\$30	Yes	\$0/\$50	3 years (over the counter); 1 year (vending machine)	Fine up to \$30
Pennsylvania	Yes	No	Yes	\$25	Yes	\$25/\$0	1 year	Fine of \$250-\$1,000; license suspension or revocation
Rhode Island	Yes	No	Yes	\$25	Yes	\$100 ^{§§} /\$25	No	Fine up to \$100; license suspension or revocation
South Carolina	Yes	Yes	No	No	Yes	No	No	Fine of \$20-\$100
Texas	Yes	Yes ^{††}	Yes	No	Yes	No	2 years	Fine up to \$2,000; license suspension or revocation
Utah	Yes	Yes	Yes	Not specified (set by Commission)	Yes	Not specified (set by Commission)	No	Class B misdemeanor; license suspension or revocation
Vermont	Yes	Yes	Yes	\$10	Yes	\$10/\$0	1 year	Misdemeanor; fine up to \$200; license suspension or revocation
Washington	Yes	No	Yes	\$93	Yes	\$0/\$30	Unspecified ^{***}	Misdemeanor; license suspension or revocation
Washington, DC	Yes	No	Yes	\$15	Yes	\$0/\$15	1 year	Fine up to \$1,000; license suspension or revocation
Wisconsin	Yes	Yes (over the counter only)	Yes	\$5-\$50 [§]	Yes	\$50/\$0	1 year	Fine of \$25-\$1,000; license revocation
Total^{†††}	33	18	29	26	27	27		33

*Based on size of locality.

† Requires separate licenses for cigarettes and other tobacco products.

‡ Based on number of sites or vending machines operated.

§ Includes vending machines.

§§ Only one fee required if more than one vending machine is operated under the same roof.

†† Excludes cigarettes.

§§§ Only if vending machine operator has 25 or more machines.

††† Retailers are allowed to sell both cigarettes and other tobacco products through a combination permit.

*** Unspecified in law; may be specified elsewhere such as state regulations.

††† Total number of state laws that have restrictions or penalties.

NOTE: This table summarizes only those states that require some form of retail licensure (either over-the-counter or vending machine). This table does not include license requirements for tobacco wholesalers or distributors. "Any retail license required" indicates whether the law requires any person owning a store that sells cigarettes at retail or operates a cigarette vending machine to obtain a license or permit. Whether an over-the-counter or vending machine license is required is also specified. Vending machine licenses may include vending machine operators who supply vending machines to more than one retail store. "Retail license includes chewing tobacco or snuff" indicates whether the license includes the sale of chewing tobacco or snuff. "License fee" indicates whether a fee is required and the amount of the fee for over-the-counter licenses, vending machine operator licenses, or licenses per vending machine. "Renewal frequency" indicates whether and how often licenses have to be renewed. The table also indicates the penalties to a business for violation of the law.

42

TABLE 4. States with laws on tobacco advertising (excluding promotions), as of June 30, 1995

State	Any restriction	Banned on state property	Restriction on public transportation	Restriction on billboards		Other restriction
				Near schools	Other	
California	Yes	Yes	No	No	No	Yes*
Illinois	Yes	No	No	No	Yes [†]	No
Kentucky	Yes	No	No	Yes [‡]	No	No
Louisiana	Yes	No	No	No	No	Yes [¶]
Michigan**	Yes	No	No	No	Yes [†]	No
Oklahoma**	No	No	No	No	No	No
Pennsylvania	Yes	No	No	No	No	Yes [¶]
Tennessee**	No	No	No	No	No	No
Texas	Yes	No	No	Yes ^{††}	Yes ^{††}	No
Utah	Yes	No	Yes	No	Yes ^{‡‡}	Yes [†]
West Virginia	Yes	No	No	No	Yes [†]	No
Total^{¶¶}	9	1	1	2	5	4

*Video games.

[†] Advertising of smokeless tobacco must have warning labels.[‡] No larger than 50 square feet and not less than 500 feet away from a school.[¶] Lottery tickets.

**Preemptive law enacted.

^{††} Must be further than 500 feet from a school or church.^{‡‡} Banned.^{¶¶} Total number of state laws including each type of provision.

NOTE: This table summarizes only those states that have legislative restrictions on advertising or preempt localities from enacting such legislation.

TABLE 5. State tax on tobacco products and effective year of most recent tax change, as of June 30, 1995

State	Cigarettes		Chewing tobacco and snuff	
	Tax (cents per pack)*	Effective year of most recent tax change	Tax	Effective year of most recent tax change
Alabama	16.5	1984	3/4¢ per oz. (chew) 1/2¢ per oz. (snuff)	1984
Alaska	29	1989	25% of WSP†	1988
Arizona	58	1994	6.5¢ per oz.	1994
Arkansas	31.5	1993	23% of MSP‡	1993
California	37	1994	34% of WSP†	1989
Colorado	20	1986	20% of MLP**	1986
Connecticut	50	1994	20% of WSP	1989
Delaware	24	1991	15% of WSP	1987
Florida	33.9	1990	25% of WSP	1985
Georgia	12	1971	None	NA††
Hawaii	60	1993	40% of WSP	1965
Idaho	28	1994	40% of WSP	1994
Illinois	44	1993	20% of WSP	1993
Indiana	15.5	1987	15% of WSP	1987
Iowa	36	1991	22% of WSP	1991
Kansas	24	1985	10% of WSP	1972
Kentucky	3	1970	None	NA
Louisiana	20	1990	None	NA
Maine	37	1991	62% of WSP	1991
Maryland	36	1992	None	NA
Massachusetts	51	1993	50% of WSP	1993
Michigan	75	1994	16% of WSP	1994
Minnesota	48	1992	35% of WSP	1987
Mississippi	18	1985	15% of MLP	1985
Missouri	17	1993	10% of manufacturer's invoice price	1993
Montana	18	1993	12.5% of WSP	1993
Nebraska	34	1993	15% of purchase price	1988
Nevada	35	1989	30% of WP‡‡	1983
New Hampshire	25	1990	20% of WSP††	1991
New Jersey	40	1990	24% of WP	1990
New Mexico	21	1993	25% of product value	1986
New York	56	1993	20% of WSP	1993
North Carolina	5	1991	2% of cost	1991
North Dakota	44	1993	28% of WPP***	1993
Ohio	24	1993	17% of WSP	1993
Oklahoma	23	1987	30% of factory list price	1985
Oregon	38	1994	35% of WSP	1986
Pennsylvania	31	1991	None	NA
Rhode Island	56	1994	20% of WSP	1992
South Carolina	7	1977	5% of MLP	1968
South Dakota	33	1995	10% of WPP	1995
Tennessee	13	1971	6% of WSP	1972
Texas	41	1990	35% of MLP	1990
Utah	26.5	1991	35% of MSP	1986
Vermont	20	1992	20% of WP	1959
Virginia	2.5	1966	None	NA
Washington	56.5	1994	75% of WSP	1993
Washington, DC	65	1993	None	NA
West Virginia	17	1978	None	NA
Wisconsin	38	1992	20% of MLP	1981
Wyoming	12	1989	None	NA

* Twenty cigarettes per pack.

† Wholesale sales price.

‡ Manufacturer's selling price.

†† Rates determined by the State Board of Equalization.

** Manufacturer's list price.

†† Not applicable.

‡‡ Wholesale price.

††† Imposes tax at a rate proportional to the cigarette tax.

*** Wholesale purchase price

44

smoking in those facilities if they are regularly or routinely used for the delivery of such services to children (10). In March 1994, the U.S. Department of Defense prohibited smoking in its facilities worldwide (11). In addition, the Occupational Safety and Health Administration has proposed standards, including restrictions on exposure to ETS, for indoor air quality in the workplace (12).

Private companies also have acted to protect workers from ETS: 59% of work sites having more than 50 employees and 85% of companies having 100–749 employees have established formal policies restricting smoking in work sites (13).

The tobacco industry has successfully countered tobacco control policies by promoting preemptive state laws that prevent local jurisdictions from enacting restrictions more stringent than the state law, restrictions at variance with the state law, or related restrictions (9,14). As of June 30, 1995, 17 of the state laws on smoke-free indoor air contained preemptions (Tables 2A–2C). Preemptions diminish the protection generally afforded by stronger local regulations and discourage local control of tobacco use and exposure to ETS (9,14). Additionally, preemptions limit, at the local level, educational efforts and forums for public debate, which are important to changing attitudes about tobacco use and exposure to ETS (14).

Youth Access to Tobacco Products

Despite laws in every state that prohibit the sale of tobacco products to persons under 18 years of age, most young smokers are able to purchase tobacco products. Underage buyers are able to purchase tobacco products from retail outlets approximately 73% of the time and from vending machines approximately 96% of the time (15,16). The ease with which adolescents can purchase tobacco products is documented (17–19) and underscores the need for strong enforcement of prohibitions (18,19).

In July 1992, Congress enacted Section 1926 of the Public Health Service Act (the Synar Amendment), which requires states to enact legislation restricting the sale and distribution of tobacco products to minors as a condition of receiving Federal substance abuse prevention and treatment block grant funds. Under this provision, states are also required to enforce these laws 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" (20).

Although the visibility and enforcement of youth access laws has increased since July 1992, many states have enacted new legislation or amended existing laws that have weakened current laws regarding youth access to tobacco products. Since July 1992, a total of 30 state legislatures have passed additional laws to prevent youth access; of these, 10 preempt more stringent laws on the local level. Further, more than one half (63%) of all state youth access laws that contain preemption provisions have been enacted since July 1992.

Local action by communities has proven to be effective in enforcing youth access legislation and reducing tobacco use among young persons (18,21). However, the tobacco industry has been equally successful in weakening local control and community involvement through state laws containing preemption provisions (9,14,18).

In August 1995, the Food and Drug Administration (FDA) proposed restricting youth access to tobacco products and reducing the advertising and promotional activities that make these products appealing to young persons. The FDA proposal would not preempt more stringent state and local restrictions (22).

Specifically, the proposed restrictions regarding youth access would establish 18 years of age as the Federal minimum age for sale and would prohibit sales of tobacco products through vending machines, free samples, mail-order sales, and self-service displays. Retailers also would be required to verify age of purchaser by means of photographic identification, and limit sales to face-to-face activity (22).

To spur individual and community action to reduce youth access to tobacco products, CDC and the Center for Substance Abuse Prevention are implementing a multi-media education program, Stop the Sale—Prevent the Addiction, that incorporates both addiction and health consequences as part of the comprehensive educational approach. The program focuses on building support for local enforcement efforts and also informs community leaders about the pervasiveness and appeal of tobacco advertising and promotions.

Advertising Tobacco Products

In 1993, the tobacco industry spent more than \$6 billion for cigarette advertising and promotion, an increase of 15.4% from 1992 (23). The smokeless tobacco industry spent more than \$119 million on advertising and promotion in 1993, a 3.5% increase from 1992 (24). Tobacco advertising creates a climate that increases the social pressure on young people to use tobacco by implying that using tobacco promotes independence, adventure, and glamour (15). Such advertising diminishes awareness of the addictive nature of tobacco and its substantial health risks (15). In 1993, the three most heavily advertised brands (Marlboro, Camel, and Newport) were those most commonly purchased by adolescent smokers, which suggests that cigarette advertising influences adolescents' brand preferences (25).

Section 5(b) of the Federal Cigarette Labeling and Advertising Act (15 USC 1331-1340) states that "no requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this chapter" (26). Many states and localities have restrictions protecting their citizens, particularly children, from exposure to tobacco advertising. These laws often restrict tobacco advertising near schools and in other places where exposure to children is high. The tobacco industry has challenged the legality of such restrictions. A recent challenge was made to a Baltimore, Maryland, ban on tobacco-products billboards that are located in areas with high exposure to minors; the courts upheld the ban (Penn Advertising of Baltimore, Inc., v. the Mayor and the City of Baltimore et al., 862 F. Supp. 1402 [D.Md.1994]aff'd,63F.3d 1318[4th Cir.1995]).

The Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 USC 4401-4408) exempts outdoor billboard advertising of smokeless tobacco from displaying health warnings, but does not preempt state regulation of billboard ads (27). Three state laws require that health warnings be displayed on such advertisements.

The FDA proposed rule would represent a federal policy on restricting advertising and promotions directed towards young persons. The proposed rule, if adopted, would limit advertising and labeling to which children and adolescents are exposed by banning outdoor advertising within 1,000 feet of schools and playgrounds; restricting other ads to black-and-white, text-only format. Advertising that appears in magazines and other publications with a substantial youth readership (more than 15% or two million young persons) also would be in the black-and-white, text-only format, but publications read primarily by adults would not be subject to this requirement. Fur-

Wayne County Sheriff's Department

Office of Drug Prevention

**Don't Match Cigarettes
With Children in Wayne County**



**Robert A. Ficano
Sheriff of Wayne County**

1 **Draft Legislation proposed by Wayne County Sheriff Robert A. Ficano**

2 **Public Act No.— 1997**

3
4 **YOUTH TOBACCO NUISANCE ACT**

5
6 **Purpose:** A Public Act to amend the nuisance abatement act in order to define as a
7 nuisance the illicit sale or distribution of nicotine products to persons under 18
8 years of age and to prescribe a law enforcement civil remedy in addition to a
9 private cause of action for parents/custodians of youths illegally purchasing
10 nicotine products. This Act shall may be cited as the Youth Tobacco Nuisance
11 Act.

12
13 **Section I.** Section 1 of MCLA 722.641, MSA 25.281 (1996) is hereby amended
14 as follows in Section 2.

15
16 **Section II.** If a business entity violates the provisions of the Youth Tobacco Act
17 then the activity that constitutes the violation shall be considered to be a nuisance
18 under Chapter 38 of the Revised Judicature Act of 1961 (MSA 27A.3825)

19
20 **Section III.** Disposition of Seized Property 333.7524 (1)(b)(i) is amended to read
21 as follows in Section 4.

22

23 **Section IV.** For the payment of which ever is the greater 1) a \$700 administrative
24 fee or 2) the proper expenses of the proceedings for forfeiture and sale, including
25 expenses incurred during the seizure process, maintenance of custody ,
26 advertising, and court costs, except as otherwise provided in subsection (4)

27

28 **Section V.** All payments received pursuant to Section IV of this act shall be
29 returned to the line-item budget of the seizing law enforcement agency solely for
30 enforcement of this Act and the Youth Tobacco Act. Revenue shall not be
31 diverted into other line-item accounts, nor shall it be used for other purposes.

32

33 **Section VI.** This section shall establish a private cause of action for
34 parents/guardians against business entities that illegally provide nicotine products
35 to their specific child. Maximum payment recoverable under the is act shall be
36 \$700.00 plus attorney fees and costs for each offense.

37

38

MICHIGAN LAWS RELATED TO TOBACCO USE

Michigan Clean Indoor Air Act

(Public Act 198 of 1986, as amended)

Restricts smoking to designated areas in publicly-owned buildings and certain private facilities; places stronger restrictions on child care centers and some health care facilities.

Smoking In Restaurants

(Public Act 297 of 1988)

Requires restaurants with 50 seats or more to offer nonsmoking seating; number of nonsmoking seats is dependent upon the size of the restaurant and is equal to 12-24 percent of total seating.

Smoking In Grocery Stores

(Public Act 38 of 1976)

Prohibits smoking in grocery stores; may have a designated smoking area for employees or the public on the premises.

Smoking In Elevators

(Public Act 227 of 1967)

Prohibits smoking in elevators.

Michigan Youth Tobacco Act

(Public Act 314 of 1988)

Prohibits the sale or distribution of tobacco products to minors; prohibits the possession of tobacco products by minors; requires retailers to post a sign warning against the sale of tobacco to minors.

Restrictions on Tobacco Vending Machines

(Public Act 271 of 1992)

Prohibits placement of tobacco vending machines in places locations open to minors; exemptions for restaurants with Class C liquor licenses (with restrictions) and private clubs and workplaces not open to the public (with restrictions).

Chapter 11

CIGARETTES*

- Art. I. In General (Reserved)
- Art. II. License for Sale
 - § 11-2-1. Required
 - § 11-2-2. Application
 - § 11-2-3. Investigation
 - § 11-2-4. Issuance; fee; expiration date
- Art. III. Minors
 - § 11-3-1. Sales to minors; penalties
 - § 11-3-2. Misrepresentation of age
 - § 11-3-3. Possession
 - § 11-3-4. May be hired for delivery

ARTICLE I IN GENERAL

(RESERVED)

ARTICLE II. LICENSE FOR SALE*

Sec. 11-2-1. Required.

It shall be unlawful for any person to sell, furnish or give away, directly or indirectly, cigarettes or the component parts thereof without first obtaining a license from the city. (Code 1964, § 14-1-1)

Sec. 11-2-2. Application.

The consumer affairs department is hereby authorized to issue licenses under this article to any person desiring to sell cigarettes, upon application setting forth the full name and place of business in which it is proposed to carry on the sale of cigarettes or the component parts thereof. (Code 1964, § 14-1-2)

Sec. 11-2-3. Investigation.

The consumer affairs department shall refer all applications for licenses under this article and petitions for revocation of such licenses to the chief of police, who shall

*Cross reference—Licenses generally, Ch. 30.

*Case law annotation—The vending of cigarettes is a proper matter for regulation by the city, particularly because of injury to health and because of minors smoking tobacco; *Detroit Retail Druggists' Ass'n. v. City of Detroit*, 267 Mich. 405, 255 N.W. 217 (1934).

State law reference—Cigarette taxes and regulation, MCL 205.601 et seq., MSA 7.411(1) et seq.

Supp. No. 1

investigate or cause to be investigated each application or petition to determine whether the applicant or licensee is the proper person to conduct the business. The chief of police shall furnish to the consumer affairs department, in writing, the information obtained from such investigation, accompanied by a recommendation as to whether the license should be granted, refused, revoked or renewed, as the case may be. (Code 1964, § 14-1-4)

Sec. 11-2-4. Issuance; fee; expiration date.

Such license shall issue upon payment of a license application fee as established in chapter 30 of this Code. Such license shall expire on the first day of September of each year. (Ord. No. 500-H, § 1, 5-5-82)

Editor's note—Inclusion of a portion of Ord. No. 500-H amending § 14-1-3 of the 1964 Code as § 11-2-4 has been at the editor's discretion. Portions duplicative of general license provisions were omitted.

ARTICLE III. MINORS*

Sec. 11-3-1. Sales to minors; penalties.

It shall be unlawful for any person to sell, furnish, procure for or give away, directly or

*Cross reference—Minors generally, Ch. 33.

State law references—Tobacco and minors, MCL 722.651 et seq., MSA 25.271 et seq.; cigarettes and minors, MCL 722.641 et seq., MSA 25.281 et seq.

indirectly, to any minor, any cigarettes, cigarette wrapper or any substitute for either or persuade, counsel or advise any minor to smoke cigarettes. Any violation of any of the provisions of this section shall, for the first offense, upon conviction, be punishable by a fine not to exceed twenty-five dollars (\$25.00) or imprisonment in the city house of correction for a period not to exceed thirty (30) days, and for a second or subsequent offense, such person shall, upon conviction, be fined not less than one hundred dollars (\$100.00) or be imprisoned in the city house of correction not to exceed sixty (60) days and shall have his license under this chapter revoked and shall not at any time in the future be permitted to engage in the sale of cigarettes or the component parts thereof. (Code 1964, § 14-1-6)

*Sale of tobacco /
cigarettes to minors*

Sec. 11-3-2. Misrepresentation of age.

It shall be unlawful for any minor to misrepresent his age and, by such misrepresentation, procure from a licensed dealer under this chapter any cigarettes or the papers or wrapping and tobacco for the purpose of making cigarettes. (Code 1964, § 14-1-8)

Sec. 11-3-3. Possession.

It shall be unlawful for any minor, by himself or through any other person or by any means, directly or indirectly, to buy, receive or accept, for his own use or for the use of any other minor, or to keep or have in his possession or to use any cigarettes, cigarette papers or wrappings and tobacco from which cigarettes might be made. (Code 1964, §§ 14-1-7, 14-1-8)

Sec. 11-3-4. May be hired for delivery.

The provisions of this chapter shall not prevent the hiring by any licensed dealer under this chapter of a minor for delivery purposes. (Code 1964, § 14-1-9)

52

Am No. 314
Public Acts of 1988
Approved by the Governor
August 17, 1988
Filed with the Secretary of State
August 17, 1988

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1988**

Introduced by Senators Sederburg, Geo. Hart, Geake, Schwarz, Vaughn and Posthumus

ENROLLED SENATE BILL No. 740

AN ACT to amend the title and sections 1, 2, and 3 of Act No. 31 of the Public Acts of 1915, entitled "An act to prohibit the selling, giving, or furnishing of cigarettes to minors, to prohibit the use of cigarettes by minors, and prohibiting the harboring of minors for the purpose of indulging in the use of cigarettes," being sections 722.641, 722.642, and 722.643 of the Michigan Compiled Laws; to add sections 4 and 5; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Section 1. The title and sections 1, 2, and 3 of Act No. 31 of the Public Acts of 1915, being sections 722.641, 722.642, and 722.643 of the Michigan Compiled Laws, are amended and sections 4 and 5 are added to read as follows:

TITLE

An act to prohibit the selling, giving, or furnishing of tobacco products to minors; to prohibit the use of tobacco products by minors; to prohibit the harboring of minors for the purpose of indulging in the use of tobacco products; to prescribe penalties; and to prescribe the powers and duties of certain state agencies and departments.

Sec. 1. (1) A person shall not sell, give, or furnish any cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in any other form to a person under 18 years of age. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense.

(2) Beginning 90 days after the effective date of this subsection, a person who sells tobacco products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of public health that includes the following statement:

"The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties."

(110)

(3) If the sign required under subsection (2) is more than 6 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2 inches, and the statement required under subsection (2) shall be printed in 36-point boldface type. If the sign required under subsection (2) is 6 feet or less from the point of sale, it shall be 2 inches by 4 inches, and the statement required under subsection (2) shall be printed in 20-point boldface type.

(4) The department of public health shall produce the sign required under subsection (2) and have adequate copies of the sign ready for distribution to licensed wholesalers, secondary wholesalers and unclassified acquirers of cigarettes and other tobacco products described in subsection (1) free of charge within 60 days after the effective date of this subsection. Licensed wholesalers, secondary wholesalers, and unclassified acquirers of cigarettes and other tobacco products described in subsection (1) shall obtain copies of the sign from the department of public health and distribute them free of charge, upon request, to persons who are subject to subsection (2). The department of public health shall provide copies of the sign free of charge, upon request, to persons subject to subsection (2) who do not purchase their supply of cigarettes or other tobacco products described in subsection (1) from licensed wholesalers, secondary wholesalers, and unclassified acquirers of cigarettes and other tobacco products described in subsection (1).

(5) It is an affirmative defense to a charge pursuant to subsection (1) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of cigarettes, cigars, chewing tobacco, tobacco snuff, and other tobacco products to persons under 18 years of age, and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the date set for trial.

(6) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (5) shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the date set for trial, and shall contain the name and address of each rebuttal witness.

Sec. 2. A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck, or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form, on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense. Pursuant to a probation order, the court may require a person who violates this section to participate in a health promotion and risk reduction assessment program, if available. A probationer who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the costs of participating in the program. In addition, a person who violates this section is subject to the following:

(a) For the first violation, the court may order the person to do 1 of the following:

(i) Perform not more than 16 hours of community service in a hospice, nursing home, or long-term care facility.

(ii) Participate in a health promotion and risk reduction program, as described in this subsection.

(b) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home, or long-term care facility.

(c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, nursing home, or long-term care facility.

Sec. 3. This act does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children, or wards within the bounds of his or her own private premises.

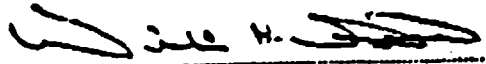
Sec. 4. As used in this act:

(a) "Chewing tobacco" means loose tobacco or a flat, compressed cake of tobacco which is inserted into the mouth to be chewed or sucked.

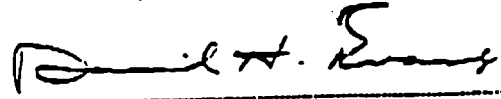
(b) "Tobacco snuff" means shredded, powdered, or pulverized tobacco which may be inhaled through the nostrils, chewed, or placed against the gums.

Sec. 5. This act shall be known and may be cited as the "youth tobacco act"

Section 2. Act No. 77 of the Public Acts of 1899, being sections 722.651 to 722.652 of the Michigan Compiled Laws, is repealed.

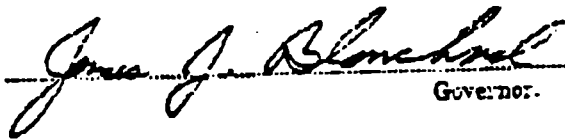


Secretary of the Senate.



Clerk of the House of Representatives.

Approved.....


Governor.

Act No. 327
Public Acts of 1993
Approved by the Governor
December 31, 1993
Filed with the Secretary of State
December 31, 1993

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Reps. Bryant, Munsell, Gilmer, Bender, Bandstra, Dalman, Stille, Bobler and Middleton

ENROLLED HOUSE BILL No. 5104

AN ACT to provide for a tax upon the sale and distribution of tobacco products; to regulate and license manufacturers, wholesalers, secondary wholesalers, vending machine operators, unclassified acquirers, transportation companies, transporters, and retailers of tobacco products; to prescribe the powers and duties of the revenue division and the department of treasury in regard to tobacco products; to provide for the collection and disposition of the tax; to provide for the enforcement of this act; to provide for the appointment of special investigators as peace officers for the enforcement of this act; to prescribe penalties and provide remedies for the violation of this act; and to repeal certain acts and parts of acts on a specific date.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "tobacco products tax act".

Sec. 2. As used in this act:

(a) "Cigarette" means a roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, which roll has a wrapper or cover made of paper or any other material. Cigarette does not include cigars.

(b) "Commissioner" means the revenue commissioner.

(c) "Department" means the department of treasury.

(d) "Licensee" means a person licensed under this act.

(e) "Manufacturer" means a person who manufactures or produces a tobacco product.

(f) "Nonsigarette smoking tobacco" means tobacco sold in loose or bulk form that is intended for consumption by smoking.

(g) "Person" means an individual, partnership, fiduciary, association, corporation, or other legal entity.

(h) "Place of business" means a place where a tobacco product is sold or where a tobacco product is brought or kept for the purpose of sale or consumption, including a vessel, airplane, train, or vending machine.

(a) 4% of the proceeds shall be credited to the health and safety fund created in the health and safety fund act, Act No. 264 of the Public Acts of 1987, being sections 141.471 to 141.479 of the Michigan Compiled Laws.

(b) 25.3% of the proceeds shall be credited to the general fund of this state.

(c) 63.4% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1953.

(d) 1.3% of the proceeds shall be distributed to city, district, and county health departments created pursuant to sections 2413, 2415, and 2421 of the public health code, Act No. 338 of the Public Acts of 1978, being sections 333.2413, 333.2415, and 333.2421 of the Michigan Compiled Laws, on a per capita basis according to the most recent federal decennial census. The distribution under this subdivision shall be used only for public health prevention programs and services. This distribution is in addition to and is not intended as a replacement for any other state payments to these local health departments.

(e) 6% of the proceeds shall be dedicated to improving the health care of the residents of this state.

(5) The proceeds of the fees and penalties provided for in this act shall be used for the administration of this act.

Sec. 13. (1) The tax imposed by this act shall be administered by the revenue commissioner pursuant to Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, and this act. In case of conflict between Act No. 122 of the Public Acts of 1941 and this act, the provisions of this act control.

(2) The revenue commissioner shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.323 of the Michigan Compiled Laws.

(3) The department shall prescribe forms for use by taxpayers.

(4) The tax imposed by this act is in addition to all other taxes for which the taxpayer may be liable.

(5) The commissioner may appoint any revenue division employee as a special investigator, who shall be vested with the power to arrest a person violating this act.

Sec. 14. Notwithstanding any other provision of law, beginning on the effective date of this act, a city, township, village, county, other local unit of government, or political subdivision of this state shall not impose any new requirement or prohibition pertaining to the sale or licensure of tobacco products for distribution purposes. This section does not invalidate or otherwise restrict a requirement or prohibition described in this section existing on the effective date of this act.

Sec. 15. (1) Act No. 265 of the Public Acts of 1947, being sections 205.501 to 205.522 of the Michigan Compiled Laws, is repealed effective May 1, 1994.

(2) The provisions of Act No. 265 of the Public Acts of 1947, being sections 205.501 to 205.522 of the Michigan Compiled Laws, shall remain in effect for criminal liability and the collection and enforcement of the payment of any tax, fee, penalty, or interest due and payable under that act for any period in which that act was in effect prior to its repeal.

Sec. 16. This act shall not take effect unless Senate Joint Resolution E is submitted to the voters and the following bills are enacted into law:

(a) House Bill No. 5109.

(b) House Bill No. 5110.

(c) House Bill No. 5116.

(d) House Bill No. 5009.

(e) House Bill No. 5010.

(f) House Bill No. 5118.

(g) House Bill No. 5097.

(h) House Bill No. 5122.

(i) House Bill No. 4279.

(j) House Bill No. 5102.

(k) House Bill No. 5103.

(l) House Bill No. 5106.

(m) House Bill No. 5111.

Wayne County Sheriff's Department

Office of Drug Prevention

**Don't Match Cigarettes
With Children in Wayne County**



**Robert A. Ficano
Sheriff of Wayne County**



DON'T MATCH CIGARETTES WITH CHILDREN IN WAYNE COUNTY

Today more than 3 million youths under the age of 18 are regular smokers. Studies document that most people who smoke, acquired the habit while they were under the age of 18.

Laws in the State of Michigan and the City of Detroit state that anyone selling or giving tobacco to minors is guilty of a misdemeanor and is subject to a fine and up to 60 days in the county jail.

So, how are our kids getting tobacco products? Unfortunately, greedy merchants are putting profit first and breaking the law. Our first step is to not accept the premise that "everybody drinks, smokes or uses drugs"; so, therefore, it is acceptable behavior for youths.

As your Wayne County Sheriff, I will make certain that programs such as **Operation Nic-Net**, which targets merchants who illegally sell tobacco to minors, are enforced. Thus, reducing the access of tobacco products to minors. You can help by becoming a part of our Court Watch program and being present in court on days when the merchants are brought to trial. Call 224-2298 for more information.

Together, we will create a greater Wayne County for our children.

3/20/97

3 sentenced to roadside after minors buy smokes

BY TIM DORAN

Free Press Staff Writer

Judge Claudia Lanchie Gartin wanted to send a message Friday when she sentenced three Detroit retail clerks to a work-release program for selling cigarettes to minors.

The clerks — two of whom worked at party stores and one from a gas station — will spend their all-day sentences picking up trash by the roadside.

Most offenders receive a \$50 fine.

"It's time that they are held accountable," the 36th District Court judge said after court. "It's for the safety of the young people and the community that come into those stores."

Wayne County Sheriff Robert Ficano said he believed they were the first such sentences handed out in the county for selling cigarettes to minors.

"It's sending a message that the criminal justice system is taking it seriously when you sell tobacco to minors," Ficano said.

The clerks were ticketed Jan. 29 on West Warren in Detroit during a Sheriff's Department sting where underage people are sent to try to buy cigarettes. So far, investigators have visited 268 stores and handed out 179 tickets.

Christopher Williams, one of those sentenced Friday, said Gartin's sentence sends the wrong message.

"That's 96 hours work for a pack of cigarettes that costs \$2.50," he said. "For \$2.50, I don't think I should do 12 days. That ain't right."

Williams, 23, of Detroit said he was caught off guard while working at the Serv U Well store. He always checks identifications, he said, and does not sell to teenagers. But he got busy.

A new federal law requires stores to check identifications for anyone under age 27. Michigan law requires buyers be at least 18.

Down West Warren at Narra Party Shoppe, the store manager, who did not want to give his name, said police should concentrate on violent crime.

The other two convicted clerks were Zeyad Hasan, 20, of Dearborn and Rafid Narra, 26, of Southfield.

**Stores get burned as decoys
smoke out some unwary clerks**



DAVID P. GILKEY/Detroit Free

Sheriff's investigator Jamie Garcia hands a ticket Friday to Althea Willis at a Detroit Marathon station after she sold cigarettes to an underage decoy. It was the first day of a new law requiring stores to request identification of anyone who looks younger than 27.

The big cigarette sting

BY LEKAN OGUNTUYINBO
AND BETH KRODEL
Five Press Staff Writers

The 16-year-old girl walked up to the register of the Detroit party store and asked for a pack of Newport Lights.

The store owner, 35-year-old Issam Naamou, quickly obliged.

Two dollars and seventy-five cents and a few moments later, two detectives from the Wayne County Sheriff's Department walked in and slapped Naamou with a ticket.

He'd fallen into the trap.

But she looked 20, maybe 25, said Naamou,

owner of the Brand Party Shop on the west side.

"Can you give me a break please?" he pleaded to no avail with Investigator Jamie Garcia.

Friday was the first day of a new federal law requiring stores to request identification of anyone trying to buy cigarettes who looks younger than 27. The legal age to buy cigarettes in Michigan is 18.

The administration has "drawn a line where our children are concerned," President Bill Clinton declared Friday. "From now on, in every store in America, our children will be

told: No ID, no sale."

Not exactly. At least not in many of the stores visited Friday by Wayne County sheriff's investigators.

Using a pair of high school students decoys, they visited 11 stores, many of them in the northwest part of the city. Seven of the stores were cited for selling to minors, Sheriff Robert Ficano said. Merchants receive a misdemeanor charge and a fine of up to \$250. Repeated convictions could result in the revocation of permits to sell tobacco.

Please see CIGARETTES, Page 2A

Cigarette ID law off to bad start

CIGARETTES, from Page 1A

The new law is getting mixed reviews from smokers and convenience store clerks in the Detroit area.

"I think it's bull," said Kane Braun, 23, of Ann Arbor, who initially was denied his Marlboro Reds at the Maple and Jackson Shell station in Ann Arbor because he didn't have his license with him. "I haven't been carded in 10 years, since I tried to buy cigarettes for my mom when I was 13."

When Braun, who usually stops at the Shell station after work, threatened to never return, the store clerk relented.

"Customers don't like this kind of hassle," said clerk Anowar Hossain, 35, who was carding anyone he thought looked under 30. "And I think it's embarrassing for them."

Dexter's Rick Brower, who has been smoking for 32 years, was carded for the first time Friday, he said. When Hossain asked for his ID, the 47-year-old laughed and lifted his baseball cap to show his balding head. "I think it's a good law, because kids shouldn't be smoking," he said. "But it's hard to do. It's unreasonable for people to be able to guess someone else's age."

University of Michigan junior Brian Orange is only 20, but said he doesn't usually get carded. "But it's a good idea," he said, picking up his pack of Camel Lights. "It's just an extra five seconds to show your ID to keep kids under 18 from smoking."

In Wayne County, Ficano said he decided to send his agents out to highlight the new federal law.

His office has been conducting stings since September, checking out 256 stores. About 172 tickets have been issued, he said.

"We're trying to send a message that the merchants should not sell to young people," Ficano said. "I realize that tobacco is a legal drug. But I also realize that the youngsters who smoke have a greater chance of going on to illegal drugs."

Ficano's agency typically recruits area high school students with an interest in law enforcement and a disdain for smoking as decoys.

Eleventh-grader LaToya, who asked that her last name not be used and who served as one of the decoys Friday, said she wants to work as a narcotics officer. She said both her parents smoke and she would like to see all tobacco products banned.

As evidenced by Friday's sting, many storekeepers are yet to get the message. But some did.

Take Joe Abro. A store owner for 22 years on West McNichols, he said he refuses to sell alcohol or tobacco unless he sees some identification.

"I haven't received any tickets," he said, after turning down LaToya Friday afternoon.

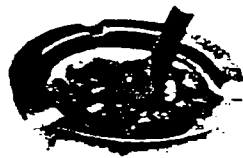
While merchants who broke the law got tickets, there was a reward for those who didn't. The investigators handed out large bright yellow cards that complimented them.

"Dear Store Owner," it read. "You were monitored by our undercover Sheriff's Deputies. You refused to sell nicotine products to youths. Thank you for being a responsible member of the community and obeying the law."

"We have a sign up there," said Furqan Alam, whose Marathon convenience store on McNichols got busted after his clerk sold LaToya a pack of Virginia Slims. "Once in a while everybody makes a mistake. We will try to be the worker."

The Associated Press contributed to this report.

62



Teen tobacco ban put on a deadline

*Single sales, samples,
widespread vending
are on their way out*

BY TIM DORAN
Pine Press Staff Writer

Rod Jennings of Farmington smoked his last cigarette in a car on the way to the hospital to have his cancerous larynx removed.

Without a voice box, Jennings, 82, speaks in a gravelly, Darth Vader-esque voice with the help of a prosthesis and breathes through a hole in his throat.

Jennings wishes he had never taken those first cigarette puffs at age 15, and new federal rules that go into effect this month seek to stop today's teens from making the same mistake.

As part of a new antismoking campaign by the U.S. Food and Drug Administration, retailers across the country cannot sell cigarettes to anyone younger than 18 beginning Feb. 28. Store clerks and employees are supposed to check photo identification for would-be cigarette buyers younger than 27.

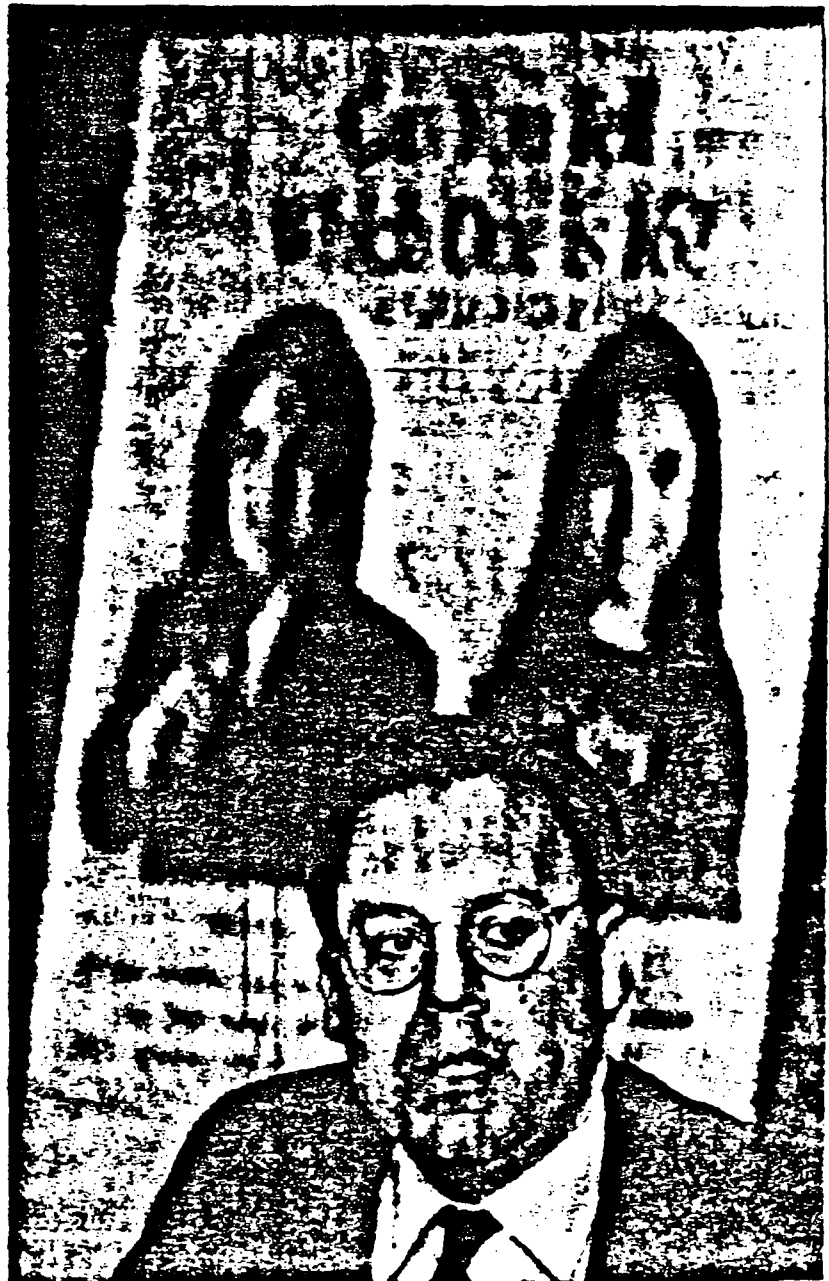
The federal government will fund stings by state agencies to make sure retailers comply with the new rules. A first violation would bring a warning, but a second sale of tobacco to someone underage could bring fines starting at \$250, said Mitchell Zeller, FDA associate commissioner.

"We're going to be in your store, and you're not going to know we're there," he said Wednesday.

Zeller stopped at Harper Hospital's Kreage Auditorium in Detroit for one of 10 regional meetings to explain the new regulations.

Each day, 3,000 teenagers become regular smokers in the United States, FDA figures show. Smoking has increased 50 percent among eighth and 10th graders since 1991, Zeller said.

The identification check is part of a larger program that takes effect within 18 months. In August, new rules will ban self-service and vending machine tobacco sales, except in bars or nightclubs that exclude minors.



CRAIG PORTER/Detroit Free Press

Please see SMOKING, Page 2E

FDA's Mitchell Zeller describes the federal crackdown on underage smoking.

ANTI-HARASSMENT

67

Underage tobacco use on deadline

SMOKING, from Page 1E

Sale of single cigarettes will be banned along with free cigarette samples and promotional giveaways and sales of hats, T-shirts and other items labeled with a tobacco brand.

The rules also will snuff out outdoor advertising within 1,000 feet of a playground or school and restrict cigarette ads in some publications to black text on a white background. In August 1998, companies will not be able to sponsor sporting events through tobacco brands, although they may still pay for events under a corporate name.

New federal rules basically will tighten up existing Michigan laws, said John Beasley, chief of tobacco programs for the state Department of Community Health.

Michigan has forbidden tobacco sales to those younger than 18 since 1989, although only three counties, Ingham, Marquette and Genesee, have regular enforcement programs. And cigarette vending machines still can be found in some of the state's restaurants that sell liquor.

Both Beasley and Wayne County Sheriff Robert Ficano said they believe the new federal program will help. During a sting in January, 19 of 19 stores sold to minors, Ficano said.

Several retailers who attended Wednesday's meeting also left with a little reassurance, they said. Retailers will be fined only for selling to minors, not for forgetting to card a 25-year-old, Zeller said. And the decoys used in stings will clearly be teenagers, not 24-year-olds, Zeller said.

"I feel more comfortable with it now," said Mary Dechow, government relations manager for Grand Rapids-based Spartan Stores. "If I was a retail store, I would use the same guidelines I do for liquor."

To learn about the program or report a retailer selling cigarettes or smokeless tobacco to an underage buyer, call 1-888-332-4543 anytime. The FDA's home page: fda.gov

64

DETROIT STORE OWNERS BURNED

*Retailers get a costly reminder
to refuse cigarette sales to minors*



An ROTC cadet, one of several 16-year-olds participating in a sting operation, goes into a store on Detroit's west side recently to try to buy some cigarettes.

Using 16-year-old ROTC cadets as decoys, Wayne County deputy sheriffs and Detroit public health inspectors have been issuing \$50 citations to party store owners who sell cigarettes to the underage teens.

The operation, dubbed NicNet, has cited 53 of the 93 stores it has tested since Oct. 1, Sheriff Robert Picano said Wednesday.

"What we're trying to do is take action against greedy store owners who are seducing the young by making cigarette purchases trouble-free," Picano said. "This is not an acceptable way of doing business in Wayne County."

Picano said he is dismayed by the number of store owners willing to sell tobacco products to minors. He said some store clerks even tell the decoys to hide the cigarettes in their pockets as they leave the store.

Picano said he will ask the state Legislature to raise the penalty for first offenses from a maximum \$50 to \$500-\$1,000.

But Kamal Petrou, owner of Starlite Grocery, said he was cited after selling cigarettes to a decoy who stood 6 feet 2 and weighed about 190 pounds. He said the decoy looked 20 years old.

"It was stupid. The way they walked into the store looked like they were raiding a crack house," Petrou said. "There were 10 of them. I said to them, 'What are you guys doing down here? You should be going to a crack house.'"

A national study released in May by the Centers for Disease Control and Prevention found that 34.8 percent of high school students smoked in 1985, up from 27.5 percent in 1991. It also found that 75 percent of teens who bought cigarettes weren't asked by stores for proof of age.



Starlite grocery store owner Kamal Petrou is angry after his clerk is caught. He said the youth looked 20.



The state deputy writes tickets after a store clerk sold cigarettes without checking the youth's ID. For a offense, the citation will be \$500. Since the law began Oct. 1, 53 of 93 stores have cited.

Accent

'INSIDE' PG
Kiddie Lit

Peruse our selection of the best
holiday books for young readers.
Page 3E

SECTION E TUESDAY, DECEMBER 10, 1996

Smoked out

TEEN VOLUNTEERS HELP
WAYNE COUNTY SHERIFF'S
NIC NET NAB RETAILERS
WHO SELL TOBACCO TO MINORS BY TRACY L. PIPP



A sales clerk discusses his ticket with an officer of the Wayne County Sheriff's Department as a teen decoy looks on.



A Gratiot Avenue party store clerk, left, listens as Wayne County Sheriff's Department officer Eugene Wright explains the situation. Photos by Robin Buckton/The Detroit News

It's 5:15 p.m. The streetlights on Gratiot Avenue start to blink on, lighting the graffiti-strewn exterior of a windowless party store. Down the street, in the back seat of a squad car, Rodney, 14, is told to go into the store and purchase a pack of cigarettes. "Ask for the cigarettes. If they ask how old you are, tell them," instructs Wayne County Sheriff's Department Investigative Officer Jaime Garcia. Through a window in the protective Plexiglas of the car, he hands Rodney three well-worn dollar bills. Rodney nods and uncurls himself from the cramped back seat. He's familiar with the routine.

Of the 145 attempts teen-age decoys have made this year to purchase cigarettes, 83 have resulted in citations.

Garcia, his sheriff's badge hidden beneath a thick flannel shirt, follows a discreet four paces behind the teen. Both enter the store. Moments later they emerge. Garcia collects a green citation ticket from the patrol car and offers an evidence bag to Rodney, who drops in the back of Newports and three quarters in change. Garcia glances at the program's director of field operations, Executive Sergeant Michael Modes, who is sitting in the driver's seat with his hand on the police radio.

"It's a good one," Garcia says. "Good" stops are ones in which the law is broken. The program is called Nic Net. The goal is simple: — and cite — retailers who sell tobacco to without checking for identification. Of the 145 attempts age



Sheriff's department officers Eugene Wright, left, and DeWayne Hayes organize paperwork and evidence in their squad car.

"Depending on how you interpret it, we've either been really successful or really unsuccessful," says Sheriff's Department Chief of Staff Nancy Mouradian. "Successful because we've written a lot of tickets — but unsuccessful because minors are purchasing a lot of tobacco in Detroit."

At any one time, Nic Net will involve as few as two officers, who go out to predetermined locations in a particular neighborhood. Tonight, there are two cars heading for the 8th Precinct, just north of downtown, and two decoys: Rodney and Andre. They have participated in the pro-

About Nic Net

Last Wednesday was the eighth patrol for Nic Net, a joint operation of the Wayne County Sheriff's Department, the Wayne County Health Department, the City of Detroit Health Department and the Michigan Department of Community Health. The program was initially funded by a \$5,000 federal grant to the Wayne County Health Department.

The teen-age "decoys" are recruited from area high schools. Many volunteer after hearing presentations by sheriff's officers about the dangers of tobacco and alcohol.

Executive Sgt. Michael Modes says that he and his team have used about 20 different teen decoys.

"Everyone who hears about the program is in helping out," he says. "Most of the adults who hear about us have a child or nephew they want to do this."

66

TOBACCO

Continued from Page 1E

gram before. Their names have been changed to protect their identities.

After notifying the station by radio that the first stop will result in a citation, Modes, Garcia and Rodney head back into the store. The clerk, a woman in her 40s, opens the locked door that leads behind the counter in response to Garcia's knock. A thick wall of plastic separates the registers from the rest of the store.

"Ma'am, the reason we're here is that you just sold tobacco to this young man," Garcia begins. "He is 14."

"He's 14?" the woman asks incredulously. "He looks like he's 22."

"Well, he's not," Garcia responds. He asks for ID from both clerks working behind the counter, and records the information on the citation.

"I always ID, I goddamn always ID," the woman is saying. "I got a 22-year-old at home and you look as old as he is. This kid looks old enough, and that's why you guys are sending him in. This is a trap."

"It's nothing personal, ma'am," Garcia says. Rodney looks on, entranced with his insider knowledge, as Garcia hands over the ticket.

"Well, why the hell aren't you guys out on the street catching the damn drug dealers? C'mon, let's be realistic, you can't card everybody."

Some of the customers notice the officers' badges and murmur, "Tobacco to a minor" to one another. One asks the clerk if she's upset.

"I understand they're doing their job, but I am pissed off," she says. "Always the one time you screw up, you get caught."

Excuses, excuses

Back in the patrol car, Modes sets out for the next stop. "The one time," he repeats. "Sure. They always say they usually do (card) but just didn't this time. Or they deny that they sold it. Or they say they can't speak English."

Garcia adds, "Sometimes they lock themselves into the store. Or this one time, a guy went in the back to get his identification and took off in his minivan." He smiles. "We got him."

Garcia explains what will likely happen with the store

clerk: She has a court date, and if she doesn't show up for it, there will be a warrant out for her arrest on a misdemeanor charge. Most likely, he says, she'll end up with a \$25 personal fine that won't affect the store.

Rodney can't believe she thought he was 22.

"If I were 22, I'd be in New York right now, at West Point," he says. Later, he says he is interested in becoming a detective, and thinks the "raids" are "pretty fun."

"It's too easy, man," Rodney says. He is allowed to purchase cigarettes in each of the six stores he enters.

A report in the Journal of the American Medical Association said that merchants illegally sell 947 million packs of cigarettes and 26 million containers of spitting tobacco to minors each year — products worth \$1.26 billion that generate \$221 million in tobacco industry profits. The Food and Drug Administration cites a review of 13 studies of over-the-counter sales, concluding that teens are able to successfully purchase tobacco products over-the-counter 67 percent of the time.

And nicotine addiction in children is on the rise.

"Here in Michigan we're seeing an increase in smoking among adolescents and women," says Dr. Donald Lawrenchuk, medical director for the Wayne County Health Department. "We need to increase our efforts in terms of law enforcement to prevent minors from the easy access they currently have to tobacco products. We also need to increase our efforts at educating them, so they are able to make informed decisions about tobacco — before they become addicted to the most addictive substance known to mankind."

The facts are undisputed: Each day, more than 3,000 children and adolescents start smoking. Tobacco use among kids is at a 16-year high, and the greatest percentage of legal smokers is in the 18- to 24-year-old range. Long-term effects of smoking include emphysema, chronic bronchitis, heart disease and lung cancer. Tobacco causes one death every 10 seconds, and it's the leading preventable cause of death in the United States.

Kids like the challenge

"Buying cigarettes is a joke. It's a challenge to the kids," Lawrenchuk says. "When you create a barrier, it's more of a challenge. We need to double our efforts to enforce those laws."

In an unmarked squad car, officers DeWayne Hayes and Eugene Wright are en route to stop No. 4, a gas station. Andre, 15, is not as openly enthusiastic as Rodney

is, but he is able to get the pack of Marlboro Reds without even a glance from the clerk.

"He sold to that little kid in front of me, too," Andre says.

Andre's mom signed him up for the program, he has some mixed feelings about participating.

"Sometimes I feel good about doing it," he says quietly, "because they're doing something bad. But sometimes I feel bad, because I'm getting them in trouble."

Tobacco and alcohol use is prevalent among his peers, he says. The bathrooms at his school are constantly smoke-filled, yet he does not smoke because he "doesn't like it." He hopes to be either a computer engineer, a mechanical engineer or a detective when he graduates high school.

The officers return to the car after citing the station owner.

"One Net" is not an easy detail," Hayes says. "The thing is that we try to protect the kids."

Not always successful

"Now, this next store," Wright points out, "we are not going to be successful." Rigley's Food and Drugs is well-lit, free of trash and graffiti. Sure enough, Andre is refused the cigarettes.

Hayes and Wright present a yellow certificate to the store owner, Kal Hanawa, that thanks him for being a responsible member of the community and obeying the law.

"We know most of the kids around here," says Wally Bokay. "We don't sell cigarettes to kids."

The young undercover detectives have to be back at their west side homes at 8:30. Rodney has been curious all night, asking questions about the officers' their handcuffs, the situations they have encountered. When Modes demonstrates the police siren, Rodney smiles widely.

At the end of the night, the decoys were able to purchase cigarettes at 10 of the 12 places the officers targeted. When the store owner is present, both the clerk who actually sold the tobacco are ticketed. must show up in court. Fourteen tickets were written tonight, four of those to store owners.

"You gonna come back and help us again sometime, my man?" Garcia asks Rodney.

"Sure thing," Rodney says with a grin. "Anytime."

Tracy L. Papp is a Detroit News staff writer.

Cigarettes and the law

The Wayne County Sheriff's Department cites merchants for selling tobacco to a minor on the basis of the Detroit City Code:

"It shall be unlawful for any person to sell, furnish, procure for or give away, directly or indirectly, to any minor, any cigarettes, cigarette wrapper or any substitute for either or persuade, counsel or advise any minor to smoke cigarettes. Any violation of any of the provisions of this section shall, for the first offense, upon conviction, be punishable by a fine not to exceed twenty-five dollars (\$25.00) or imprisonment in the city house of correction for a period not to exceed thirty (30) days, and for a second or subsequent offense, such person shall, upon conviction, be fined not less than one hundred dollars (\$100.00) or be imprisoned in the city house of correction not to exceed sixty (60) days and shall have his license under this chapter revoked and shall not at any time in the future be permitted to engage in the sale of cigarettes or the component parts thereof.

"It shall be unlawful for any minor to misrepresent his age and, by such misrepresentation, procure from a licensed dealer under this chapter any cigarettes or the papers or wrapping and tobacco for the purpose of making cigarettes."

Chapter 11, Article III, Sections 11-3-1 and 11-3-2 of the Detroit City Code



67

De .o. to target cigarette violators

*Teens will smoke out
illicit sales to minors*

BY DANIEL G. FRICKER
Free Press Staff Writer

Trading their military uniforms for plain clothes, high school ROTC cadets will serve as decoys in a sting that Wayne County and Detroit are about to unleash against city stores that sell cigarettes to minors.

Sheriff Robert Ficano said the sting, called Operation NicNet, will be launched in 30 days.

It's part of a growing national and state crackdown on illicit tobacco sales, which are fueling an increase in smoking among teenagers.

In southeast Michigan, Dearborn, Sterling Heights and River Rouge are among cities using teenage decoys to punish merchants who sell them tobacco. Warren is considering an ordinance to impose a mandatory sentence on first offenders.

Operation NicNet, a joint effort between the Sheriff's Department and the Detroit Health Department, will team more than 30 deputies and public health inspectors with the cadets. The sting will target gas stations and party stores.

State law forbids tobacco sales to anyone under 18 years of age, with a \$50 fine for the first offense and a \$100 fine and up to 90 days in jail for repeat offenses.

The City of Detroit also may challenge the liquor licenses of offenders, Allen Martin, city substance abuse prevention coordinator, said Tuesday.

"We want to get the message out to the business community that the illegal sale of tobacco products is not an acceptable way to do business in Wayne County," Ficano said.

In response to an increase in teenage smoking, Congress passed the 1992 Synar Amendment requiring all states to outlaw tobacco sales to mi-

On Guard For 165 Years

Detroit Free Press

35 cents (50 cents outside 6-county metropolitan area)

Wednesday
August 14, 1996

68

CRACKDOWN ON UNDERAGE SMOKING

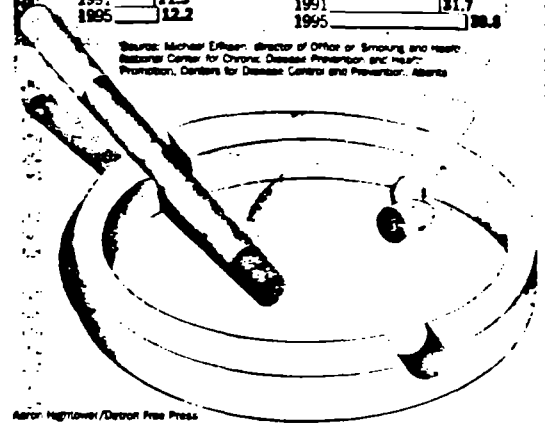
Experts cite three reasons for an increase in smoking among high school students:

- Easy access.
- Tobacco industry advertising campaigns aimed at young people.
- Smoking is becoming less popular among adults, making it attractive to teenagers.

What the studies show: Percentage of high school students (grades 9-12) who smoke:

Black male students	White male students
1991 34.1	1991 30.2
1995 27.8	1995 37.8
Black female students	White female students
1991 11.3	1991 31.7
1995 12.2	1995 38.8

Source: Michael Eriksen, director of Office of Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, Atlanta



Author: Haglund/Detroit Free Press

Students to be used in cigarette sale sting

SMOKING, from Page 1A

sions and submit annual reports to the government on their efforts.

In May, a national study by the Centers for Disease Control and Prevention showed 34.8 percent of high school students smoked in 1995, up from 27.5 percent in 1991. It also found that 75 percent of teens who bought cigarettes weren't asked by stores for proof of age.

A recent Urban League study of 380 Detroit stores mirrored the national findings, with 72 percent of the stores consistently selling tobacco to minors, Martin said. And a statewide study in 1995 by the Community Health Department found 65 percent of stores monitored sold cigarettes to minors.

"It's beyond being a problem; it's almost an ignored law," said Michael Eriksen, director of the CDC's Office on Smoking and Health.

Eriksen blamed the increase in teenage smoking on easy access to tobacco, advertising campaigns aimed at young people and the teenagers' natural inclination to rebel against a society that frowns on smoking.

Randy Rasmussen, 15, of Livonia, who quit smoking a year ago, said getting cigarettes was easy. "I looked older. A lot of people will sell as long as you're quiet and not a jerk about it."

Randy Sesi, co-owner of the Vegas Party Store in Warren, said the law puts too much responsibility on store owners and not enough on underage smokers. "Somebody's going to make a mistake now and then," he said.

Ira Fader, head of the Retail Tobacco Dealers of America, said the 2,000-member trade association strongly opposes tobacco sales to mi-

nors. But he said the association objects to the use of decoys who look like adults.

"By the age of 17, some of these kids out there have beards and can look older," Fader said from his offices in Baltimore.

Operation NicNet is a 14-week pilot program funded by a \$5,000 state grant. The task force will work several days a week.

"Folks will soon find out that we're serious about not selling tobacco products to our minors," said Martin, who came up with the idea for the operation.

Ficino said he will apply for grants to continue the program after 14 weeks and expand it to encompass the entire county.

Here's what's happening around the Detroit area:

River Rouge: Mayor Greg Joseph ordered police to start a decoy operation after River Rouge High School students dumped packs of cigarettes before the City Council on Aug. 5. It will start soon.

Dearborn: For the last year, police have used decoys from the department's Explorer Post to test area stores. Stores that sell cigarettes to the teens are ticketed, while those that don't receive letters telling them of the undercover operation.

Sterling Heights: Next week, police will conduct a decoy operation.

Warren: The City Council is considering a mandatory \$500 fine and 90-day jail sentence to deter sales. "We've got to punish the pushers," Council President Jim Fouts said.

Staff writers Brad Bennett, de Guzman, Dennis Nimmer, Kim North and Dan Shine contributed to this report.

YOUNG SMOKERS

Local efforts are critical to limiting access



Detroit and Wayne County have teamed up in a heartening way to fight teenage smoking.

Their sting operation, targeted on gas stations and party stores that sell cigarettes to underage smokers, promises to be an important effort to prevent tobacco addiction at an early age. Similar sting and decoy operations have been conducted or are planned in several other communities in the tri-county area.

Such initiatives are crucial because the tobacco industry has succeeded in blocking almost every other avenue to discourage teen smoking. Even at the grass roots, Michigan cities and townships are stymied by a three-year-old state law that prohibits them from enacting controls on youth smoking that are tougher than those the Legislature finds appropriate.

The state House has voted to repeal that law. The Senate has not, and the issue languishes in a legislative committee that has never scheduled a meeting.

Meanwhile, the state "preemption" law has been used against Troy, which tried to ban cigarette vending machines. Troy's ordinance was shot down in court, but it was a good try; more communities should look for ways to work around the state law.

Having to fight local ordinances, com-

munity by community, is a tobacco industry nightmare — hence the zeal to keep state legislatures in line. Tough state and national standards on tobacco sales to teenagers would be ideal, of course; they're just not going to happen soon.

A federal battle is likely over the question of whether the U.S. Food and Drug Administration can and should regulate cigarettes as drug-delivery devices. After recent disclosures of internal tobacco company documents, the atmosphere seems highly conducive to getting the industry to behave responsibly by any means available — be they at the community level or with federal agencies.

Research continues to detail the damage done by smoking, including the fact that the younger a smoker is when he or she starts, the harder it is to quit later. Yet underage smoking is on the rise; more than a third of white high school students smoke, according to a recent study.

Rebellion goes hand in hand with being a teenager, the puff behind the barn has been lore for generations. But for adults, there's a difference between tolerating some rebellion and conspiring to create a young person's addiction. When kids can buy cigarettes almost at will, that conspiracy has gone on too long.

8/14/96

TASK FORCE INSPIRES TOBACCO LAW ENFORCEMENT

An idea generated from the Detroit City Council Task Force and Policy Panel on Substance Abuse Prevention now has the Wayne County Sheriff's Department catching merchants illegally selling cigarettes to minors.

A sting operation called Operation Nic Net sends undercover high school ROTC cadets, teamed with sheriff's deputies and health professionals, into randomly selected retail stores to ticket merchants they catch violating state laws prohibiting tobacco sales to anyone under age 18.

Evolved from the 350-member Task Force which meets twice monthly, the program has become a joint effort including the Sheriff's Department and the public health departments of the

City of Detroit and Wayne County. Task Force members serve as volunteer deputized witnesses to illegal sales observed, followed by the issuance of tickets for fines of \$50.00 for first offenders and a \$100.00 fine and up to 90 days in jail for repeat offenders and loss of license to sell tobacco products.

Tinsley-Williams, chair of the Task Force and founder of the Coalition Against Billboard Advertising of Alcohol and Tobacco says, "Cigarettes are the initial drug that leads through a gateway to other addictions. Our Task Force is absolutely thrilled with this program and we are overjoyed to have such a fine cadre of youngsters helping to catch violators." ■



Councilwoman Alberta Tinsley-Williams, center. At left is Dr. Amos Aduroja, Task Force co-chair, also Wayne County Sheriff Robert Ficano and & Velestia Revels, tobacco section, Wayne County Health Dept.