

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. fax cover sheet	[Personally Identifiable Information] [partial] (1 page)	06/10/1996	b(6)

COLLECTION:

Clinton Presidential Records
Chief of Staff
Jennifer O'Connor (Tobacco)
OA/Box Number: 8141

FOLDER TITLE:

California Trip June 1996

2024-0267-S
rs4051

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]
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*File
Clips*

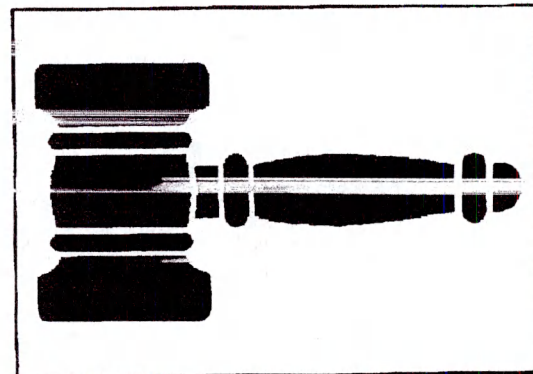
DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

PHONE: (202) 690-6318

FAX: (202) 690-7998

DATE: August 12, 1996

TO: JEN O'CONNOR



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

COMMENTS: Attached are a few articles that may be of interest:

1. Campaign's press release announcing their new Director of Constituency Relations, Charlotte Blount.
2. For possible event: article about Ohio's success in cracking down on illegal tob sales to kids.
3. Article about FDA notice and comment process with a couple of anecdotes about some of the comments.

No. of Pages (including cover): 8

National Center for Tobacco-Free Kids Names Blount Director
of Constituency Relations

tobacco-free-kids 08-08

Aug8 06:55

To: National Desk

Contact: Brian Ruberry or Kay Kahler, 202-296-5469, both of the
National Center for Tobacco-Free Kids

WASHINGTON, Aug. 8 /U.S. Newswire/ -- The National Center for
Tobacco-Free Kids announced today the appointment of Charlotte R.
Blount as director of constituency relations.

Blount will be responsible for expanding the number and types of
constituency organizations supporting the Center's mission to
protect children from tobacco addiction.

"Charlotte brings a wealth of experience to the Center,
particularly with her demonstrated abilities in building
coalitions that support public policy agendas," said William D.
Novelli, president of the Center. "Achieving success with
constituency organizations requires an understanding for the
concerns of respective groups and their constituents, in addition
to a commitment to long-term relationships with the leadership of
these organizations. With this approach, Charlotte has a record
of success throughout her career in building and expanding
coalitions."

Prior to joining the Center, Blount spent more than 14 years as
director of external programs at the Edison Electric Institute,
the association of electric companies in Washington, D.C. She was
responsible for managing a broad range of programs to educate
national constituency organizations and local elected officials
about issues affecting the electric industry. Blount also
developed "Gaining an Edge," the first-of-its-kind manual that
details ways to successfully build constituency relations on the
national, local and state levels.

Blount also spent more than 20 years writing in a professional
capacity as a broadcast journalist and a university professor.
From 1975 to 1982 she was a White House correspondent and anchor
for the American Urban Radio Network (formerly a subsidiary of
Mutual Broadcasting System). She interviewed Cuba's Fidel Castro
and the late Egyptian President Anwar al-Sadat and covered the
1980 presidential campaign and the Iran hostage crisis. Blount
also was an associate professor at The George Washington
University National Center for Communications Studies from 1977
to 1995.

Blount received a B.A. from The American University and an M.B.A.
from Averett College in Danville, Va.

The National Center for Tobacco-Free Kids is the country's
largest private initiative ever launched to protect children from
tobacco addiction. The Center is an umbrella organization for
many health, medical, civic, corporate, children's and
denominational organizations working to reduce tobacco use among
U.S. youth.

-0-

/U.S. Newswire 202-347-2770/

Illegal Tobacco Sales Down

Monthlong Summit County Crackdown Shows Drop In Buys By Minors.
Officials Credit Education Campaign

Akron Beacon Journal
Wednesday, August 7, 1996
Section: METRO
Page: D4

BY ERIC SANDSTROM, Beacon Journal staff writer

The annual crackdown on tobacco sales to minors in Summit County showed that the percentage of illegal sales has plunged in the last two years.

Pamela I. Clark, a researcher studying the "tobacco compliance checks" at 132 stores in July, said the drop in sales indicates that merchants in the county are getting the anti-smoking message from health departments and police.

But it took an aggressive education campaign -- including training merchants -- to reduce sales to minors.

Merchants "really did want to do something about it," said Clark, assistant professor of epidemiology at the Northeastern Ohio Universities College of Medicine. "Many of them believe they can do good business without selling tobacco to kids."

A monthlong crackdown in July was a collaborative effort of 10 police departments, the Akron, Barberton and Summit County health departments and the Ohio Health Department.

Under police supervision, underage volunteers (14- to 16-year-olds) successfully bought cigarettes and/or smokeless tobacco. They succeeded in 32 of 132 attempts, for a 24 percent buy rate, according to Shirley Angiulo, the Akron Health Department supervisor who coordinated the crackdown.

Akron Health Director Dr. C. William Keck called tobacco use "the single greatest threat to health we currently face. ... We fully intend to continue working together to keep kids separated from tobacco."

The crackdown is part of Ohio's effort to meet requirements of the Federal Public Health Service Act. If the state fails to meet federal standards, it could lose more than \$5.3 million in federal aid for substance abuse programs this year.

In Summit County, stores that sold to minors were issued citations, while stores that refused to sell to minors were sent congratulatory letters.

Barberton Police Sgt. William Pfeiffer said illegal tobacco sales are a concern for both law enforcement and health officials.

He said cigarettes are "gateway" drugs that can lead to other forms of addiction.

The 24 percent buy rate favorably compares with a 50 percent rate in 1994 (when only Akron was involved), and to a 38 percent rate last year (when Barberton, Fairlawn and Stow were added to the crackdown).

"We did have good results," said Stow Police Detective Randy Brink. In his city, only 8 percent of the attempted sales were successful, one of the county's lowest rates.

Lakemore had the best rate -- zero -- with four unsuccessful illegal sales at four stores. The worst rate -- 45 percent -- was reported in Fairlawn, where five of 11 attempted illegal sales were successful.

Other communities had the following percentages of illegal sales: Akron 29, Barberton 8, Bath 11, Cuyahoga Falls 16, Green 40, Mogadore 33, Norton 38, Richfield 20, and Springfield 33.

NEUCOM's Clark, who has an \$85,000 federal grant to study illegal tobacco sales, said that merchants should not shoulder all the blame and that parents and schools need to join the battle against the tobacco industry, which spends \$6.2 billion a year on advertising and promotions.

Her research found that merchants sold cigarettes and smokeless products to underage youths for many reasons, including:

- + Kids will find a willing merchant elsewhere.
- + Kids intimidate merchants.
- + Kids use false IDs.
- + Store employee turnover is too high to effectively prevent illegal sales.
- + Illegal sales are not an important issue.
- + The law is not enforced.

Clark also said that African-American parents tend to be less accepting of teen smoking. As a result, cigarette use among white high school students (38 percent) is exactly twice the rate among black high school students (19 percent). The reasons are unclear, but Clark has a theory.

"We know that (the tobacco) industry is victimizing another generation of youngsters, but for some reason, black families have (understood) that all along," she said.

700,000 sound off on tobacco rules
FDA targets cigarette sales to kids

[THE NEWS & OBSERVER]

Saturday

August 10, 1996

BY JAMES ROSEN, Washington Correspondent

ROCKVILLE, Md. -- When David A. Kessler, head of the Food and Drug Administration, announced a major initiative a year ago today to reduce the sale of cigarettes to children, his staff braced for heavy public reaction.

But no one expected anything like this: 700,000 written comments, 10 times the previous record.

The period for public comment ended four months ago, but the mail keeps coming. At last count, there were 4,952 binders containing 1.4 million pages on 200 shelves at the FDA's giant headquarters here.

The agency had to order new computer software to log the comments because its old software couldn't count higher than 100,000, a number the rule-makers thought was safe. The previous record was 70,000 comments two decades ago, when the FDA was deciding whether to allow saccharin on the market as a sugar substitute.

Piled in a single stack, the tobacco comments would be taller than a 15-story building.

"We've never had hundreds of thousands before," says Jennie Butler, who's in charge of maintaining all FDA public records as head of its dockets division. "It has kept us very busy."

The deluge has given Butler nightmares. She's dreamed of being buried in paper avalanches, of being trapped in locust swarms of flying postcards.

The rules would ban all vending-machine sales of cigarettes and promotional giveaways. They would put heavy restrictions on advertisements in the places and publications popular with children. They would prohibit cigarette-name sponsorship of car races and other sporting or entertainment events.

Most significantly, the rules would classify nicotine as a drug for the first time and place control of tobacco products under the FDA.

Advocates of the rules describe an epidemic of youth smoking, a claim they buttress with an array of statistics: The percentage of teens who smoke has increased by a third since 1991, to 35 percent. The average age of new smokers keeps dropping and is now 13. More than 90 percent of all smokers start before they turn 18.

The FDA plan, which aims to cut youth smoking in half within five years, "will rank among the greatest public health achievements of this century," said Dr. Michele Bloch of the American Medical Women's Association.

The FDA has reviewed the public comments and is preparing to release the final regulations. Implementation would be staggered over the next year or two, and it could be further delayed by a

lawsuit filed by the major tobacco companies and advertising agencies in federal court in Greensboro.

"We don't believe that they have the jurisdictional ability to issue anything," says Peggy Carter, a spokeswoman for R.J. Reynolds Tobacco Co. in Winston-Salem.

Larger issues

But as controversial as the rules are, the debate they've spawned really isn't about them. It's a much deeper conflict about the role of government -- and the place of cigarettes.

The tobacco companies and their allies view the proposed FDA rules as the first step toward the anti-smoking forces' true goal -- the complete elimination of smoking.

"The ultimate intent is prohibition through the back doors of subterfuge and 'good intentions,'" Thomas Humber, president of the National Smokers Alliance, wrote in his comment to FDA.

The fight pits two of the country's most powerful and well-financed lobbying forces against each other: the multi-billion-dollar tobacco industry versus the public-health muscle of titans such as the American Cancer Society and the American Lung Association.

Each side has galvanized its supporters and orchestrated massive form-letter responses to the FDA rules. Each side paints its antagonists' intentions in the darkest light.

Each side has hyped the battle until it has become a choice between Big Brother and Big Money -- between a voracious, ever-expanding government intent on squashing liberties and greedy corporations that kill children to fill their coffers.

The FDA concedes that the responses are running 3- or 4-to-1 against the proposed regulations, including 300,000 form letters staffers say were circulated by tobacco giant Philip Morris. But they say the agency won't make its decision based on a popular vote.

"This has nothing to do with popularity," says Jim O'Hara, a spokesman for FDA.

While the FDA doesn't keep a regional tally of the public comments, Butler, the docket chief, says the most numerous and most emotional responses against the rules have come from the Carolinas, Kentucky and other tobacco-growing states, while support is strongest in such anti-smoking hubs as California and the Northeast.

Only 38 percent of North Carolinians support FDA regulation of tobacco, according to a poll last month by The Charlotte Observer.

"I am appalled that a democratic society would even consider such action," North Carolina House Speaker Harold Brubaker wrote in a comment echoed by many tobacco-belt residents. "Your proposed regulations sound as if they were dreamed up in a socialist think tank."

And Dr. William R. Davis of Claremont, Calif., spoke for many health-care providers: "The relentless and seemingly privileged

brutality of the tobacco industry, and the numbers of victims involved, are without parallel in history."

Campaign fodder

In this election year, the spotlight on the FDA rules shines even brighter. Despite national polls showing that 80 percent of Americans favor stronger government efforts to keep cigarettes away from young people, administration officials deny that the rules are tied to President Clinton's re-election bid.

The FDA is expected to issue the final tobacco rules in the coming weeks or even days -- almost certainly before the November election -- which would be sooner from their initial proposal than the 18 months or two years the agency usually takes to complete significant new regulations.

That speed, says O'Hara, has everything to do with public health, nothing to do with politics.

"Clearly this has been a priority for this agency," O'Hara says. "We have 3,000 young people beginning to smoke each day, and 1,000 of those children will die prematurely from tobacco-related illness. We are a public-health agency, and this a major public-health problem."

Clinton, though, has already injected the FDA rules into his campaign against Bob Dole, the certain Republican nominee. The Clinton campaign began running TV ads last month that attack Dole for failing to support the regulations.

With the FDA rules pending and congressional elections on the horizon, the tobacco companies have stepped up their political donations.

Tobacco firms gave nearly \$2 million to the two parties -- \$1.6 million to the Republicans, \$335,000 to the Democrats -- in the first half of 1996, more than the industry has ever provided during the same period of an election year, according to Common Cause, a Washington group that tracks campaign contributions.

Clinton, who has received tobacco money, defended the cigarette manufacturers' right to make contributions, but he criticized them for opposing the FDA rules.

"They have a right to participate in the political process," Clinton said last month in a TV interview. "They have a right to sell a legal product. What is wrong is they are marketing in ways that they know -- I believe they know -- has to be appealing to young people."

Paper avalanche

The first written comment on the FDA rules arrived at the agency last Aug. 17, a week after they were announced. It was from a man named Missouri Thomas of Chester, Va.

"I have made my living off tobacco and still get my retirement from tobacco," Thomas wrote. "The government is trying to tell us what we can eat and how we can raise our children. When can we do what we think is right?"

He ended his hand-written note with a plea: "Please don't put all of the people that work in tobacco out on the street."

Since then, Butler and her staff have punched holes in each letter, taped postcards onto paper and secured the comments in color-coded binders. The beige metal shelves are on tracks, and Butler moves them by turning big black-handled cranks.

Citizens have sent other items as well. Teens have sent hundreds of packs of cigarettes, along with letters saying how easily they bought the smokes. Butlers' aides dutifully file the cigarettes in accordion legal files.

A 14-foot-long banner is filled with comments and signatures of students at Clay Junior High School in Carmel, Ind.

"Clay Junior High Says No to Old Joe!" is written in large red letters, and the familiar advertising image of R.J. Reynolds' Joe Camel is crossed out in red circles.

There is a giant laminated poster from the Council for Burley Tobacco, a trade group of burley growers, with 100 signatures.

"We all agree that minors should not smoke," the poster reads. "But the Food and Drug Administration's proposal to add yet another layer of regulations on cigarettes is not the answer."

A dozen or so videotapes have arrived. One of them shows Dwight Core Sr. of Virginia Beach, Va., sitting at a desk. He is breathing oxygen through tubes in his nose. With a halting voice, he describes how smoking and the illness it caused cost him his retirement years.

Core's daughter sent the tape to the FDA shortly after he died last summer. The cause of death, she says, was emphysema.

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Raleigh, North Carolina

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Chief of Staff
Jennifer O'Connor (Tobacco)
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California Trip June 1996

2024-0267-S

rs4051

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UNITED STATES OLYMPIC COMMITTEE
DRUG EDUCATION
AND
DOPING CONTROL PROGRAM



ONE OLYMPIC PLAZA
BUILDING 32, SOUTH END
COLORADO SPRINGS, COLORADO 80909
TELEPHONE: 719/578-4574
FAX: 719/635-2932

TELECOPY COVER PAGE

DATE: June 10, 1996

TO: SARAH - WHITEHOUSE ADVANCE OFFICE, ALBUQUERQUE, NM
FAX NUMBER: 505/878-1378

SHANA

FAX NUMBER: 202/456-2464

FROM: Wade Exum, M.D., Director, Drug Control Program

NUMBER OF PAGES TO BE SENT (Including Cover Page): 2

MESSAGE

RE: SPORTS UNITED AGAINST DRUGS

THESE ARE THE PEOPLE THAT WILL REPRESENT SPORTS UNITED AGAINST
DRUGS AT TOMORROW'S CEREMONY IN ALBUQUERQUE, NM:

1. WADE F. EXUM, M.D.

(b)(6)

BLACK MALE

3. TRENT DIMAS

HISPANIC MALE

2. MARIA D. STEFAN

DOB:

WHITE FEMALE

4. JAMES CARROLL

WHITE MALE

5. STACY SPLETZER

WHITE FEMALE

PAGE 2

PLEASE CONTACT JIM CARROLL AT THE MARRIOTT RESIDENCE INN IN
ALBUQUERQUE, NEW MEXICO AT: 505/881-2661.

NOTE: If you have any questions or problems receiving this
telecopy, please call 719/578-4574.

government are coming together to help families -- coming together by keeping tobacco out of the hands of teenagers, keeping drugs out of our schools, teaching the young about the impact of teenage pregnancy, trying to protect our children from the effects of violence on the media.

These days the jacket or shoes a teenager wears can make them a target of gang members and thieves. That is why I believe school districts like Long Beach should be able to require school uniforms because where they have been used, school violence has gone down. That is why I believe curfews can make a difference, too. These both teach respect and responsibility and discipline. They help parents be good parents.

These days, we see children smoking, and know that they have been exposed to the influence of tobacco advertising. Every single day, 3,000 youngsters begin to smoke, and that means 1,000 of them will die before their time -- from heart disease, or cancer or emphysema. California has been a pioneer in trying to protect kids from tobacco. You have made it more expensive for teens by adding a tax of 25-cents a pack and using that money to finance anti-smoking programs.

But we need to do more. We need to give our families a fighting chance against an industry that spends over \$6 billion to promote smoking. Last summer, my Administration proposed regulations to curb tobacco use by our young people. A cartoon camel and a smoking cowboy are not good role models for our sons and daughters. These images have got to go. We will not back down.

And today, young people are bombarded by degrading and exploitative ads and images -- on TV, in music, on billboards, on the Internet. So as we rebuild our families, we must address one of the biggest influences in the lives of children: television. The four hours a day that the average child spends in front of a TV can overwhelm the time we spend at church, around the dinner table, in quiet bedside conversations, as we try to teach our children right from wrong. If a guest came into your home and used words or painted images that were unsuitable for children, you would likely invite them to leave and not come back. But that's a challenge when the guest is television, and when children can so easily bring it into your home.

In my State of the Union address, I challenged Congress to require the V-chip, so that parents can protect their children from violent or lewd programs. And in a meeting at the White House last February, the leaders of the media industry came together and agreed to a voluntary rating system to make the V-chip work, and I commend them for what they are doing. We are putting the remote control back in the hands of parents. But now it will be their responsibility to use it.

With progress on this issue underway, it is time to consider how we can provide more and better educational children's programming so television could be a more positive influence in our children's lives. Over the past year, I have discussed this issue with media

Jim
O'Hara
Hindley
Hymman
David
Rein

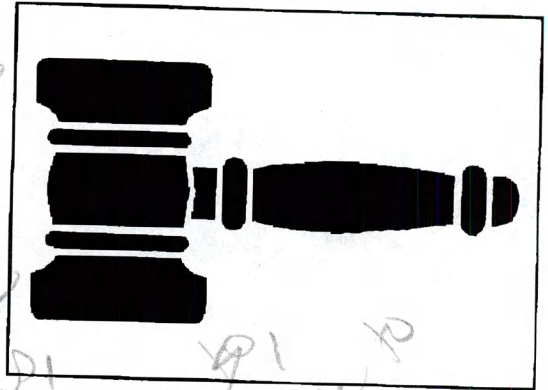
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DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

PHONE: (202) 690-6318
FAX: (202) 690-7998

DATE: May 31, 1996

TO: SHANA TESLER



FROM:

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

COMMENTS:

I've attached some info about California that might be of interest. (1) recent articles; (2) the "Real Cost" fact sheet; (3) info on the tobacco free youth soccer project in Sacramento.

No. of Pages (including cover): 13

Handwritten notes:
- I spoke w/ John Emerson
- we're gonna put some tobacco stuff into the Calif corner
- college speech
- we don't want to mention Wilson
- we did praise Calif for passing prop 99 - must make info on prop 99

San Francisco Chronicle; 5-29-96

S.F. Supervisors OK Tobacco Suit

City may sue
firms for costs
of smokers' care

By Henry K. Lee
and John King
Chronicle Staff Writers

The San Francisco Board of Supervisors voted unanimously yesterday to sue the tobacco industry for the city's cost of providing medical treatment to people with smoking-related illnesses.

The resolution, first approved two weeks ago by the board's Health, Public Safety and Environment Committee, directs the city attorney to file a class-action lawsuit on behalf of cities and counties across the state.

San Francisco is seeking to recoup at least \$153 million in medical expenses incurred from treating smokers. The move is hinged on consumer fraud and on evidence that cigarette companies knowingly sold harmful, addictive products — an allegation the industry denies.

Supervisor Angela Alioto, who proposed the resolution, said, "This is a war against the tobacco industry, and we shall forge ahead."

Asked why San Francisco should embark on a lawsuit when at least two other cities and two states have already done so, Alioto said: "It's applied pressure. The more people who put on pressure, the quicker something will happen."

The board was not swayed by concerns apparently voiced in closed session yesterday by City Attorney Louise Renne. She warned supervisors that it would be time-consuming and expensive to litigate, sources said.

When it appeared that supervisors said they would stick to their guns, Renne reportedly said one way to save money would be to have most of the work done by contingency lawyers, who would only get paid if their side wins.

In an interview yesterday, Renne declined to discuss what steps, if any, her office might take in instituting litigation. "Obviously, we're aware of the supervisors' resolution and at this time, I just don't have any comment beyond that," she said.

yes if
in SF

San Francisco Chronicle, 5-29-96

No Tobacco-Wear At S.F. Schools

Board bans cigarette logos, OKs meeting on Mission High

By Tyra Lucille Mead
and Nanette Asimov
Chronicle Staff Writers

Joe Camel and the Marlboro Man were kicked out of San Francisco schools last night as the Board of Education voted to ban clothing, packs and other gear that display tobacco company advertising logos.

The measure, approved on a 6-to-1 vote, was introduced by board member Leland Yee, who compared the situation to how the ban on TV advertising is circumvented.

When students wear the clothing, Yee said, it is like "when they shoot the whole ballpark at a ballgame and all the advertising comes through."

Yee noted a survey found that in a single week, one in 10 high school or middle school students have worn or carried fanny packs, T-shirts, hats or other trinkets bearing the face of Joe Camel or other cigarette icons.

"Smoking is a slow suicide for a lot of our youth," said Chan Pho, a member of a youth group called Chinese Power Against Tobacco.

The sole member voting against the measure, Dan Kelly, said, "We want to educate our students to the stupidity of smoking and the avarice of tobacco companies," but he said the resolution would violate the students' right of expression.

Despite the tough policy, how and when it will take effect remained up in the air last night, with the board acknowledging that the process will take further study. Punishment for violators was also not addressed.

yes if
in SF
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LEVEL 1 - 2 OF 22 STORIES

Copyright 1996 McClatchy Newspapers, Inc.
Sacramento Bee

May 25, 1996, METRO FINAL

SECTION: MAIN NEWS; Pg. A3

LENGTH: 1080 words

HEADLINE: CRITICS FUME OVER TOBACCO TAX SPENDING

BYLINE: Brad Hayward, Bee Capitol Bureau

BODY:

A new plan by Gov. Pete Wilson for spending Proposition 99 tobacco tax proceeds is getting graded as "improved" but still "not satisfactory" by anti-smoking groups that have been battling him on the issue.

In his \$ 63.3 billion revised state budget proposal for 1996-97, released earlier this week, the governor outlined a plan to spend an additional \$ 147 million in Proposition 99 money, with a portion of it directed to education and research programs that anti-tobacco groups want to bolster.

not Wilson
yes to promise
Cathy for enacting
Prop 99
(need to know
when it was
passed - what
it is done)

Sacramento Bee, May 25, 1996

But those groups, which want Proposition 99 revenues split up in the manner originally outlined in the initiative, say Wilson's proposal still doesn't accomplish what they're seeking.

"It does not fully restore the anti-smoking campaign in California as the voters intended," said Paul Knepprath of the American Lung Association.

Proposition 99, approved by voters in 1988, boosted the tax on cigarettes by 25 cents a pack and designated percentages of the revenues for a variety of programs, including those aimed at preventing tobacco use.

But in recent tight budget years, Wilson and state lawmakers have diverted some of the money earmarked for tobacco education and research programs into health programs for the poor. Anti-smoking groups sued, and the diversions have been blocked by the courts; an appeal is now pending.

Wilson's January budget of \$ 436 million for Proposition 99-funded programs gave 10 percent of the money to anti- tobacco education, compared with the 20 percent outlined in Proposition 99. It gave 1 percent to tobacco -related research, compared with the 5 percent in the initiative.

Sacramento Bee, May 25, 1996

The governor's new plan for spending the extra money would, for one year only, double the state's \$ 12 million tobacco -education media campaign, provide an extra \$ 20 million for education programs and give \$ 39 million to the University of California for research related to youth smoking.

The money would come from Proposition 99 reserves and higher revenues.

Administration officials say the plan is an aggressive attack on youth smoking, which they say deserves attention because smoking is declining among adults in California but increasing among youths aged 12 to 17.

"The plan targets one of the most troubling trends we face in public health -- the upsurge in tobacco use among our youth," said state Health Director Kim Belshe. Education and public-health groups calling themselves the Coalition to Restore Prop. 99 say Wilson's plan does move in their direction by giving a larger percentage of the funding to tobacco -education programs. But those programs would still not receive the 20 percent set out in Proposition 99.

They also argue that the plan puts an excessive focus on combatting teen smoking and that a broader approach will work better.

Sacramento Bee, May 25, 1996

"You reduce youth smoking by reducing all smoking," Knepprath said.

Additionally, the coalition complains that Wilson's plan would add a new requirement that tobacco research at UC first be approved by an appointed oversight committee.

"Having political appointees approve scientific research is totally unacceptable," said Carolyn Martin, coalition co-chairwoman.

Ken August, a Department of Health Services spokesman, defended the proposed requirement. "This committee can provide a forum for public discussion and public review of the university's research plans, and that's only going to improve accountability," he said.

The debate over how to spend Proposition 99 funds is expected to heat up in the next few weeks.

In a separate budget development Friday, the state legislative analyst released a review of Wilson's revised state budget and said the spending plan undercounted attendance in the state's schools, meaning that \$ 220 million more will have to be spent on public education.

Sacramento Bee, May 25, 1996

But a spokesman for Wilson's Department of Finance, H.D. Palmer, said the administration calculated attendance by its usual method and is not concerned that other programs or the budget reserve face a \$ 220 million threat.

The figures are traditionally updated later in the year, Palmer said.

LANGUAGE: ENGLISH

LOAD-DATE: May 26, 1996

SENT BY :

5-31-96 : 15:45 : OGC IMMEDIATE OFFICE→

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The REAL Cost of Marlboro Gear and Camel Cash Goods

Camel Cash Rockin' Road Trip Catalogue

ITEM	Retail Price	Number of C-Notes	Number of Packs	Cost of Packs ¹	Number of Cigarettes Smoked	Life Lost In Minutes ²	Life Lost in Days
Ticketmaster® Gift Certificate	\$25.00	100	100	\$220	2,000	24,000	17
Camel's Rockin' Road CDs or Cassettes	\$15.00	70	70	\$155	1,400	16,800	12
"Black Gold" T-Shirt	\$12.00	40	40	\$89	800	9,600	7
Timex® Adventurer™ with Indiglo® night-light	\$50.00	195	195	\$433	3,900	46,800	33
Ladies' Timex® Watch with Indiglo® night-light	\$43.90	195	195	\$433	3,900	46,800	33
SONY Portable CD Player	\$127.95	700	700	\$1,554	14,000	168,000	117
SONY Watchman® Portable Color TV	\$159.99	825	825	\$1,831	16,500	198,000	138
Buxton Purse	\$15.00	115	115	\$255	2,300	27,600	19
Cold Creek™ Boots by Columbia (Men's, Women's)	\$100.00	395	395	\$877	7,900	94,800	66
Six String Zippo®	\$20.00	85	85	\$189	1,700	20,400	14

Marlboro Gear Catalogue

ITEM	Retail Price	Number of Miles	Number of Packs	Cost of Packs ¹	Number of Cigarettes Smoked	Life Lost In Minutes ²	Life Lost in Days
Marlboro Boots by Dan Post®	\$170.00	2,275	455	\$1,010	9,100	109,200	76
Canon Sure Shot Camera	\$69.00	1,995	399	\$886	7,980	95,760	67
Panasonic® Portable CD Player	\$99.00	2,285	457	\$1015	9,140	109,680	76
Marlboro Cotton Hammock (Not including Marlboro pillow or sidebag.)	\$100.00	1,875	375	\$833	7,500	90,000	63
Snake River Fishing Gear by Shakespeare® (Not including Marlboro brand carrying case.)	\$130.00	2,050	410	\$910	8,200	98,400	68
Marlboro Trail Watch by Wenger	\$150.00	1,450	290	\$644	5,800	69,600	48
Cambridge Soundworks™ Portable Stereo Speakers	\$199.99	1,900 plus \$110	380 plus \$110	\$954 ³	7,600	91,200	63
Marlboro Folding Mountain Bike by Fuji®	\$300.00	2,200 plus \$110	440 plus \$110	\$1087 ³	8,800	105,600	73
Nikon SX Sunglasses	\$99.00	1,660	332	\$737	6,640	79,680	55

¹Cost per pack is figured at \$2.22, average sample retail price based on a Los Angeles area telephone survey during March 1996. ²American Cancer Society and *Scientific American* figures say that 12 minutes of life is lost per cigarette. ³Cost of packs and fee.

Manufacturer's suggested retail prices were confirmed for eight of the items listed. Prices for the remaining items were obtained from Southern California retailers. Prices for catalog items and cigarettes may vary regionally and should be adjusted accordingly.

MY CONTRACT FOR HEALTH

I Pledge To Be Tobacco Free

I, _____, choose not to
smoke, dip or chew.

I choose **HEALTH!**

Name

Date

Health Education Council
serving populations at risk

Sacramento, CA • (916) 556-3344



Preventing Tobacco Use Among Youth



TOBACCO FREE YOUTH SOCCER PROJECT

SPIRIT OF HEALTH PROJECT



Background

- * According to the 1989 Surgeon General's Report, smoking remains the single, most preventable cause of death in our society today.
- * Over 3,000 kids become addicted to tobacco everyday.
- * The earlier a child starts using tobacco, the more likely it is that he or she will be unable to quit and subsequently die of tobacco induced disease.
- * Tobacco companies target children with advertisements linked to sex, popularity and sports.

Project Goal

Youth soccer continues to be one of the most popular sports among children between the ages of 4-18. The goal of the *Spirit of Health Project* is to:

- * Provide a tobacco free environment for youth involved in soccer programs.
- * Eliminate the mixed messages that children often receive through sporting events and from adults with regard to tobacco use.

Project Activities

The project will collaborate with the California Youth Soccer Association (CYSA) and the Sacramento Knights Professional Indoor Soccer League to reinforce the "drug free" message children should be receiving from every avenue possible.

- * Tobacco prevention and cessation information will be provided to coaches through CYSA coaching clinics and the annual CYSA Soccer and Equipment Show.
- * Informational articles and advertisements with regard to tobacco prevention will be published regularly in the CYSA newspaper.
- * Technical assistance to both CYSA and individual leagues and clubs in the development of tobacco-free policies will be provided in addition to resource

information for purchasing team, club, or league promotional items that spread the tobacco prevention message.

- * Quit smoking/chewing opportunities and resources for parents and coaches will be made available.
- * Promotional activities will be conducted at KNIGHTS home games to reinforce the tobacco-free message.
- * Local and statewide press releases through mainstream, soccer, regional and other avenues will be submitted to promote KNIGHTS and CYSA tobacco prevention activities.

For additional information about the *Spirit of Health Project*, please call the Health Education Council at (916) 556-3344.

This project is made possible by funds received from the Tobacco Surtax and Health Protection Act of 1988 - Proposition 99 through grant number 94-20965.



**Sacramento
Knights
Support**

TOBACCO-FREE SOCCER



Health Education Council

Call 928-3650 for Knights ticket info.

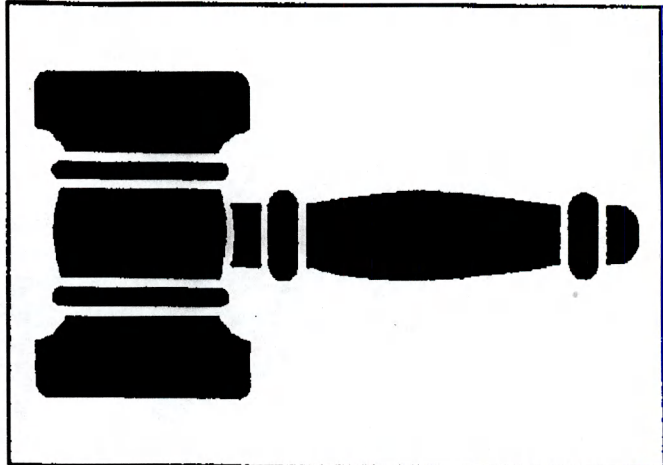
Made possible by funds received from the Tobacco Tax Health Protection Act of 1988-Proposition 89, under Grant Number 94-20965 with the California Department of Health Services, Tobacco Control Section.

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

FAX:



No. of pages: 3

MESSAGE:

Tobacco-Free Soccer

With funding from Prop 99, the Health Education Council, located in Sacramento, created the "Spirit of Health Project" to promote the message that sports and tobacco use don't mix. In cooperation with the California Youth Soccer Association (CYSA) and the Sacramento Knights Indoor Soccer League, the Project:

- disseminates tobacco use prevention and cessation information to coaches through CYSA coaching clinics;
- publishes articles and takes out ads promoting the tobacco-free message in CYSA's newspaper;
- provides technical assistance and tobacco-free soccer promotional items to both CYSA and individual leagues and clubs;
- supports local youth soccer clubs in adopting non-smoking policies prohibiting smoking at games and practices. They have encouraged coaches to make their players aware of the health risks of tobacco and how it can slow players down.

What the Spirit of Health Project has done should be expanded. It can reduce the risk of tobacco use among our children, and having role models who are athletes can inspire our youth. It can help keep tobacco off our playing fields and out of the mouths of our children. The Project shows that soccer gives our young people some of the very benefits cigarette ads promise, but soccer actually delivers: independence, strength, and confidence.

California's Tobacco Survey

On June 3, the California Department of Health released new data indicating that smoking among adults in California increased in the last six months of 1995. The survey found that 17.9% of adults smoked in the last half of 1995, compared to 15.5% in the first half of 1995.

Although adult smoking in 1995 overall (16.7%) is lower than it was in 1994 (17.3%), this finding may suggest the beginning of a rise in smoking among adults after at least five years of steady decline in the proportion of adults who smoke. However, until more recent data are released, it will be impossible to know if this is an actual increase or a statistical artifact.

In comparison to smoking among all Americans, Californians smoke at considerably lower rates. In 1993 (the most recent year for which national data are available), 25.0% of Americans smoked compared to 19.1% of Californians.

However, smoking among young people in California has been increasing in recent years. Since 1992, the percentage of young people ages 12 to 17 who smoke has increased steadily from 8.7% to 11.9%. Similar to national trends, 1995 California data indicate that White and Hispanic youth are considerably more likely to smoke than Black youth (White youth: 13.8%; Hispanic youth: 11.7%; Black youth 3.4%).

These data suggest that despite an aggressive anti-smoking campaign in California (supported by Prop 99), additional actions are required to prevent nicotine addiction among young people.

- This survey shows we have seen a sign.
 reduc in prevalence of smoking
 since Prop 99
 This news should not discourage
 but should press them more
 helping kids

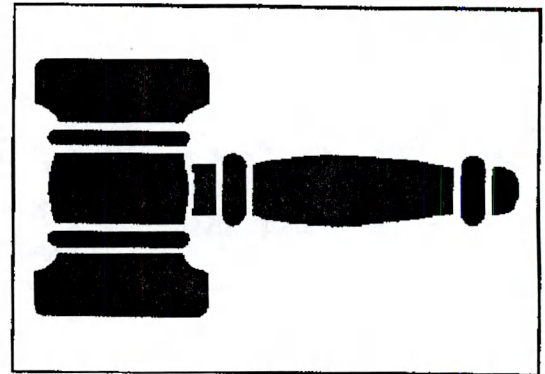
DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

PHONE: (202) 690-6318

FAX: (202) 690-7998

DATE: June 5, 1996

TO: **JEN O'CONNOR**
SHANA TESLER



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

COMMENTS: Attached are some more articles you should read. The first is in today's LA Times about increase in smoking in California and notes that this "gives new ammunition to critics of Wilson. . ." in light of his diversion of tobacco money. The second and third articles are editorials in the Atlanta Journal and Raleigh, NC's News & Observer.

No. of Pages (including cover): 5

L.A. Times; 6-5-96

Smoking Rose at End of '95, Survey Finds

■ **Health:** Critics of the governor and Legislature link the increase to the diversion of money from the state's anti-smoking campaign.

By DOUGLAS P. SHUTT
TIMES STAFF WRITER

Reversing a long-term trend, smoking among adults in California increased significantly during the last six months of 1995, the state Department of Health Services said Tuesday.

The rise in smoking among adults follows at least five years of steady decline in the number of smokers and comes on the heels of studies showing a rise in smoking among teenagers.

The development gives new ammunition to critics of Gov. Pete Wilson and the Legislature who link the rise in smoking to the diversion of money from the state's anti-smoking campaign.

"It's a matter of concern, because we've had a long-term downward trend in the prevalence of smoking in California," said Dr. Lester Breslow, a UCLA professor and former state health director who sits on a panel that follows smoking trends.

The most recent figures were released to Breslow and other members of the Tobacco Education Research Oversight Committee on Monday and were confirmed by the state Department of Health Services on Tuesday.

The survey shows that during the second half of 1995, 17.9% of Californians over 18 smoked, compared to an all-time low of 15.5% during the first six months of 1995.

Wilson administration officials pointed out that the number for the full 12 months of 1995 was still 16.7%, lower than the 17.3% of the adult population who smoked during 1994.

Colleen Stevens, chief of the state anti-smoking media campaign funded by tobacco-tax dollars, said: "We are still not sure if the last increase was a statistical bump or if it is a change in the trend."

Breslow said that although it is possible the spike in smoking was due to a "statistical fluke," the latest report appears to be part of a disturbing pattern signaling that the steep decline in smoking among Californians may have bottomed out.

As evidence, he pointed to a well-documented increase in smoking among teenagers and an increase in the number of packs of cigarettes purchased in California during the first three months of 1996.

State cigarette-tax collections show that 423 million packs of cigarettes were sold during the first quarter of 1996, compared to 406 packs during the same three months of 1995.

Breslow and others linked the reported increase in smoking to the diversion of tens of millions of dollars from special accounts for public education and advertising that were mandated by the anti-smoking initiative, Proposition 99.

The initiative passed in 1988, but was not fully implemented until 1990. It hiked the state cigarette tax to 25 cents a pack and mandated that 25% of the money raised go to health education programs, including anti-smoking ads and research on the effects of smoking. The rest of the money went to support health programs.

But in recent years, Wilson and the Legislature began diverting a significant amount of money from Proposition 99 education and research programs into ongoing health programs. Opponents have blocked the diversions in court, but the money in essence has been frozen in an escrow account until the suit is settled. The result has been that a significant amount of money for advertising campaigns has dried up.

"The (anti-smoking) campaign is continuing, but at a substantially reduced level," Breslow said. "You have to consider that as a possible factor in the reversal of the trend."

Mary Adams, a spokeswoman for the American Heart Assn., said the survey means "more heart attacks," because studies have strongly suggested a link between smoking and heart attacks.

"I am really horrified," she said. "Since Proposition 99, we have made tremendous strides toward a smoke-free society. Now I think these new figures reverse that trend."

Another critic, Stanton Glantz, a professor of medicine at UC San Francisco who has conducted extensive research on smoking and smokers' habits, called the new figures "a dramatic and very troubling reversal of the progress we've been making under Proposition 99."

Wilson recently announced that he was beefing up anti-smoking campaigns targeted at teens in response to surveys showing an increase in smoking among youth. He suggested emphasizing that smoking was for "adults only."

But this fanned the controversy, with critics contending that the surest way to turn teens into smokers is to create the impression that smoking is for adults. They note that the campaign is similar to one suggested by the nation's largest tobacco company, Philip Morris, in return for concessions from the Clinton administration.

The American Heart Assn. has run scathing full-page newspaper advertisements attacking Wilson for his "adults only" campaign and drawing similarities between the governor's plan and the one proposed by Philip Morris.

Sean Walsh, Wilson's press deputy, said the governor has consistently backed anti-smoking legislation and policies that ban smoking in offices and public buildings and that restrict vending machines to certain areas.

"We have the toughest laws in the nation, and Pete Wilson supported those laws," Walsh said.

Wall St. Jnl.; 6-5-96

Philip Morris Tries To Snuff Out Curbs On Overseas Smokers

European Ad Campaign Aims To Ward Off Laws, Citing Secondhand-Smoke Data

By SARA CALLAN

Staff Reporter of THE WALL STREET JOURNAL

LONDON — Put on the defensive in the U.S. by antimoking activists, Philip Morris Cos. is going on the offensive in Europe.

Having largely lost the battle over smoking in public places in the U.S., the world's largest tobacco company is launching a high-profile advertising campaign to persuade European countries not to adopt laws dictating where people can and can't smoke.

The print ads will cite research that eating pepper, drinking chlorinated water and eating cookies can pose a higher health risk than secondhand tobacco smoke. Philip Morris Europe SA, the company's European unit, also will publish results from a Gallup survey it commissioned showing that Europeans don't want government officials adopting laws that govern smoking in public places.

One of the ads will show smokers and nonsmokers eating and drinking together at a restaurant with a headline, "Doesn't it make sense for diners to decide whether smoking's on the menu?"

The planned ad campaign immediately drew criticism from antimoking groups. Pamela Furness, chief executive of Action on Smoking and Health, a London anti-smoking group, contended that the tobacco industry for years has "deceived" its customers over the health effects of active smoking, so why should people accept what they have to say about passive smoking.

The battle for the hearts, minds and lungs of Europeans is important for Philip Morris and other tobacco companies. Europe has about 97 million smokers, about twice the estimated 45 million to 50 million in the U.S., estimates David I. Greenberg, vice president of corporate affairs for Philip Morris Europe.

The 15 European Union member states already have adopted 46 laws restricting smoking, although the laws generally aren't enforced as strictly as similar laws in the U.S. Philip Morris hopes to block further inroads by focusing attention on the workplace and by offering guidelines to how smokers and nonsmokers can accommodate each other.

The "scientific study reference" cited by Philip Morris in its ads doesn't involve new research studies. Some of the ads will feature a chart listing the "reported relative risk" of 10 "everyday activities" as gleaned mostly from past reports in scientific journals. Everything from a diet high in saturated fat to drinking one to two glasses of milk a day is deemed riskier than exposure to secondhand smoke.

Mr. Greenberg said the purpose of the campaign is "to demonstrate that the scientific evidence on secondhand tobacco smoke does not justify smoking bans."

The ad campaign is being organized by Bainesfrank Sharkey Trotter in London, which also worked on previous pro-smoking campaigns in Europe for Philip Morris. The company wouldn't disclose how much it is spending on the campaign, which is expected to last for six weeks.

CIGARETTE MAKERS AND THE PUBLIC HEALTH

Teens are smoking more

Even as more and more adults say no to cigarettes in hopes of lengthening their lives, more teenagers take up the habit that threatens to shorten theirs. The increase in underage smoking validates the Clinton administration's call for strong preventive measures.

The disturbing news about teen smoking comes from an annual national survey by the Centers for Disease Control and Prevention. Last year's survey of 11,000 students in grades 9 through 12 found that 34.8 percent of them had smoked at least one cigarette in the past month. Compare that with a 1991 survey, in which 27.5 percent of the students smoked.

The trend among teenagers is the opposite of that among adults. In 1965, 42.4 percent of American adults smoked. By 1993 — the last year for which the CDC has figures — the rate for adults was down to 25 percent. Our youngsters — the people who have the most years to lose — are now the ones most likely to risk their health by smoking.

There are 3 million teenaged smokers in this country, the CDC estimates. Another million begin smoking each year. About 70 percent of underage smokers will puff their way into adulthood. And about one-third of those who continue smoking as adults will die of smoking-related causes. That means the trend in teen smoking portends a terrible toll in terms of medical costs and premature deaths.

The tobacco industry holds itself blameless when it comes to underage smoking. The solution, the industry says, is to cut off teens'

access to cigarettes by enforcing laws against selling tobacco products to minors and by training store clerks not to sell to them.

Teens' access is an important issue. That's why President Clinton urges taking a tougher line on those who sell cigarettes to minors. But access is only part of the problem, and is not the most important strategy against underage smoking. The key is to keep youngsters from

taking up smoking in the first place.

Teenagers must learn the truth about the dangers of smoking and be shielded from the deceptive messages and marketing tactics that boost the appeal of cigarettes.

Cigarette makers deny that they target teenagers in advertising and marketing. They also deny that ads persuade teenagers to start smoking. (For that matter, they deny that advertising causes anyone to smoke, which raises the ques-

tion of why the industry spends more than \$4 billion annually on advertising.)

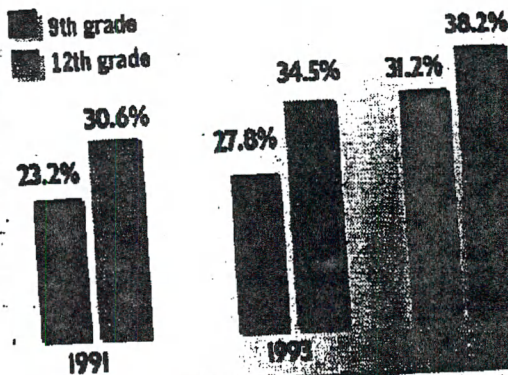
It is no coincidence that the three brands of cigarettes most popular with underage smokers — Marlboro, Camel and Newport — are the three most heavily advertised brands. Kids do respond to cigarette advertising. In fact, studies indicate they respond more readily than do the adults the ads allegedly target.

The Food and Drug Administration's proposal that it be granted authority to regulate the sale, marketing and distribution of tobacco products would be an effective step in preventing teenage smoking. Clinton already backs the FDA. This latest bad news on teen smoking should push Congress to get behind it, too.

The key is to keep youngsters from taking up smoking in the first place. Teenagers must learn the truth about the dangers of smoking and be shielded from the deceptive messages and marketing tactics that boost the appeal of cigarettes.

Teen Smoking

Percentage of Georgia high school students who smoked cigarettes anytime that year:



Source: Centers for Disease Control and Prevention

Cigarette smoking among youth in grades 9-12 for one month in 1933:

■ Frequent smokers*
■ Smoked once or more during a month



*20 or more days a month

WALTER CUMMING / Staff

... But tobacco's enjoying it less

Not since a 1964 surgeon general's report linked smoking to lung cancer has the future of the tobacco industry been so seriously questioned. Cigarette makers face court fights that could cost the companies billions of dollars.

With government confirmation of the deadly consequences of smoking and the warning label subsequently put on all cigarette packs, some thought tobacco might wither away. Surely the industry, finally held accountable for the danger of its product, would see its business disappear.

But things didn't happen that way. Although the number of smokers has declined sharply since that first report (from more than 42 percent of adults to about 25 percent today), cigarette companies remain highly profitable. And, ironically, that report and those warning labels have kept tobacco from being held to account for the damage it does.

In fighting smokers' lawsuits, cigarette company lawyers have used the warnings about the health risks of smoking to place the blame on smokers for choosing to smoke. As a result, the

industry has never paid damages.

But the latest legal attacks against cigarette makers — by individuals and states seeking to recover tax dollars spent to treat smoking-related illnesses — shifts the focus from what smokers knew but ignored to what the tobacco industry knew but kept secret.

Leaked internal documents and statements by industry whistle-blowers indicate that cigarette companies' research long ago revealed the health hazards of smoking, including the addictive nature of nicotine in cigarettes. Some evidence, tobacco critics claim, even indicates that nicotine levels in cigarettes were manipulated to keep smokers hooked.

As such materials come to light, they boost the prospects of lawsuits against the industry and bolster allegations that perjury, fraud and other crimes may have been committed to keep information from the public.

For the first time, there's a chance that tobacco's blame-the-victims tactic will be trumped. The accountability that some envisioned 32 years ago may be at hand.

ad care.
idea is simple: Assign every insured person a primary physician who will provide routine care for everyday problems for a nominal patient "co-payment" fee, usually \$15, but limit access to expensive specialists. The idea is that patients provided with relatively inexpensive care will be treated earlier, remain healthier, and avoid costly intervention later.

is reasonable, but a study published last week in *The Journal of Medicine* suggests the theory may be

wrong. The authors hoped to find that more intensive primary-care treatment improved the health of patients — in this case, veterans already suffering serious illnesses. Instead, the study showed patients who received intensive primary care were more likely to be re-hospitalized than a control group who received no special attention. What's more, a higher percentage in the intensive-care group died. The study doesn't prove that increased primary care is bad for patients, especially since the study involved men who were already ill. But neither does it demonstrate that care necessarily helps patients much.

re, improving patient health isn't what motivates companies — reducing costs is. But primary care may do all it has promised in cost-cutting, either. I've yet to see how my insurance company saves money by making two doctors to treat a single ailment, for example. My chronic neck pain flares after spending long hours at work. I must first visit my primary-care physician for a referral to my orthopedist — or my insurance company pays. That's two visits instead of one, for which I pay so does the insurer. The only way the company saves is that I often don't have the time to waste on two visits. I sometimes pay out of pocket to see the orthopedist rather than endure the hassle.

I'd rather pay directly for routine health care and insurance only for truly catastrophic illnesses if it would save premiums. Why shouldn't I be able to purchase insurance that functions like auto or home insurance? My mobile policy doesn't cover routine maintenance. I pay for oil changes, brake jobs, etc. My insurance kicks in if my car is damaged in an accident or stolen. The same is true for my house. I pay when it needs a paint job; the insurance company pays if the house is damaged or its contents are stolen.

Can we restructure health insurance the same way? Insure serious illnesses and let patients pay for routine care. Visits to the doctor for backaches, the flu or a regular exam ought to be thought of as routine maintenance. There's no incentive for the patient to limit unnecessary or do comparison shopping when an insurance company picks up the tab. Nor do health providers have to feel like they're charging \$120 for a 5-minute consultation if the patient, not the insurer, pays. No wonder health-care costs have risen exponentially in recent years. It's not that if nearly everyone paid for routine care out of their own pockets, health-care costs would fall. The best managed-care system would have patients pay more for their routine care and saving insurers from catastrophic losses.

OWNS' four columnists provide views from diverse perspectives on today's issues. Thursday: Susan Ehrlich on the politics of health care; Tuesday: Michael Gartner; Wednesday:



points
Gartner

W LOS ANGELES
orking with
an organ-
transplant
team. I recently treated two pa-

tients who helped change my thinking about efforts to obtain organ donations.

The first patient had contracted hepatitis in a blood transfusion. When I last saw him, three days had passed since his liver transplant. He was weak and had not yet gotten out of bed. He said he had one goal for the day: to sit up in bed. He wanted to write a thank you note to the family of the person whose donated liver saved his life. That afternoon, I found him in a chair, writing. The second patient was not even able to write a note. At 39, she lay dying in the intensive-care unit, waiting for a donated liver. When I last saw her, she had a couple of days left, at best. Later, I learned she had been given a new liver and was alive and well.

Liver, heart and kidney transplants are no longer experimental procedures. They are tried and true medical interventions — our closest thing to miracle cures. Most patients do very well for years after surgery.

Lloyd M. Krieger, who is training to become a plastic surgeon, is a resident at the U.C.L.A. Medical Center.

gans are available. There are always twice as many people on waiting lists as there are organs; every year, hundreds of patients die on the lists.

It is illegal to pay the families of organ donors. The 1984 Federal ban on payment arose out of fear that a black market for organs would be created. The system for obtaining organs was just being started. Today, the source of every implanted

An ethical way to pay for organs.

organ is fully documented.

With transplants common, the law should be overturned. We should allow payments to families — strictly as an honorarium to pay for the donor's funeral. Critics say payment would be unethical. Some fear that only the rich could buy organs and that the poor would not easily get them. That would not be the case. Organs would still be allocated based strictly on the severity of the patient's disease.

What is unethical about paying a funeral honorarium? What is unethical about a family's decision to save someone's life — and society's sanctioning of the decision? The brain

out the operation generally must be performed before death. An honorarium won't change the prognosis.

Suppose someone, for religious or personal reasons, does not want to donate an organ. That preference can be expressed in a document earlier in life or when entering the hospital or by rejecting the donor's option listed on drivers' licenses.

Unfortunately, an honorarium may feed greed: For many, the cost of a funeral is prohibitive, and they may wish to override the preference of the deceased. In cases of family disagreement, who would decide? The next of kin or the person or people with a durable power of attorney. If the family simply cannot agree, the procedure should be avoided.

Critics argue, accurately, that paying for organs would add to transplant costs. But the price of a funeral would be only a small increment in the overall cost of organ procurement, which can exceed \$50,000.

With more organs available, there would be more transplants. The increased number would create economies of scale, bringing down the marginal cost of each transplant.

Who would pay the honorarium? Let the marketplace decide. The main candidates would be insurance companies, managed care plans and hospitals, which want to keep costs down. Perhaps organ recipients could voluntarily pay into a pool that would be turned over to donor families. The bottom line is that a funeral honorarium is better than a funeral. □

THE NEWS & OBSERVER, RALEIGH, NC - 5/26/96

Marlboro children

Bringing terrible news to everyone but the tobacco industry, the U.S. Centers for Disease Control report that increasing numbers of high school students are smoking. It proves the failure of past efforts to keep cigarettes out of the hands and mouths of teens — and justifies the Food and Drug Administration's plan to regulate tobacco. With state and local agencies doing a poor job of control, it is time for the FDA to have a say over sales and marketing.

The FDA wisely advocates an end to vending machine and mail-order sales, and crackdowns on retailers. But these steps alone are not going to solve the problem. As long as tobacco remains legal, kids who are determined to smoke are going to acquire cigarettes.

Even restrictions on advertisements, another good idea from the FDA, are not likely to keep all children from smoking. Companies do need to be prohibited from playing directly to kids with characters like Joe Camel, and it makes sense to allow text-only advertising where children are likely to see it. But short of an ad ban, the Marlboro man

and the Virginia Slims woman will hang around, making smoking attractive to prospective puffers of all ages.

The answer must be to encourage teens to decide for themselves not to smoke. In the least attention-getting part of its plan, the FDA calls for tobacco companies to spend \$150 million annually for educational ads. While that wouldn't match the billions of dollars put into marketing, it could launch an effective counter-advertising campaign.

The goal should be to make cigarettes as unacceptable among adolescents as they are in many adult circles. It would help to remind kids not only of the health risks (perhaps the messages could feature diseased lungs and wheezing narrators) but also of how reeking hair, clothes and breath are a social turnoff.

Any attempt to keep teens from taking up a practice that is legal for adults is bound to be complicated. But every day 3,000 children start using cigarettes, and a third of them eventually die of smoking-related illness. A nation that cares about future generations cannot be deterred by the difficulty of the task.

June 6, 1996

MEMORANDUM FOR DON BAER
JOHN EMERSON
MICHAEL WALDMAN
VICKI RADD
JULIA MOFFETT

FROM: JENNIFER O'CONNOR

SUBJECT: California Speech

Tobacco is currently a hot issue in California. A variety of organizations have participated in kids-related anti-smoking activities. Proposition 99, which provides for tobacco education for kids, has been on the news recently because Govovernor Wilson recently released Prop 99 funds that he'd been holding up.

In addition, Peter Jennings is currently working on a documentary to be aired at the end of June on tobacco. It will have a special segment on tobacco politics in California. Thus, we may want to highlight tobacco in the "values" speech in California.

I've atached some speech ideas from HHS. Please let me know your thoughts.

We have no greater responsibility than to nurture our children and protect their futures. That is why my Administration has been fighting so hard to keep tobacco products out of the hands of our children. Today and every day, 3,000 youngsters begin to smoke, and that means nearly 1,000 of them will die before their time -- from heart disease, or cancer or emphysema. Just last Monday the state Department of Health released a survey siting an increase in tobacco use among adults in California during the last six months of 1995. This survey comes on the heels of a study showing a rise in smoking among teenagers.

As with so many things, California has been a pioneer in the public health effort to protect our children from tobacco. In 1988, the people of this state voted overwhelmingly for Proposition 99, placing a \$.25 tax on each pack of cigarettes and generating million in revenue earmarked for anti-smoking education programs for our kids. And you did this despite the fact that the tobacco industry spent millions to defeat it.

The people of California have shown real leadership in their attempt to keep tobacco and tobacco paraphernalia away from California's kids. Just a few weeks ago the San Francisco Board of Education voted to ban clothing, packs and other gear that displayed tobacco company advertising logos. They acted to keep tobacco out of the schools.

But as we all know, it is not up to educators alone. The California Youth Soccer Association and the Sacramento Knights Professional Indoor Soccer League have come together to help create the Spirit of Health Project to provide a tobacco free environment for youth involved in soccer programs throughout California. A tobacco free youth soccer league helps to spread that smoking is not cool.

It does not and can not stop there. I believe that the government also must take action to empower our families: to give them a fighting chance against an industry that spends over \$6 billion to hawk its product. And that is why last summer my Administration proposed regulations to reduce tobacco use by our young people. We must make it harder for children to have access to these products. Joe Camel and the Marlboro Man are not good role models for our sons and daughters, and we must remove those images from the places in which they lure our children.

I know Californians have taken action for the same reason I do. We are doing this for one simple reason: it's the right thing to do. We will not back down.

DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

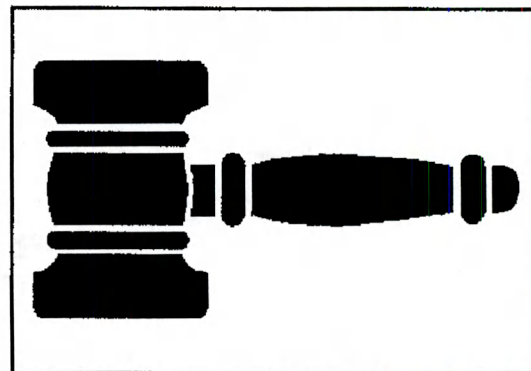
PHONE: (202) 690-6318

FAX: (202) 690-7998

DATE: June 4, 1996

TO: JEN O'CONNOR

fax - 456 - 2464



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

COMMENTS: Attached is a cut at the California speech. Note that I didn't say anything about Wilson, but I've attached some clips that provide some information that might be helpful.

As you know, Wilson has been attacked lately for diverting Prop 99 \$, but last month in his revised state budget proposal for 1996-97 he released \$147 million for education and research programs, because anti-smoking groups sued successfully and the courts then blocked Wilson's attempted diversions. Wilson's appeal is still pending. Thus, POTUS can say, "Unlike Wilson, I don't need a lawsuit to force me to do the right thing for kids and families."

It's still unclear how that \$147 million will be allocated, and, according to anti-tobacco folks, it still doesn't do what Prop 99 intended. According to a 5/25/96 article in the Sacramento Bee, "The debate over how to spend Proposition 99 funds is expected to heat up in the next few weeks."

No. of Pages (including cover): 11

DRAFT

We have no greater responsibility than to nurture our children and protect their futures. That is why my Administration has been fighting so hard to keep cigarettes and chewing tobacco out of the hands of our children. Today and every day, 3,000 youngsters begin to smoke, and that means nearly 1,000 of them will die before their time -- from heart disease, or cancer or emphysema. If we do not value our children and their future health, how can we say we are caring parents or grandparents or aunts and uncles?

As with so many things, California has been a pioneer in the public health effort to protect our children from tobacco. In 1988, the people of this state voted overwhelmingly for Proposition 99, placing a \$.25 tax on each pack of cigarettes and generating millions in revenue earmarked for anti-smoking education programs for our kids. And they did this despite the fact that the tobacco industry spent millions to defeat it.

I believe that the federal government also must take action to empower our families: to give them a fighting chance against an industry that spends over \$6 billion to hawk its product. And that is why last summer we issued proposed regulations to reduce tobacco use by our young people. We want to make it harder for children to have access to these products by making each sale a real face-to-face transaction. We don't think Joe Camel and Marlboro Man are good role models for our sons and daughters, so we plan to remove those images in the places they lure our children.

Like California, I am going to fight to achieve my goal in the face of extraordinary pressure to back down. And we are doing this for one simple reason: it's the right thing to do. And we won't back down. A family will not compromise the health and future of its children, and nor will we.

→ S.F. School - Board of Ed. voted to ban clothing packs and other gear that display tobacco company adver. logos.

Sacramento

CA dept. of Health study "Real Cost"

LEVEL 1 - 2 OF 22 STORIES

Copyright 1996 McClatchy Newspapers, Inc.
Sacramento Bee

May 25, 1996, METRO FINAL

SECTION: MAIN NEWS; Pg. A3

LENGTH: 1080 words

HEADLINE: CRITICS FUME OVER TOBACCO TAX SPENDING

BYLINE: Brad Hayward, Bee Capitol Bureau

BODY:

A new plan by Gov. Pete Wilson for spending Proposition 99 tobacco tax proceeds is getting graded as "improved" but still "not satisfactory" by anti-smoking groups that have been battling him on the issue.

In his \$ 63.3 billion revised state budget proposal for 1996-97, released earlier this week, the governor outlined a plan to spend an additional \$ 147 million in Proposition 99 money, with a portion of it directed to education and research programs that anti-tobacco groups want to bolster.

Sacramento Bee, May 25, 1996

But those groups, which want Proposition 99 revenues split up in the manner originally outlined in the initiative, say Wilson's proposal still doesn't accomplish what they're seeking.

"It does not fully restore the anti-smoking campaign in California as the voters intended," said Paul Knepprath of the American Lung Association.

Proposition 99, approved by voters in 1988, boosted the tax on cigarettes by 25 cents a pack and designated percentages of the revenues for a variety of programs, including those aimed at preventing tobacco use.

But in recent tight budget years, Wilson and state lawmakers have diverted some of the money earmarked for tobacco education and research programs into health programs for the poor. Anti-smoking groups sued, and the diversions have been blocked by the courts; an appeal is now pending.

Wilson's January budget of \$ 436 million for Proposition 99-funded programs gave 10 percent of the money to anti-tobacco education, compared with the 20 percent outlined in Proposition 99. It gave 1 percent to tobacco-related research, compared with the 5 percent in the initiative.

Sacramento Bee, May 25, 1996

The governor's new plan for spending the extra money would, for one year only, double the state's \$ 12 million tobacco -education media campaign, provide an extra \$ 20 million for education programs and give \$ 39 million to the University of California for research related to youth smoking.

The money would come from Proposition 99 reserves and higher revenues.

Administration officials say the plan is an aggressive attack on youth smoking, which they say deserves attention because smoking is declining among adults in California but increasing among youths aged 12 to 17.

"The plan targets one of the most troubling trends we face in public health -- the upsurge in tobacco use among our youth," said state Health Director Kim Belshe. Education and public-health groups calling themselves the Coalition to Restore Prop. 99 say Wilson's plan does move in their direction by giving a larger percentage of the funding to tobacco -education programs. But those programs would still not receive the 20 percent set out in Proposition 99.

They also argue that the plan puts an excessive focus on combatting teen smoking and that a broader approach will work better.

Sacramento Bee, May 25, 1996

"You reduce youth smoking by reducing all smoking," Knepprath said.

Additionally, the coalition complains that Wilson's plan would add a new requirement that tobacco research at UC first be approved by an appointed oversight committee.

"Having political appointees approve scientific research is totally unacceptable," said Carolyn Martin, coalition co-chairwoman.

Ken August, a Department of Health Services spokesman, defended the proposed requirement. "This committee can provide a forum for public discussion and public review of the university's research plans, and that's only going to improve accountability," he said.

The debate over how to spend Proposition 99 funds is expected to heat up in the next few weeks.

In a separate budget development Friday, the state legislative analyst released a review of Wilson's revised state budget and said the spending plan undercounted attendance in the state's schools, meaning that \$ 220 million more will have to be spent on public education.

Sacramento Bee, May 25, 1996

But a spokesman for Wilson's Department of Finance, H.D. Palmer, said the administration calculated attendance by its usual method and is not concerned that other programs or the budget reserve face a \$ 220 million threat.

The figures are traditionally updated later in the year, Palmer said.

LANGUAGE: ENGLISH

LOAD-DATE: May 26, 1996

Chicago Tribune, Wednesday, May 29, 1996

Cigarette war is getting hotter

Industry foes spend heavily to apply new pressure

By V. Dan Hayes
Tribune Staff Writer

LOS ANGELES — In a smoke-filled board room, a group of middle-aged men, depicted as tobacco executives, whoop it up.

"Forget about all that cancer, heart disease, emphysema, stroke stuff," says one. "We're not in this business for our health."

In another television ad, seven real-life tobacco executives, one after the other, tell a congressional hearing that nicotine is not addictive. The question — "Do you think we're stupid?" — flashes on the screen.

On the side of a bus in Hollywood, the image of a giant burning cigarette virtually pops off a placard. In bold letters is the blunt message: "The faces of the tobacco industry light up every time you do."

Hard-hitting and in-your-face, these ads are aimed at hitting cigarette makers where it hurts most — in their wallets.

California's Department of Health Services, in an approach being emulated by other states, is engaged in a \$400-million-a-year battle to reduce cigarette smoking, particularly among youths.

The war between the tobacco industry and anti-smoking forces is decades old. What's new is that it appears to be shifting from the courtroom to the living room in a public relations effort aimed at embarrassing the industry.

On Wednesday and Thursday, hundreds of anti-tobacco activists will examine media campaigns and legal strategies at a conference in Chicago, focusing on how to keep kids away from cigarettes and the industry away from kids.

The conference, called "Communities for Tobacco-Free Kids: Drawing the Line," will be held at the Palmer House Hilton.

On Friday, another group, the National Association of African-Americans for Positive Imagery, will lead a symbolic funeral procession in downtown Chicago to memorialize the thousands of people who have died from smoking-related causes and commemorate World No-Tobacco Day.

The struggle is especially volatile now, given President Clinton's attempts to clamp down on the tobacco industry's advertising and the recent spate of lawsuits attempting to hold cigarette makers liable for the illnesses and deaths of smokers.

"The more the public becomes aware of what the industry is doing, the less the industry is going to be able to get away with it," said Fran Du Melle, deputy managing director of the American Lung Association.

Du Melle released a report Tuesday outlining how legislators in 24 states, including Illinois, passed laws stripping local communities of the power to limit tobacco sales and use. She charged that the tobacco industry bought the votes with a stream of political contributions.

But Brennan Dawson, spokeswoman for the Tobacco Institute, the industry's trade association, said in a phone interview from her Washington office:

"The anti-smoking community is doing what they've been accusing us of doing, not quite telling the whole truth. Their ideas are extreme and punitive. What we support are uniform statewide laws governing the sale of our products rather than a hodgepodge of local laws that don't match."

In 1989, California became one of the first states to require smokers to pay for anti-smoking campaigns. California imposes a 25-cent tax on every cigarette package sold, earmarking the money for ads and other programs.

Those efforts include a contest soliciting anti-smoking rap songs

from high school students, grants to community groups to design anti-smoking campaigns geared toward minorities and studies on chewing tobacco and the health effects of secondhand smoke.

Two years ago, Gov. Pete Wilson signed a law banning indoor smoking in all public places.

Though youth smoking in California is on the upswing, as it is nationwide, health department officials say adult smoking has dropped one-third since the campaign started. Over time, they say, that has translated into 2 billion fewer packs sold.

"The industry spends \$1.7 million a day in California," said Colleen Stevens, chief of the health department's media campaign. "We have no choice but to be aggressive."

Even this model program has run into two formidable foes, say anti-tobacco activists: politics and the mighty tobacco industry lobby.

Anti-smoking groups have locked horns with Wilson, accusing him of diluting their campaign because of his ties with the

tobacco industry.

The groups, led by the American Nonsmokers' Rights Foundation and the American Heart Association, won a lawsuit charging Wilson with illegally diverting \$170 million from the anti-smoking campaign to other state programs. Wilson is appealing.

In full-page ads in The New York Times and several California newspapers, the groups also took Wilson to task for appointing a former tobacco industry lobbyist who fought against the cigarette tax to run the state health department and tapping a senior vice president at Philip Morris Co. to direct his short-lived presidential campaign last year.

Calling the foundation the "smoking Nazis," Sean Walsh, Wilson's spokesman, said: "Gov. Wilson has enacted the toughest anti-smoking provisions in the nation. ... The anti-smoking people are launching an attack on an outstanding anti-tobacco record."

Tribune staff writer Steve Klagan in Chicago contributed to this report.

IT'S TIME TO ASK THE GOVERNOR WHO HE REALLY WORKS FOR:
THE PEOPLE OF CALIFORNIA...OR THE TOBACCO COMPANIES?

Is this why Governor Pete Wilson is gutting Proposition 99 anti-tobacco education & research programs?

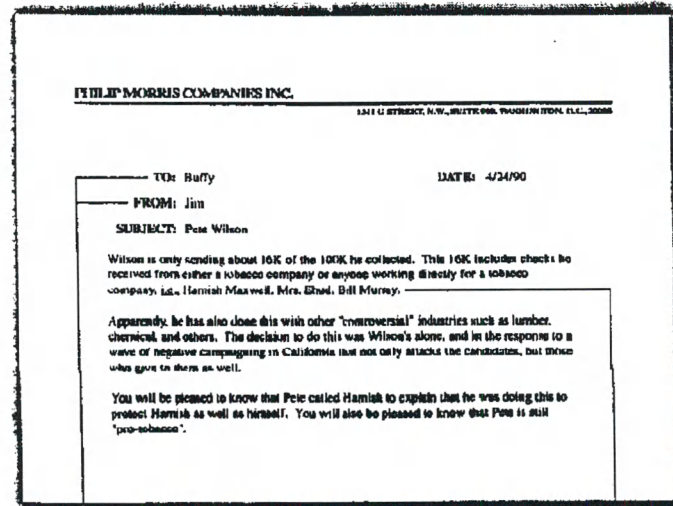
In 1988, despite tens of millions of dollars spent by the tobacco companies opposing it, Proposition 99 was approved by California voters, raising cigarette taxes and creating anti-tobacco programs that have dramatically reduced the number of smokers and prevented thousands of cases of cancer and heart disease. Thanks to Prop. 99, smoking in California has declined by 2 billion packs — a drop of nearly \$3 billion in tobacco sales.

Alarmed by Prop. 99's success, tobacco companies have turned to their backroom political allies in Sacramento to wage a behind-the-scenes campaign to gut the initiative's anti-smoking education and research programs. Political spending in California by the tobacco companies has increased by tenfold. They've hired a small army of slick lobbyists and political operatives. And they've deluged state politicians with cash contributions.

IS WILSON SERVING THE PUBLIC OR THE TOBACCO COMPANIES?

It's no surprise that the tobacco industry is sabotaging this program. But to have Governor Pete Wilson, who is described by Philip Morris as "pro-tobacco," undermining these programs is as cynical as it is calculated. Governor Wilson continues to divert funds mandated by voters for anti-tobacco education programs to pay for medical services. The audacity of the action is matched by its illegality.

This governor, in concert with some politicians whose entire careers have been spent slashing children's programs from the state budget, would now have you believe they stand on the side of poor, helpless children.



"Buffy" and "Jim" are most likely: Kathleen M. "Buffy" Linehan, who works overseas for Philip Morris; James W. Dyer, Philip Morris lobbyist, currently staff director for the House Appropriations Committee. The two worked at the same office in 1990.



Hamish Maxwell, former CEO of Philip Morris, is the chairman of the executive committee; Mrs. Chad is the wife of Chad Hourmick, CEO of Philip Morris USA; Bill Murray is the former president of Philip Morris.

In fact, Prop. 99 already allows 70% of its revenues specifically for indigent medical services — with over \$3 billion available to pay doctors for treating poor children. In brazen defiance of state voters, Governor Wilson has illegally defunded anti-tobacco education and research programs by using the earmarked revenue for other purposes.

What the Governor and his tobacco patrons have done to Prop. 99 is a perfect example of everything that's wrong with our political system. It's time to get mad. It's time to fight back. It's time to remind Governor Wilson — and all the bought

and paid for politicians in Sacramento — that they work for the people of California.

Not the tobacco companies. It's time to remind them who's the boss. Tell the Governor to stop playing games with Prop. 99 and start obeying the voters. Use the coupons below. Thank you.

Proposition 99:

- Passed by California voters in 1988
- Raised cigarette taxes by 25 cents
- Established the Tobacco Tax Surtax Fund
- Generates about \$500 million a year
- Cuts smoking by 2 billion packs and is considered the best anti-smoking program in the world
- Earmarks 25 percent of the Tobacco Tax Surtax Fund for anti-smoking education and research programs
- Allocates 45 percent for indigent medical services
- Allocates 5 percent for the environment
- Allocates 25 percent by the legislature for any of the four mandated programs
- \$3 billion in Prop. 99 funds are legally available for indigent health services without Governor Wilson's illegal diversion of the 25 percent allocated for the anti-smoking fund
- Governor Wilson has lost three times in court over illegal diversions of tobacco tax money, costing taxpayers over \$500,000 in legal fees
- Researchers estimate Californians smoked 584 million more packs of cigarettes as a result of the Governor's efforts to sabotage Prop. 99 anti-smoking programs
- Tobacco companies have increased political spending in California by tenfold...now spending money faster in Sacramento than in Washington D.C.
- In a leaked tobacco industry memo, Governor Wilson is described as "pro-tobacco"
- With the help of the California Medical Association, Gov. Wilson has raided the 25 percent set aside for anti-tobacco education and research programs to give doctors more money to provide medical services for poor children — on top of the 70 percent already allowed for that purpose.

AMERICAN HEART ASSOCIATION
AMERICAN NONSMOKERS' RIGHTS FOUNDATION

Tell Pete Wilson to Put It Back.

[Full page ad in 4/30/96 NYTimes, A9]

San Francisco Chronicle; 5-29-96

S.F. Supervisors OK Tobacco Suit

City may sue
firms for costs
of smokers' care

*By Henry K. Lee
and John King
Chronicle Staff Writers*

The San Francisco Board of Supervisors voted unanimously yesterday to sue the tobacco industry for the city's cost of providing medical treatment to people with smoking-related illnesses.

The resolution, first approved two weeks ago by the board's Health, Public Safety and Environment Committee, directs the city attorney to file a class-action lawsuit on behalf of cities and counties across the state.

San Francisco is seeking to recoup at least \$153 million in medical expenses incurred from treating smokers. The move is hinged on consumer fraud and on evidence that cigarette companies knowingly sold harmful, addictive products — an allegation the industry denies.

Supervisor Angela Alioto, who proposed the resolution, said, "This is a war against the tobacco industry, and we shall forge ahead."

Asked why San Francisco should embark on a lawsuit when at least two other cities and two states have already done so, Alioto said: "It's applied pressure. The more people who put on pressure, the quicker something will happen."

The board was not swayed by concerns apparently voiced in closed session yesterday by City Attorney Louise Renne. She warned supervisors that it would be time-consuming and expensive to litigate, sources said.

When it appeared that supervisors said they would stick to their guns, Renne reportedly said one way to save money would be to have most of the work done by contingency lawyers, who would only get paid if their side wins.

In an interview yesterday, Renne declined to discuss what steps, if any, her office might take in instituting litigation. "Obviously, we're aware of the supervisors' resolution and at this time, I just don't have any comment beyond that," she said.

San Francisco Chronicle; 5-29-96

No Tobacco-Wear At S.F. Schools

Board bans cigarette logos, OKs meeting on Mission High

*By Tyra Lucille Mead
and Nanette Asimov
Chronicle Staff Writers*

Joe Camel and the Marlboro Man were kicked out of San Francisco schools last night as the Board of Education voted to ban clothing, packs and other gear that display tobacco company advertising logos.

The measure, approved on a 5-to-1 vote, was introduced by board member Leland Yee, who compared the situation to how the ban on TV advertising is circumvented.

When students wear the clothing, Yee said, it is like "when they shoot the whole ballpark at a ballgame and all the advertising comes through."

Yee noted a survey found that in a single week, one in 10 high school or middle school students have worn or carried fanny packs, T-shirts, hats or other trinkets bearing the face of Joe Camel or other cigarette icons.

"Smoking is a slow suicide for a lot of our youth," said Chan Pho, a member of a youth group called Chinese Power Against Tobacco.

The sole member voting against the measure, Dan Kelly, said, "We want to educate our students to the stupidity of smoking and the avarice of tobacco companies," but he said the resolution would violate the students' right of expression.

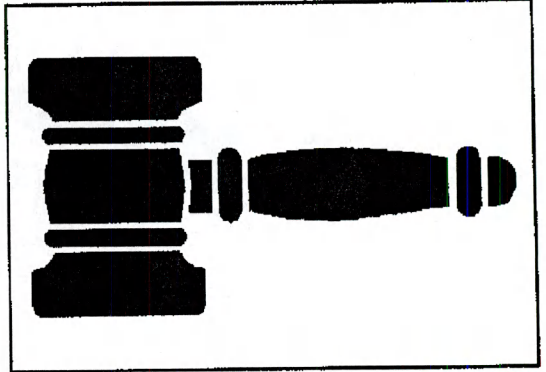
Despite the tough policy, how and when it will take effect remained up in the air last night, with the board acknowledging that the process will take further study. Punishment for violators was also not addressed.

DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

PHONE: (202) 690-6318
FAX: (202) 690-7998

DATE: June 5, 1996

TO: JEN O'CONNOR



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

COMMENTS: This SF Chronicle editorial (6/3/96) points out that Wilson's recent release of prop 99 \$, is still insufficient. But we should note that the editorial is particularly critical of Wilson's plan which limits education spending to programs aimed at teenagers, obviously something we would not object to. So we should be careful if we're critical of Wilson on the issue.

No. of Pages (including cover): 2

EDITORIALS

Smelling the Smoke Of Governor's Plan

PROPOSITION 99 was a simple scheme. It added a 25-cents-a-pack tax on cigarettes and directed that the money go to programs that keep people from smoking — and help treat those who do. It set up a formula for how the money would be divided among research, medical services and education programs.

Californians overwhelmingly approved this measure in November 1988.

The intent of the voters was to provide a new source of funding to fight smoking

The trouble is, they left enough wiggle room for Governor Wilson and legislators to wriggle their fingers into a pot of money expected to total \$437 million this year. And wriggle they have.

The measure allows the Legislature, with a four-

fifths vote, to tinker with the formulas. In 1989, lawmakers reduced health education spending — set in the initiative at 20 percent — to 16.5 percent. It then dropped to 12 percent in 1991 and 10 percent in 1994 and 1995.

Not surprisingly, teenage smoking has been on the rise in the past three years.

There is a legal dispute over those diversions, but there should be no moral ambiguity about a policy that circumvents the will of the people. The intent of the voters was to provide a new source of funding to fight

smoking, not to bail the state out of budget crises in assorted programs.

And one of the most effective ways to offset the deluge of tobacco advertising is to educate young people about the indisputable adverse health effects of smoking.

California is clearly ahead of the nation with a health-conscious sensibility that recognizes the incompatibility of smoking with vibrant lifestyles.

Yet the battle is never really over. Not when the tobacco companies peddle their death-sticks-are-hip advertising and sponsor sporting events and concerts.

Governor Wilson recently proposed a compromise that would shift \$147 million of previously diverted Prop. 99 funds to tobacco education programs, but that would still fall short of the 20-percent level approved by voters. The governor's plan also limits the education spending to programs aimed at teenagers, instead of a broader approach. Also, his proposal is a one-year deal, leaving tobacco education funding vulnerable to the vagaries of future budget conditions.

Not good enough, governor.

There are two bills pending in the Legislature — AB 2987 by Richard Katz, D-Sylmar; and SB 1971 by Diane Watson, D-Los Angeles — that would lock in the funding formula approved by voters.

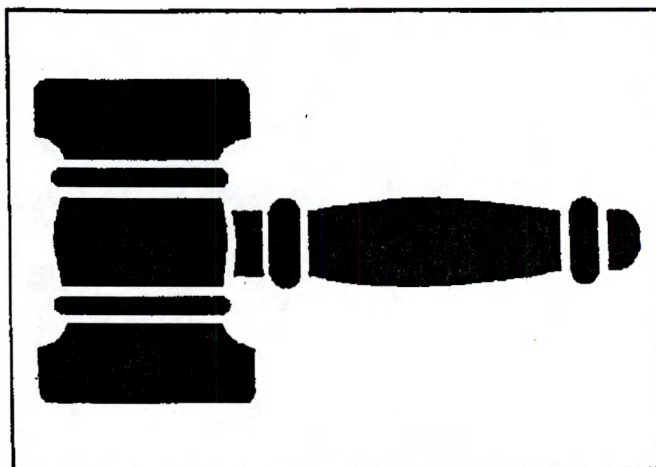
The Katz and Watson bills reassert the state's long-term commitment to fight smoking. California voters delivered the mandate — and the money — eight years ago. This effort must not be undermined by Wilson and other friends of tobacco in Sacramento.

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: *JEN O'CONNOR* FROM: Andrew D. Hyman
Office of the General Counsel
Telephone: 202/690-6318
Facsimile: 202/690-7998

FAX:



No. of pages: 3

MESSAGE:

*Attached is a 5/30/96 full page
ad in Sacramento Bee critical of Wilson
to bureau. You can paste the top + bottom
halves together.*

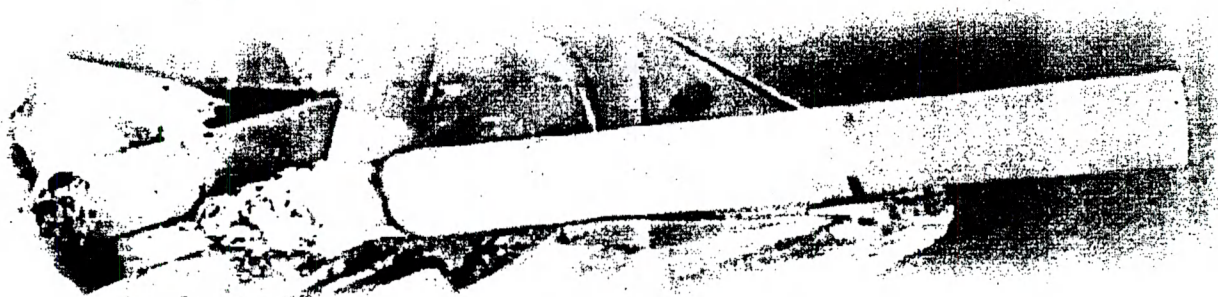
ADVERTISEMENT

PAID ADVERTISEMENT

PAID ADVERTISEMENT

RECEIVED BY THE CHIEF OF POLICE

The tobacco industry knows
that the best way to get kids
hooked on cigarettes is to say
they're for "Adults Only."



Why is Pete Wilson using
tax dollars to help them?

Beating a powerful addiction isn't easy. And, as any smoker will tell you, nicotine is as tough as they come.
That's why almost everyone agrees that neither kids or adults should start to smoke.
Because once you start, they stay hooked for an

But they also provoked a sharp reaction from the tobacco industry, which has increased its political contributions ten-fold in California since Prop. 99 passed.

Their goal is simple: to stop any effective anti-tobacco education in California and replace it, if politically necessary, with campaigns that do more harm than good.

Actual tobacco industry marketing document,
subpoenaed by the Federal Trade Commission

"...an attempt to reach young smokers, starters, should be based,

SENT WHY:

That's why almost everyone agrees that neither kids nor adults should start to smoke.

Because once smokers start, they stay hooked for an average of 16-20 years—vastly increasing their chances of dying from heart disease, lung cancer, or emphysema.

And, incidentally, paying more than \$20,000 retail for the privilege of poisoning themselves and those around them.

Big Tobacco's Plan: Use Kids To Head Off Real Regulation

Because nicotine is an addictive drug, it needs to be treated as one by the U.S. Food and Drug Administration. But that's the last thing the big tobacco companies want.

So one of them, Philip Morris, has launched a clever, multimillion-dollar effort to take the heat off. It's pledging to brand tobacco "Adults Only."

This is nothing but another tobacco industry smoke screen.

Philip Morris obviously hopes its campaign will make it look like a kindly corporate citizen.

At the same time, it will continue to profit while nicotine addicts die (there are 43,000 tobacco-related deaths a year in California alone).

And to insure success, Philip Morris and other tobacco giants will continue to pour campaign contributions into California and other states that attempt to reduce this public health menace.

"Adults Only" Gets Kids Started

Besides its cynical political motives, Philip Morris has another reason to focus on smoking and kids. The campaign won't hurt its sales. In fact, it could very well help.

As long ago as 1981, tobacco marketing memos like the one quoted above were explicitly targeting "starters" by associating smoking with adulthood and "illicit pleasure."

That's precisely the reason why America's most successful anti-tobacco effort, funded by Prop. 99 in California, did NOT tie smoking and adulthood together in young minds, and was careful to put across the message that most adults themselves reject smoking.

Media campaigns and community-based programs funded by Prop. 99, and the research that supported and guided them, managed to reduce smoking by two billion

Their goal is simple: to stop any effective anti-tobacco education in California and replace it, if politically necessary, with campaigns that do more harm than good.

And it's working. In 1995, cigarette consumption in California stopped dropping.

Pete Wilson's Latest Tobacco Strategy

Governor Pete Wilson appears to follow the tobacco industry's lead. Within days of Philip Morris' public launch of its anti-FDA, Kids & Smoking campaign in national full-page newspaper ads, he presented a surprisingly similar program: \$74 million in "found" money to fund a Philip Morris-style Kids & Smoking education and research effort here in California.

The net effect of Wilson's play:

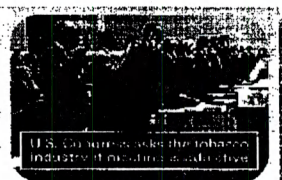
- ▶ Smoking will be branded "Adults Only" and illicit for kids, actually boosting its appeal to adolescents desperate to act like adults.
 - ▶ Prop. 99-funded messages vividly reflecting adult rejection of the tobacco industry and secondhand smoke will remain on the shelf, where Pete Wilson put them when they actually reduced smoking in the state.
 - ▶ Ground-breaking public health research funded by Prop. 99 will be smothered by a panel of political appointees from the Governor to avoid embarrassing (and exposing) the tobacco industry.
- When they passed Prop. 99, California voters were very clear that they wanted 25¢ for each dollar Prop. 99 raised to kick tobacco where it hurts. The voters wanted to help adults stop smoking and prevent kids from starting. Big Tobacco has been working to subvert Prop. 99 ever since—and Governor Wilson, described as "pro-tobacco" in a Philip Morris lobbyist's memo, has actively aided and abetted them.

His latest gimmick, the Kids & Smoking campaign, looks attractive in a headline or a TV soundbite.

But public health professionals know that it's really only a political smoke screen—no substitute for anti-smoking programs proven to work.



Governor Pete Wilson



Using Prop. 99 funding, the Department of Health Services made a 30 second television commercial, "Nicotine Soundbites," which featured tobacco industry executives testifying before Congress that nicotine was not addictive. After the tobacco industry complained, Pete Wilson pulled it off the air. If Pete really wants to keep kids from smoking, this ad should be back on television.

- ...an attempt to reach young smokers, starters, should be based, among others, on the following major parameters:
- Present the cigarette as one of the initiations into the adult world.
- Present the cigarette as part of the illicit pleasure category of products and activities.
- In your ads create a situation taken from the day-to-day life of the young smoker, but in an elegant manner have this situation touch on the basic symbols of the growing-up, maturity process...

What Really Keeps Kids Safe?

Smoking plummeted when Pete Wilson still allowed Prop. 99 to put across three effective, believable messages:

- ▶ Nicotine is an addictive drug.
- ▶ The tobacco industry is out to get you.
- ▶ Secondhand smoke is dangerous.

Since Pete Wilson started taking a personal interest in Prop. 99, hard-hitting TV, radio and billboard campaigns have been pulled. In their place, we will get a campaign right out of Big Tobacco's marketing plan: "Smoking is for adults only."

If we really want to discourage kids from smoking and help adults stop, we need to clearly articulate what the majority of adults feel about smoking. That's the model kids will follow.

Write Pete Wilson. Let him know you see through his smoke screen. Tell him California voted for real anti-tobacco efforts that save lives.

Don't spend our tax money doing what Philip Morris does all too well for itself.

American Heart Association

American Nonsmokers' Rights Foundation

HELP SAVE CALIFORNIA'S LIFE-SAVING ANTI-TOBACCO CAMPAIGNS. THEY WORK.

American Nonsmokers' Rights Foundation
2530 San Pablo Ave., Suite J, Berkeley, CA 94702

I support your efforts to protect the nation's most successful tobacco control campaign. Don't let Governor Wilson and the tobacco industry destroy Prop. 99. Please send me information on how I can protect the life-saving anti-tobacco campaigns I voted for.

NAME _____

ADDRESS _____

Governor Pete Wilson
State Capitol, Sacramento, CA 95814

Enough is enough. Deliberate subversion of voter-approved Prop. 99 anti-tobacco programs must stop. Your mimicry of Philip Morris' own "Adults Only" marketing strategy is shameful. Release the \$100 million in Prop. 99 funds you're still holding back and put the state's public health professionals, not politicians, back in charge.

NAME _____

ADDRESS _____

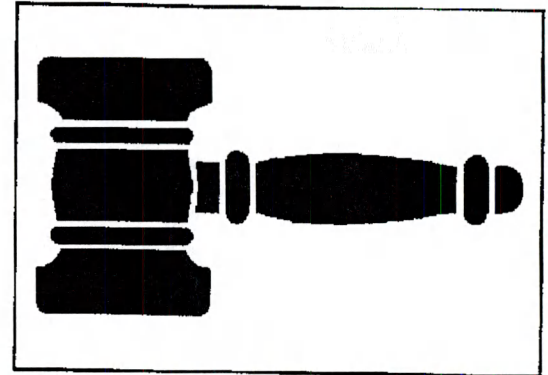
DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

PHONE: (202) 690-6318

FAX: (202) 690-7998

DATE: June 7, 1996

TO: JEN O'CONNOR



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

COMMENTS: Tax Qs & As, as discussed. I'll get a one-pager on politics by COB.

No. of Pages (including cover): 2

Proposition 99 Qs and As

Q: What is Proposition 99?

A: Prop 99 is a ballot initiative passed by California voters in 1988 that increased the state tax on cigarettes by \$.25. 20% of the revenue generated by the tax is earmarked for anti-tobacco health education and 5% for tobacco-related disease research. Most of the remaining revenue is for medical services for the poor.

Although California was not the first state to earmark such a tax for anti-tobacco education programs, the size of the cigarette market in California created the world's largest public health intervention of its kind. (Health Affairs, 1996).

Q: Do you think all states should have excise taxes like California's?

A: I certainly think states should support programs that are designed to prevent our young people from getting hooked on tobacco. Indeed, I certainly don't think the federal government can do it alone. But how they generate the money is a state issue and up to them.

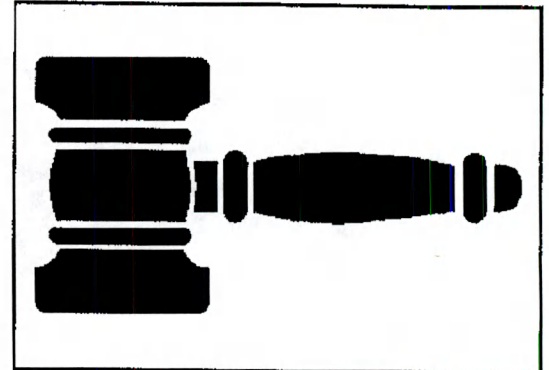
NOTE: Of course, the President supported a tobacco tax for health care reform, so you may not feel the need to be so skittish about the answer.

DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

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200 Independence Ave., SW
Washington D.C. 20201

COMMENTS: Attached is a one-pager on Prop 99. I've also given a brief explanation of San Francisco's suit of the tobacco industry. Call w/any questions.

No. of Pages (including cover): 5

Prop 99 Dispute

In 1988, California voters approved Prop 99, a ballot initiative that increased by \$.25 the tax on cigarettes. 20% of the revenue generated by the tax was earmarked for anti-tobacco education programs and 5% for research. Despite a \$20 million campaign funded by the tobacco industry to defeat it, Prop 99 was passed by a 58% to 42% margin.

Although California was not the first state to earmark a tax for anti-tobacco education programs, the size of the cigarette market in California created the world's largest public health intervention of its kind. (Health Affairs, 1996). Health organizations have praised the success of Prop 99. According to California's Department of Health Services, statewide smoking rates have dropped from 27% in 1988 to 16% 1995, a far greater decline than for the nation as a whole.

Since its inception, however, annually increasing portions of the tobacco education and research money has been diverted to medical services for the poor, due particularly to the lobbying of the tobacco industry and the California Medical Association. The American Heart and Lung Association and the American Cancer Society sued Governor Wilson arguing that the diversion of funds violated Prop 99's requirements and the voters' intent. In 1995, the Court ruled in favor of plaintiffs and Wilsons appealed.

In May, Wilson proposed a compromise whereby he would shift \$147 million of Prop 99 funds to tobacco education programs, but, according to a recent San Francisco Chronicle editorial (attached), this falls short of the 20% allocation as required by the voters. A recent full-page ad in the Sacramento Bee, sponsored by the American Heart Association and the American Nonsmokers' Rights Foundation, argues that Wilson is acting at the behest of the tobacco industry and calls for the state to release \$100 million more for anti-tobacco programs.

Meanwhile, the California Department of Health Services released a survey showing a slight increase in adult smoking in the last 6 months of 1995. Although the increase was small and could be a statistical anomaly, Wilson's critics are blaming the rise on the diversion of funds.

As pointed out in the Chronicle editorial, several bills are pending in the state legislature dealing with Prop 99 funding. Senate Bill 1971, introduced by Diane Watson, D-Los Angeles, and Assembly Bill 2987, by Richard Katz, D-Sylmar, will restore full funding for Prop 99 tobacco education and research. These bills are supported by the health organizations.

The health organizations want the President to come out strong in support of Prop 99. Ideally, he would say something like, "California must stand up to those who would weaken Prop 99, and I urge the Governor to support it as it was intended."

San Francisco Suit of Tobacco Industry (see attached articles from the HHS Green Sheet)

On June 6, San Francisco filed suit against the major tobacco companies to recover million of dollars it spent to treat tobacco-related illnesses. This is the first such suit by a local government.

Mayor Willie Brown approved the filing of the suit despite the fact that he received as much as \$500,000 from the industry while he was Speaker of the Assembly. He noted that this action is necessary because it's a different time, and he's in a different job.

State Attorney General Lungren stated in March that he would not file such a suit, but is saying now that a working group is considering the merits of such a suit.

L.A. Times; 6-7-96

San Francisco Sues Six Tobacco Firms

Courts: Officials seek to recover millions spent to treat smoking-related illnesses, charging that companies violated state and federal laws. They urge other counties to join the lawsuit.

By HENRY WEINSTEIN
and MAURA DOLAN
TIMES LEGAL AFFAIRS WRITERS

SAN FRANCISCO—This city Thursday became the first local government in the United States to sue the tobacco industry, seeking to recover millions of dollars the city and county of San Francisco spend annually in the treatment of smoking-related illnesses.

The San Francisco city attorney's office, aided by a high-powered law firm, filed suit in U.S. District Court here, alleging that six tobacco companies and two trade associations violated state and federal laws in a 40-year conspiracy to conceal the addictive nature of their product.

"It's more than time for public officials in California to hold the tobacco industry responsible for the staggering human and financial costs of smoking," said San Francisco City Atty. Louise Renne. "If the tobacco companies are going to knowingly market a product that is going to cause

illness and death, they ought to pay for it, not the taxpayers," she added, referring to federal studies estimating that cigarette smoking in the United States causes 400,000 deaths a year and numerous health problems.

"Counties in particular cannot afford their scarce public funds being drained by having to pay for the treatment of tobacco-related illness. These are funds that would be better spent on preventive health care, education and other urgent public needs," Renne added. (San Francisco is a unique governmental entity—a joint city-county and Renne is its chief legal officer.)

As soon as she filed the lawsuit, Renne moved to broaden it. On Thursday she sent letters to the chief legal officers for California's 57 other counties inviting them to join the lawsuit.

Los Angeles County Supervisor Zev Yaroslavsky said he would introduce a resolution in the near future asking that the county direct its attorneys to join the lawsuit.

"We have talked to our own health department and we believe there is ample evidence that we have incurred substantial expense because of the tobacco companies," Yaroslavsky said.

San Francisco contends that the industry violated California's fair business practices code and the federal Racketeer Influenced and Corrupt Organizations Act.

The massive lawsuit is similar to those filed by nine states in the last two years, including one lodged by Washington in a state court Wednesday. Several other states are on the verge of filing

such suits. A spokesman for California Atty. Gen. Dan Lungren said the office is considering whether to file as well.

Philip Morris attorney Michael York decried the San Francisco lawsuit: "We don't believe the city of San Francisco has any more basis to file this kind of radical claim than do any of the states that have filed. We believe the cases are utterly without legal merit, particularly the RICO claim."

York emphasized that Philip Morris had announced its own proposal for federal legislation aimed at reducing smoking among youths last month and contended that if San Francisco "is truly interested in fighting youth smoking they would join Philip Morris and everyone else who wants to enact broad federal legislation instead of filing a lawsuit that under the best of circumstances will take years to resolve."

Like the state actions, the San Francisco suit asks that the cigarette companies and the trade associations be held liable for fraud and conspiracy for: falsely denying that cigarettes are addictive; for denying that the industry manipulates nicotine levels in cigarettes; for denying that smoking is harmful to health; for concealing the industry's own research findings about the dangers of smoking, and for suppressing research on "safer" cigarettes.

The suit also asks the court to order the defendants to fund corrective public education programs to stop targeting minors in their advertising campaigns and to disclose all their research on smoking addiction and related health issues.

Lieff, Cabraser, Heimann &

N.Y. Times; 6-7-96

San Francisco Joins Assault On Tobacco

By BARNABY J. FEDER

Opening up yet another front in the legal assault on the tobacco industry, San Francisco sued yesterday to recover millions of dollars it spent on health problems attributed to smoking.

Nine states have sued the tobacco industry seeking billions of dollars in compensation of state Medicaid spending to treat tobacco-related illnesses. But San Francisco's suit, the first by a local government, seeks reimbursement for spending on its poorest citizens that is not covered by the state or Federal Government and for the costs of providing insurance coverage for its own employees to cover such illnesses.

"This is another legal landmark," said Richard Daynard, director of the Tobacco Products Liability Project at Northeastern University in Boston.

San Francisco, which is both a city and a county, said it had invited other California counties to join its suit, which was filed in Federal court. Contra Costa County, across San Francisco Bay, has been the only

Bernstein, a San Francisco law firm that specializes in representing plaintiffs in complex litigation, is serving as special counsel for the city in the case on a contingency basis. Renne said the firm would receive 20% of any recovery up to \$25 million and 15% of any recovery beyond that. She said that is well below the firm's normal fees and noted that because the firm would be bearing the upfront expense, the case would not result in any substantial costs for San Francisco.

Elizabeth Laporte, chief of special litigation for the San Francisco city attorney's office, said the agency had filed the suit after reviewing the issues and passage of a Board of Supervisors resolution endorsing such a suit. The resolution was signed by Mayor Willie Brown, who while he was speaker of the Assembly raised \$500,000 from the tobacco industry.

Asked about Brown's previous acceptance of tobacco industry contributions, spokesman P.J. Johnston said: "It's a new day. The mayor is the leader of San Francisco, and as such he feels it is appropriate for San Francisco to enter into this lawsuit."

San Francisco Supervisor Angela Alioto, who wrote the resolution urging that the case be filed, said that representatives of 23 cities told her they would like to join the suit, which she called "eminently winnable. It will encourage consumer suits in the state. It will literally open the floodgates," she said.

Ann Ravel, chief assistant Santa Clara County counsel, said the county has not previously considered such a suit. "It's very interesting though, and it is something

county to show an interest in joining," said Elizabeth Laporte, San Francisco's chief of special litigation.

The suit was filed on a contingency-fee basis by Lieff, Cabraser, Heimann & Bernstein, a San Francisco firm handling similar suits by Massachusetts and Louisiana. It contends that the industry's longstanding positions on addiction, how cigarettes are made, their health impact and its research violate a variety of state and Federal fraud, conspiracy and racketeering laws.

In addition to monetary damages, it asks for civil penalties, court-ordered disclosure of industry research, money for programs on quitting tobacco use and court orders restricting advertising that San Francisco says is designed for minors.

The defendants include the five major American cigarette companies, BAT Industries, the Council for Tobacco Research, which is supported by the industry, and the Tobacco Institute, a trade group based in Washington.

"There doesn't seem to be any more merit to this than the state claims," said Michael York, a legal adviser to Philip Morris USA, the industry leader. "We expect to win those, and we will be in court fighting this as soon as possible."

we certainly will consider," Ravel said.

She praised San Francisco for being "creative," but said she assumed "the lawsuit is more of a political statement than a concern about recovering" money spent on health care.

But Renne said the city was very serious about attempting to recover funds. San Francisco budget analyst Harvey Rose said the city's public and private health care costs attributable to smoking-related illnesses in 1993 reached \$151 million. He said his office reported that figure based on a conversation with a county health official.

Dr. Sandra R. Hernandez, San Francisco's director of health, said "the (health) department will be working in collaboration with the city attorney to provide all supporting documents necessary in this legal action."

Laporte of the San Francisco city attorney's office said she would welcome participation by the California attorney general's office. As recently as March, spokesmen for Lungren indicated that he did not see merit in such a lawsuit.

However, on Thursday, Lungren press secretary Steve Telhano said the attorney general's office had formed a working group in late April to consider suing the tobacco industry. He said representatives of the attorney general's office spoke to Alioto about this last week. Telhano said he expected the attorney general's office to make a decision soon.

Weinstein reported from Los Angeles and Dolan from San Francisco. Times staff writer Dan Morin in Sacramento contributed to this story.